

As Introduced

136th General Assembly

Regular Session

2025-2026

H. B. No. 775

Representatives Callender, Dovilla

**Cosponsors: Representatives Fischer, Ray, Demetriou, Fowler Arthur, John,
Thomas, D., Mathews, A.**

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to adopt administrative rules and to amend the	293
version of section 3313.902 of the Revised Code	294
that is scheduled to take effect on July 1,	295
2026, to continue the change on and after that	296
date.	297

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

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6111.047, 6111.049, 6111.32, 6111.451, and 6115.51 be amended 499

and section 121.96 of the Revised Code be enacted to read as 500
follows: 501

Sec. 9.46. The state and any political subdivisions shall 502
grant employees leave from employment to participate in olympic 503
competition sanctioned by the United States olympic committee. 504
Any leave so granted shall not exceed the time required for 505
actual participation in the competition, plus a reasonable time 506
for travel to and return from the site of the competition, and a 507
reasonable time for precompetition training at the site. The 508
state or subdivision shall compensate the employee at ~~his~~the 509
employee's regular rate of pay during any leave granted for 510
participation in olympic competition. Pay for each week of leave 511
shall not exceed the amount the employee would receive for a 512
standard work week as defined in section 124.18 of the Revised 513
Code, and the employee shall not be paid for any day spent in 514
olympic competition for which ~~he~~the employee would not 515
ordinarily receive pay as part of ~~his~~the employee's regular 516
employment. ~~The director of administrative services shall~~ 517
~~implement this act by adopting appropriate rules.~~ 518

Sec. 9.79. (A) As used in this section: 519

(1) "License" means an authorization evidenced by a 520
license, certificate, registration, permit, card, or other 521
authority that is issued or conferred by a licensing authority 522
to an individual by which the individual has or claims the 523
privilege to engage in a profession, occupation, or occupational 524
activity over which the licensing authority has jurisdiction. 525
"License" does not include a registration under section 101.72, 526
101.92, or 121.62 of the Revised Code. 527

(2) "Licensing authority" means a state agency that issues 528
licenses under Title XLVII or any other provision of the Revised 529

Code to practice an occupation or profession.	530
(3) "Offense of violence" has the same meaning as in section 2901.01 of the Revised Code.	531 532
(4) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.	533 534
(5) "State agency" has the same meaning as in section 1.60 of the Revised Code.	535 536
(6) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	537 538
(7) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	539 540
(8) "Fiduciary duty" means a duty to act for someone else's benefit, while subordinating one's personal interest to that of the other person.	541 542 543
(B) (1) Notwithstanding any provision of the Revised Code to the contrary, subject to division (L) (K) of this section, for each type of license issued or conferred by a licensing authority, the licensing authority shall establish within one hundred eighty days after April 12, 2021, a list of specific criminal offenses for which a conviction, judicial finding of guilt, or plea of guilty may disqualify an individual from obtaining an initial license. The licensing authority shall make the list available to the public on the licensing authority's web site pursuant to division (C) of section 9.78 of the Revised Code. The licensing authority, in adopting the list, shall do both of the following:	544 545 546 547 548 549 550 551 552 553 554 555
(a) Identify each disqualifying offense by name or by the Revised Code section number that creates the offense;	556 557

(b) Include in the list only criminal offenses that are 558
directly related to the duties and responsibilities of the 559
licensed occupation. 560

(2) The licensing authority may include in the list 561
established under division (B) (1) of this section an existing or 562
former municipal ordinance or law of this or any other state or 563
the United States that is substantially equivalent to any 564
section or offense included in the list adopted under division 565
(B) (1) of this section. 566

(C) (1) Except as provided in division (C) (2) or (D) of 567
this section and subject to division ~~(L)~~(K) of this section, a 568
licensing authority shall not refuse to issue an initial license 569
to an individual based on any of the following: 570

(a) Solely or in part on a conviction of, judicial finding 571
of guilt of, or plea of guilty to an offense; 572

(b) A criminal charge that does not result in a 573
conviction, judicial finding of guilt, or plea of guilty; 574

(c) A nonspecific qualification such as "moral turpitude" 575
or lack of "moral character"; 576

(d) A disqualifying offense included in the list 577
established under division (B) of this section, if consideration 578
of that offense occurs after the time periods permitted in 579
division (D) of this section. 580

(2) If the individual was convicted of, found guilty 581
pursuant to a judicial finding of guilt of, or pleaded guilty to 582
a disqualifying offense included in the list established under 583
division (B) of this section for the license for which the 584
individual applied, the licensing authority may take the 585
conviction, judicial finding of guilt, or plea of guilty into 586

consideration in accordance with division (D) of this section. 587

(D) (1) A licensing authority that may, under division (C) 588
(2) of this section, consider a conviction of, judicial finding 589
of guilt of, or plea of guilty to an offense in determining 590
whether to refuse to issue an initial license to an individual 591
shall consider all of the following factors and shall use a 592
preponderance of the evidence standard in evaluating those 593
factors to determine whether the conviction, judicial finding of 594
guilt, or plea of guilty disqualifies the individual from 595
receiving the license: 596

(a) The nature and seriousness of the offense for which 597
the individual was convicted, found guilty pursuant to a 598
judicial finding of guilt, or pleaded guilty; 599

(b) The passage of time since the individual committed the 600
offense; 601

(c) The relationship of the offense to the ability, 602
capacity, and fitness required to perform the duties and 603
discharge the responsibilities of the occupation; 604

(d) Any evidence of mitigating rehabilitation or treatment 605
undertaken by the individual, including whether the individual 606
has been issued a certificate of qualification for employment 607
under section 2953.25 of the Revised Code or a certificate of 608
achievement and employability under section 2961.22 of the 609
Revised Code; 610

(e) Whether the denial of a license is reasonably 611
necessary to ensure public safety. 612

(2) A licensing authority may take a disqualifying offense 613
included in the list established under division (B) of this 614
section into account only during the following time periods: 615

(a) For a conviction of, judicial finding of guilt of, or plea of guilty to a disqualifying offense that does not involve a breach of fiduciary duty and that is not an offense of violence or a sexually oriented offense, whichever of the following is later, provided the individual was not convicted of, found guilty pursuant to a judicial finding of guilt of, and did not enter a plea of guilty to any other offense during the applicable period:

(i) Five years from the date of conviction, judicial finding of guilt, or plea of guilty;

(ii) Five years from the date of the release from incarceration;

(iii) The time period specified in division (D)(3) of this section.

(b) For a conviction of, judicial finding of guilt of, or plea of guilty to a disqualifying offense that involves a breach of fiduciary duty and that is not an offense of violence or a sexually oriented offense, whichever of the following is later, provided the individual was not convicted of, found guilty pursuant to a judicial finding of guilt of, and did not enter a plea of guilty to any other offense during the applicable period:

(i) Ten years from the date of conviction, judicial finding of guilt, or plea of guilty;

(ii) Ten years from the date of the release from incarceration;

(iii) The time period specified in division (D)(4) of this section.

(c) For a conviction of, judicial finding of guilt of, or plea of guilty to a disqualifying offense that is an offense of violence or a sexually oriented offense, any time.

(3) If an individual is subject to a community control sanction, parole, or post-release control sanction based on a conviction of, judicial finding of guilt of, or plea of guilty to a disqualifying offense included in the list established under division (B) of this section that is not an offense of violence or a sexually oriented offense, a licensing authority may take the offense into account during the following time periods:

(a) If the community control sanction, parole, or post-release control sanction was for a term of less than five years, the period of the community control sanction, parole, or post-release control sanction plus the number of years after the date of final discharge of the community control sanction, parole, or post-release control sanction necessary to equal five years;

(b) If the community control sanction, parole, or post-release control sanction was for a term of five years or more, the period of the community control sanction, parole, or post-release control sanction.

(4) If an individual is subject to a community control sanction, parole, or post-release control sanction based on a conviction of, judicial finding of guilt of, or plea of guilty to a disqualifying offense included in the list established under division (B) of this section that involved a breach of fiduciary duty and that is not an offense of violence or a sexually oriented offense, a licensing authority may take the offense into account during the following time periods:

(a) If the community control sanction, parole, or post-release control sanction was for a term of less than ten years, for the period of the community control sanction, parole, or post-release control sanction plus the number of years after the date of final discharge of the community control sanction, parole, or post-release control sanction necessary to equal ten years;

(b) If the community control sanction, parole, or post-release control sanction was for a term of ten years or more, the period of the community control sanction, parole, or post-release control sanction.

(E) If a licensing authority refuses to issue an initial license to an individual pursuant to division (D) of this section, the licensing authority shall notify the individual in writing of all of the following:

(1) The grounds and reasons for the refusal, including an explanation of the licensing authority's application of the factors under division (D) of this section to the evidence the licensing authority used to reach the decision;

(2) The individual's right to a hearing regarding the licensing authority's decision under section 119.06 of the Revised Code;

(3) The earliest date the individual may reapply for a license;

(4) Notice that evidence of rehabilitation may be considered on reapplication.

(F) In an administrative hearing or civil action reviewing a licensing authority's refusal under divisions (B) to ~~(K)~~(J) of this section to issue an initial license to an individual, the

licensing authority has the burden of proof on the question of 702
whether the individual's conviction of, judicial finding of 703
guilt of, or plea of guilty to an offense directly relates to 704
the licensed occupation. 705

(G) A licensing authority that is authorized by law to 706
limit or otherwise place restrictions on a license may do so to 707
comply with the terms and conditions of a community control 708
sanction, post-release control sanction, or an intervention plan 709
established in accordance with section 2951.041 of the Revised 710
Code. 711

~~(H) Each licensing authority shall adopt any rules that it 712
determines are necessary to implement divisions (B) to (F) of 713
this section. 714~~

~~(I)~~ Divisions (B) to ~~(K)~~ (J) of this section do not apply 715
to any of the following: 716

(1) Any position for which appointment requires compliance 717
with section 109.77 of the Revised Code or in which an 718
individual may satisfy the requirements for appointment or 719
election by complying with that section; 720

(2) Any position for which federal law requires 721
disqualification from licensure or employment based on a 722
conviction of, judicial finding of guilt of, or plea of guilty 723
to an offense; 724

(3) Community-based long-term care services certificates 725
and community-based long-term care services contracts or grants 726
issued under section 173.381 of the Revised Code; 727

(4) Certifications of a provider to provide community- 728
based long-term care services under section 173.391 of the 729
Revised Code; 730

(5) Certificates of authority to a health insuring corporation issued under section 1751.05 of the Revised Code;	731 732
(6) Licenses to operate a home or residential care facility issued under section 3721.07 of the Revised Code;	733 734
(7) Certificates of authority to make contracts of indemnity issued under section 3931.10 of the Revised Code;	735 736
(8) Supported living certificates issued under section 5123.161 of the Revised Code;	737 738
(9) Certificates to administer medications and perform health-related activities under section 5123.45 of the Revised Code.	739 740 741
(J) (I) Nothing in divisions (B) to (K) (J) of this section prohibits a licensing authority from considering either of the following when making a determination whether to issue a license to an individual:	742 743 744 745
(1) Past disciplinary action taken by the licensing authority against the individual;	746 747
(2) Past disciplinary action taken against the individual by an authority in another state that issues a license that is substantially similar to the license for which the individual applies.	748 749 750 751
(K) (J) Notwithstanding any provision of the Revised Code to the contrary, if a licensing authority issues a license to an individual after considering a conviction of, judicial finding of guilt of, or plea of guilty to an offense under division (D) of this section, the licensing authority shall not refuse to renew the individual's license based on that conviction, judicial finding of guilt, or plea of guilty.	752 753 754 755 756 757 758

~~(L)(1)~~ (K)(1) Notwithstanding any provision of the Revised Code to the contrary, subject to division (G) of this section, during the period commencing on ~~the effective date of this amendment April 4, 2023,~~ and ending on ~~the date that is two years after the effective date of this amendment~~ April 4, 2025, no licensing authority shall refuse to issue a license to a person, limit or otherwise place restrictions on a person's license, or suspend or revoke a person's license under any provision of the Revised Code that takes effect on or after ~~the effective date of this amendment April 4, 2023,~~ and prior to ~~the date that is two years after the effective date of this amendment~~ April 4, 2025, and that requires or authorizes such a refusal, limitation, restriction, suspension, or revocation as a result of the person's conviction of, judicial finding of guilt of, or plea of guilty to an offense.

(2) Divisions (B) to (F), and (H) to ~~(K)~~ (J), of this section do not apply with respect to any provision of the Revised Code that takes effect on or after ~~the effective date of this amendment April 4, 2023,~~ and prior to ~~the date that is two years after the effective date of this amendment~~ April 4, 2025, and that requires or authorizes a licensing authority to refuse to issue a license to a person, to limit or otherwise place restrictions on a person's license, or to suspend or revoke a person's license as a result of the person's conviction of, judicial finding of guilt of, or plea of guilty to an offense.

Sec. 9.821. (A) The department of administrative services shall direct and manage for state agencies all risk management and insurance programs authorized under section 9.822 of the Revised Code.

(B) The office of risk management is hereby established

within the department of administrative services. The director 789
of administrative services, or a deputy director appointed by 790
the director, shall control and supervise the office. 791

(C) The office may take any of the following actions that 792
it determines to be in the best interests of the state: 793

(1) Provide all insurance coverages for the state, 794
including, but not limited to, vehicle liability, casualty, 795
property, public liability, and fidelity bonding. The cost of 796
insurance coverage shall be paid from appropriations made to the 797
state agencies that the office has designated to receive the 798
coverage. 799

(2) Provide coverage of legal expenses that are necessary 800
and related to the legal defense of claims against the state; 801

(3) Purchase insurance policies consistent with sections 802
125.01 to 125.111 of the Revised Code, develop and administer 803
self-insurance programs, or do both; 804

(4) Consolidate and combine state insurance coverages; 805

(5) Provide technical services in risk management and 806
insurance to state agencies;— 807

~~(6) Adopt and publish, in accordance with section 111.15— 808
of the Revised Code, necessary rules and procedures governing— 809
the administration of the state's insurance and risk management— 810
activities. 811~~

(D) No state agency, except a state agency exempted under 812
section 125.02 or 125.04 of the Revised Code from the 813
department's purchasing authority, shall purchase any insurance 814
described in this section except as authorized by the 815
department, when the office of risk management determines that 816

the purchase is in the best interest of the state pursuant to 817
division (C)(1) of this section, and in accordance with terms, 818
conditions, and procurement methods established by the 819
department. 820

(E) With respect to any civil action, demand, or claim 821
against the state that could be filed in the court of claims, 822
nothing in sections 9.82 to 9.823 of the Revised Code shall be 823
interpreted to permit the settlement or compromise of those 824
civil actions, demands, or claims, except in the manner provided 825
in Chapter 2743. of the Revised Code. 826

(F) The department of administrative services and the 827
office of risk management, while acting pursuant to the 828
responsibilities prescribed in sections 9.82 to 9.83 of the 829
Revised Code, are performing a public duty, as defined in 830
section 2743.01 of the Revised Code. 831

(G) The office of the attorney general or counsel 832
appointed by the office of the attorney general, including any 833
legal representatives thereof, shall provide and share 834
communications and documents that are made for the purpose of 835
seeking or providing legal advice or counsel in connection with 836
actual or potential litigation, liability claims, contract 837
disputes, risk management issues, and other matters involving 838
the programs of the office of risk management with the office. 839
All such communications and documents shared between the office, 840
a state agency, and the office of the attorney general or 841
counsel appointed by the office of the attorney general, 842
including any legal representatives thereof, are privileged and 843
confidential. 844

Sec. 101.15. (A) As used in this section: 845

(1) "Caucus" means all of the members of either house of the general assembly who are members of the same political party. 846
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(2) "Committee" means any committee of either house of the general assembly, a joint committee of both houses of the general assembly, including a committee of conference, or a subcommittee of any committee listed in division (A) (2) of this section. 849
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(3) "Meeting" means any prearranged discussion of the public business of a committee by a majority of its members. 854
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(B) Except as otherwise provided in division (F) of this section, all meetings of any committee are declared to be public meetings open to the public at all times. The secretary assigned to the chairperson of the committee shall prepare, file, and maintain the minutes of every regular or special meeting of a committee. The committee, at its next regular or special meeting, shall approve the minutes prepared, filed, and maintained by the secretary, or, if the minutes prepared, filed, and maintained by the secretary require correction before their approval, the committee shall correct and approve the minutes at the next following regular or special meeting. The committee shall make the minutes available for public inspection not later than seven days after the meeting the minutes reflect or not later than the committee's next regular or special meeting, whichever occurs first. 856
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(C) Each committee shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. No committee shall hold a regular or special meeting unless it gives at least twenty-four hours' 871
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advance notice to the news media that have requested 876
notification. 877

The method established by each committee shall provide 878
that, upon request and payment of a reasonable fee, any person 879
may obtain reasonable advance notification of all meetings at 880
which any specific type of public business will be discussed. 881
Provisions for advance notification may include, but are not 882
limited to, mailing the agenda of meetings to all subscribers on 883
a mailing list or mailing notices in self-addressed stamped 884
envelopes provided by the person who desires advance 885
notification. 886

(D) Any action of a committee relating to a bill or 887
resolution, or any other formal action of a committee, is 888
invalid unless taken in an open meeting of the committee. Any 889
action of a committee relating to a bill or resolution, or any 890
other formal action of a committee, taken in an open meeting is 891
invalid if it results from deliberations in a meeting not open 892
to the public. 893

(E) (1) Any person may bring an action to enforce this 894
section. An action under this division shall be brought within 895
two years after the date of the alleged violation or threatened 896
violation. Upon proof of a violation or threatened violation of 897
this section in an action brought by any person, the court of 898
common pleas shall issue an injunction to compel the members of 899
the committee to comply with its provisions. 900

(2) (a) If the court of common pleas issues an injunction 901
under division (E) (1) of this section, the court shall order the 902
committee that it enjoins to pay a civil forfeiture of five 903
hundred dollars to the party that sought the injunction and 904
shall award to that party all court costs and, subject to 905

reduction as described in this division, reasonable attorney's 906
fees. The court, in its discretion, may reduce an award of 907
attorney's fees to the party that sought the injunction or not 908
award attorney's fees to that party if the court determines both 909
of the following: 910

(i) That, based on the ordinary application of statutory 911
law and case law as it existed at the time of the violation or 912
threatened violation that was the basis of the injunction, a 913
well-informed committee reasonably would believe that the 914
committee was not violating or threatening to violate this 915
section; 916

(ii) That a well-informed committee reasonably would 917
believe that the conduct or threatened conduct that was the 918
basis of the injunction would serve the public policy that 919
underlies the authority that is asserted as permitting that 920
conduct or threatened conduct. 921

(b) If the court of common pleas does not issue an 922
injunction under division (E)(1) of this section and the court 923
determines at that time that the bringing of the action was 924
frivolous conduct as defined in division (A) of section 2323.51 925
of the Revised Code, the court shall award to the committee all 926
court costs and reasonable attorney's fees, as determined by the 927
court. 928

(3) Irreparable harm and prejudice to the party that 929
sought the injunction shall be conclusively and irrebuttably 930
presumed upon proof of a violation or threatened violation of 931
this section. 932

(4) A member of a committee who knowingly violates an 933
injunction issued under division (E)(1) of this section may be 934

removed from office by an action brought in the court of common 935
pleas for that purpose by the prosecuting attorney of Franklin 936
county or by the attorney general. 937

(5) The remedies described in divisions (E)(1) to (4) of 938
this section shall be the exclusive remedies for a violation of 939
this section. 940

(F) This section does not apply to or affect either of the 941
following: 942

(1) All meetings of the joint legislative ethics committee 943
created under section 101.34 of the Revised Code other than a 944
meeting that is held for any of the following purposes: 945

(a) To consider the adoption, amendment, or rescission of 946
any rule that the joint legislative ethics committee is 947
authorized to adopt pursuant to ~~division (B)(11) of section~~ 948
~~101.34, division (E) of section 101.78, division (B) of section~~ 949
~~102.02, or division (E) of section 121.68~~ of the Revised Code; 950

(b) To discuss and consider changes to any administrative 951
operation of the joint legislative ethics committee other than 952
any matter described in division (G) of section 121.22 of the 953
Revised Code; 954

(c) To discuss pending or proposed legislation. 955

(2) Meetings of a caucus. 956

(G) For purposes of division (F)(1)(a) of this section, an 957
advisory opinion, written opinion, or decision relative to a 958
complaint is not a rule. 959

Sec. 101.34. (A) There is hereby created a joint 960
legislative ethics committee to serve the general assembly. The 961
committee shall be composed of twelve members, six each from the 962

two major political parties, and each member shall serve on the 963
committee during the member's term as a member of that general 964
assembly. Six members of the committee shall be members of the 965
house of representatives appointed by the speaker of the house 966
of representatives, not more than three from the same political 967
party, and six members of the committee shall be members of the 968
senate appointed by the president of the senate, not more than 969
three from the same political party. A vacancy in the committee 970
shall be filled for the unexpired term in the same manner as an 971
original appointment. The members of the committee shall be 972
appointed within forty-five days after the first day of the 973
first regular session of each general assembly and the committee 974
shall meet and proceed to recommend an ethics code not later 975
than sixty days after the first day of the first regular session 976
of each general assembly. 977

In the first regular session of each general assembly, the 978
speaker of the house of representatives shall appoint the 979
chairperson of the committee from among the house members of the 980
committee, and the president of the senate shall appoint the 981
vice-chairperson of the committee from among the senate members 982
of the committee. In the second regular session of each general 983
assembly, the president of the senate shall appoint the 984
chairperson of the committee from among the senate members of 985
the committee, and the speaker of the house of representatives 986
shall appoint the vice-chairperson of the committee from among 987
the house members of the committee. The chairperson, vice- 988
chairperson, and members of the committee shall serve until 989
their respective successors are appointed or until they are no 990
longer members of the general assembly. 991

The committee shall meet at the call of the chairperson or 992
upon the written request of seven members of the committee. 993

(B) The joint legislative ethics committee:	994
(1) Shall recommend a code of ethics that is consistent with law to govern all members and employees of each house of the general assembly and all candidates for the office of member of each house;	995 996 997 998
(2) May receive and hear any complaint that alleges a breach of any privilege of either house, or misconduct of any member, employee, or candidate, or any violation of the appropriate code of ethics;	999 1000 1001 1002
(3) May obtain information with respect to any complaint filed pursuant to this section and to that end may enforce the attendance and testimony of witnesses, and the production of books and papers;	1003 1004 1005 1006
(4) May recommend whatever sanction is appropriate with respect to a particular member, employee, or candidate as will best maintain in the minds of the public a good opinion of the conduct and character of members and employees of the general assembly;	1007 1008 1009 1010 1011
(5) May recommend legislation to the general assembly relating to the conduct and ethics of members and employees of and candidates for the general assembly;	1012 1013 1014
(6) Shall employ an executive director for the committee and may employ other staff as the committee determines necessary to assist it in exercising its powers and duties. The executive director and staff of the committee shall be known as the office of legislative inspector general. At least one member of the staff of the committee shall be an attorney at law licensed to practice law in this state. The appointment and removal of the executive director shall require the approval of at least eight	1015 1016 1017 1018 1019 1020 1021 1022

members of the committee. 1023

(7) May employ a special counsel to assist the committee 1024
in exercising its powers and duties. The appointment and removal 1025
of a special counsel shall require the approval of at least 1026
eight members of the committee. 1027

(8) Shall act as an advisory body to the general assembly 1028
and to individual members, candidates, and employees on 1029
questions relating to ethics, possible conflicts of interest, 1030
and financial disclosure; 1031

(9) Shall provide for the proper forms on which a 1032
statement required pursuant to section 102.02 or 102.021 of the 1033
Revised Code shall be filed and instructions as to the filing of 1034
the statement; 1035

(10) May exercise the powers and duties prescribed under 1036
sections 101.70 to 101.79, sections 101.90 to 101.98, Chapter 1037
102., and sections 121.60 to 121.69 of the Revised Code; 1038

~~(11) May adopt, in accordance with section 111.15 of the~~ 1039
~~Revised Code, any rules that are necessary to implement and~~ 1040
~~clarify Chapter 102. and sections 2921.42 and 2921.43 of the~~ 1041
~~Revised Code.~~ 1042

(C) There is hereby created in the state treasury the 1043
joint legislative ethics committee fund. All money collected 1044
from registration fees and late filing fees prescribed under 1045
sections 101.72, 101.92, and 121.62 of the Revised Code shall be 1046
deposited into the state treasury to the credit of the fund. 1047
Money credited to the fund and any interest and earnings from 1048
the fund shall be used solely for the operation of the joint 1049
legislative ethics committee and the office of legislative 1050
inspector general and for the purchase of data storage and 1051

computerization facilities for the statements filed with the 1052
committee under sections 101.73, 101.74, 101.93, 101.94, 121.63, 1053
and 121.64 of the Revised Code. 1054

(D) The chairperson of the joint legislative ethics 1055
committee shall issue a written report, not later than the 1056
thirty-first day of January of each year, to the speaker and 1057
minority leader of the house of representatives and to the 1058
president and minority leader of the senate that lists the 1059
number of committee meetings and investigations the committee 1060
conducted during the immediately preceding calendar year and the 1061
number of advisory opinions it issued during the immediately 1062
preceding calendar year. 1063

(E) Any investigative report that contains facts and 1064
findings regarding a complaint filed with the joint legislative 1065
ethics committee and that is prepared by the staff of the 1066
committee or a special counsel to the committee shall become a 1067
public record upon its acceptance by a vote of the majority of 1068
the members of the committee, except for any names of specific 1069
individuals and entities contained in the report. If the 1070
committee recommends disciplinary action or reports its findings 1071
to the appropriate prosecuting authority for proceedings in 1072
prosecution of the violations alleged in the complaint, the 1073
investigatory report regarding the complaint shall become a 1074
public record in its entirety. 1075

(F) (1) Any file obtained by or in the possession of the 1076
former house ethics committee or former senate ethics committee 1077
shall become the property of the joint legislative ethics 1078
committee. Any such file is confidential if either of the 1079
following applies: 1080

(a) It is confidential under section 102.06 of the Revised 1081

Code or the legislative code of ethics. 1082

(b) If the file was obtained from the former house ethics 1083
committee or from the former senate ethics committee, it was 1084
confidential under any statute or any provision of a code of 1085
ethics that governed the file. 1086

(2) As used in this division, "file" includes, but is not 1087
limited to, evidence, documentation, or any other tangible 1088
thing. 1089

(G) There is hereby created in the state treasury the 1090
joint legislative ethics committee investigative and financial 1091
disclosure fund. Investment earnings of the fund shall be 1092
credited to the fund. All moneys credited to the fund shall be 1093
used solely for expenses related to the investigative and 1094
financial disclosure functions of the committee. 1095

Sec. 101.78. (A) The joint legislative ethics committee 1096
shall keep on file the statements required by sections 101.72, 1097
101.73, and 101.74 of the Revised Code. Those statements are 1098
public records and open to public inspection, and the joint 1099
committee shall computerize them so that the information 1100
contained in them is readily accessible to the general public. 1101
The joint committee shall provide copies of the statements to 1102
the general public upon request and may charge a reasonable fee 1103
not to exceed the cost of copying and delivering each statement. 1104

(B) The joint committee shall prescribe and make available 1105
an appropriate form for filing the information required by 1106
sections 101.72, 101.73, and 101.74 of the Revised Code. The 1107
form shall contain the following notice in boldface type: "ANY 1108
PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS GUILTY OF 1109
FALSIFICATION UNDER SECTION 2921.13 OF THE REVISED CODE, WHICH 1110

IS A MISDEMEANOR OF THE FIRST DEGREE." 1111

(C) The joint committee shall publish a handbook that 1112
explains in clear and concise language sections 101.70 to 101.79 1113
and 101.99 of the Revised Code and make it available free of 1114
charge to members of the general assembly, legislative agents, 1115
employers, and any other interested persons. 1116

(D) Not later than the last day of February and October of 1117
each year, the joint committee shall compile from registration 1118
statements filed with it a complete and updated list of 1119
registered legislative agents and their employers and distribute 1120
the list to each member of the general assembly, each member of 1121
the controlling board who is not a member of the general 1122
assembly, and the governor. The joint committee shall provide 1123
copies of the list to the general public upon request and may 1124
charge a reasonable fee not to exceed the cost of copying and 1125
delivering the list. 1126

~~(E) The joint committee may adopt rules as necessary to 1127
implement sections 101.70 to 101.79 of the Revised Code, and any 1128
such rules it adopts shall be adopted in accordance with section 1129
111.15 of the Revised Code. 1130~~

Sec. 101.98. (A) The joint legislative ethics committee 1131
shall keep on file the statements required by sections 101.92, 1132
101.93, and 101.94 of the Revised Code. These statements are 1133
public records and open to public inspection, and the joint 1134
committee shall computerize them so that the information 1135
contained in them is readily accessible to the general public. 1136
The joint committee shall provide copies of the statements to 1137
the general public on request and may charge a reasonable fee 1138
not to exceed the cost of copying and delivering the statement. 1139

(B) Not later than the last day of February and October of 1140
each year, the joint committee shall compile from the 1141
registration statements filed with it a complete and updated 1142
list of registered retirement system lobbyists and their 1143
employers, and distribute the list to each member of the general 1144
assembly, elected executive official, and the director of each 1145
retirement system, who shall distribute the list to the 1146
appropriate personnel under the director's jurisdiction. The 1147
joint committee shall provide copies of the list to the general 1148
public on request and may charge a reasonable fee not to exceed 1149
the cost of copying and delivering the list. 1150

(C) The joint committee shall prescribe and make available 1151
an appropriate form for the filings required by sections 101.92, 1152
101.93, and 101.94 of the Revised Code. The form shall contain 1153
the following notice in boldface type: "ANY PERSON WHO KNOWINGLY 1154
FILES A FALSE STATEMENT IS GUILTY OF FALSIFICATION UNDER SECTION 1155
2921.13 OF THE REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST 1156
DEGREE." 1157

~~(D) The joint committee may adopt rules as necessary to 1158
implement sections 101.90 to 101.98 of the Revised Code. The 1159
rules shall be adopted in accordance with section 111.15 of the 1160
Revised Code. 1161~~

~~(E) The joint committee shall publish a handbook that 1162
explains in clear and concise language the provisions of 1163
sections 101.90 to 101.98 of the Revised Code and make it 1164
available free of charge to retirement system lobbyists, 1165
employers, and any other interested persons. 1166~~

Sec. 102.05. There is hereby created the Ohio ethics 1167
commission consisting of six members, three of whom shall be 1168
members of each of the two major political parties, to be 1169

appointed by the governor with the advice and consent of the 1170
senate. Within thirty days of ~~the effective date of this~~ 1171
~~section~~ January 1, 1974, the governor shall make initial 1172
appointments to the commission. Of the initial appointments made 1173
to the commission, one shall be for a term ending one year after 1174
~~the effective date of this section~~ January 1, 1974, and the other 1175
appointments shall be for terms ending two, three, four, five, 1176
and six years, respectively, after ~~the effective date of this~~ 1177
~~section~~ January 1, 1974. Thereafter, terms of office shall be for 1178
six years, each term ending on the same day of the same month of 1179
the year as did the term that it succeeds. Each member shall 1180
hold office from the date of ~~his~~ appointment until the end of 1181
the term for which ~~he~~ the member was appointed. Any member 1182
appointed to fill a vacancy occurring prior to the expiration of 1183
the term for which ~~his~~ the member's predecessor was appointed 1184
shall hold office for the remainder of that term. 1185

No person shall be appointed to the commission or shall 1186
continue to serve as a member of the commission if the person is 1187
subject to section 102.02 of the Revised Code other than by 1188
reason of ~~his~~ appointment to the commission or if the person is 1189
a legislative agent registered under sections 101.70 to 101.79 1190
of the Revised Code or an executive agency lobbyist registered 1191
under sections 121.60 to 121.69 of the Revised Code. Each member 1192
shall be paid seventy-five dollars for each meeting held in the 1193
discharge of ~~his~~ official duties, except that no member shall be 1194
paid more than eighteen hundred dollars in any fiscal year. Each 1195
member shall be reimbursed for expenses actually and necessarily 1196
incurred in the performance of ~~his~~ official duties. 1197

The commission shall meet within two weeks after all 1198
members have been appointed, at a time and place determined by 1199
the governor. At its first meeting, the commission shall elect a 1200

~~chairman~~ chairperson and other officers that are necessary ~~and~~ 1201
~~shall adopt rules for its procedures.~~ After the first meeting, 1202
the commission shall meet at the call of the ~~chairman~~ chairperson 1203
or upon the written request of a majority of the members. A 1204
majority of the members of the commission constitutes a quorum. 1205
The commission shall not take any action without the concurrence 1206
of a majority of the members of the commission. 1207

The commission may appoint and fix the compensation of an 1208
executive director and other technical, professional, and 1209
clerical employees that are necessary to carry out the duties of 1210
the commission. 1211

The commission may appoint hearing examiners to conduct 1212
hearings pursuant to section 102.06 of the Revised Code. The 1213
hearing examiners have the same powers and authority in 1214
conducting the hearings as is granted to the commission. Within 1215
thirty days after the hearing, the hearing examiner shall submit 1216
to the commission a written report of ~~his~~ the hearing examiner's 1217
findings of fact and conclusions of law and a recommendation of 1218
the action to be taken by the commission. The recommendation of 1219
the hearing examiner may be approved, modified, or disapproved 1220
by the commission, and no recommendation shall become the 1221
findings of the commission until so ordered by the commission. 1222
The findings of the commission shall have the same effect as if 1223
the hearing had been conducted by the commission. Hearing 1224
examiners appointed pursuant to this section shall possess the 1225
qualifications the commission requires. Nothing contained in 1226
this section shall preclude the commission from appointing a 1227
member of the commission to serve as a hearing examiner. 1228

Sec. 103.0511. The director of the legislative service 1229
commission shall establish and maintain, and enhance and 1230

improve, an electronic rule-filing system connecting: 1231

(A) The legislative service commission, the joint 1232
committee on agency rule review, and the secretary of state; 1233

(B) The governor, the senate and house of representatives, 1234
and the clerks of the senate and house of representatives; 1235

(C) Each agency that files rules and other rule-making and 1236
rule-related documents with the legislative service commission, 1237
the joint committee on agency rule review, the department of 1238
aging, the governor, the secretary of state, the general 1239
assembly, or a committee of the senate or house of 1240
representatives under section 106.02, 106.022, 106.024, 106.031, 1241
107.54, 111.15, 117.20, 119.03, 119.0311, 119.04, 121.39, 1242
121.82, or 173.01, ~~or 5117.02~~ of the Revised Code or any other 1243
statute; 1244

(D) The several publishers of the Administrative Code; 1245

(E) The common sense initiative office; and 1246

(F) Any other person or governmental officer or entity 1247
whose inclusion in the system is required for the system to be a 1248
complete electronic rule-filing system. 1249

The electronic rule-filing system is to enable rules and 1250
rule-making and rule-related documents to be filed, and official 1251
responses to these filings to be made, exclusively by electronic 1252
means. 1253

Sec. 105.41. (A) There is hereby created in the 1254
legislative branch of government the capitol square review and 1255
advisory board, consisting of twelve members as follows: 1256

(1) Two members of the senate, appointed by the president 1257
of the senate, both of whom shall not be members of the same 1258

political party; 1259

(2) Two members of the house of representatives, appointed 1260
by the speaker of the house of representatives, both of whom 1261
shall not be members of the same political party; 1262

(3) Four members appointed by the governor, with the 1263
advice and consent of the senate, not more than three of whom 1264
shall be members of the same political party, one of whom shall 1265
be the chief of staff of the governor's office, one of whom 1266
shall represent the Ohio arts council, one of whom shall 1267
represent the Ohio history connection, and one of whom shall 1268
represent the public at large; 1269

(4) One member, who shall be a former president of the 1270
senate, appointed by the current president of the senate. If the 1271
current president of the senate, in the current president's 1272
discretion, decides for any reason not to make the appointment 1273
or if no person is eligible or available to serve, the seat 1274
shall remain vacant. 1275

(5) One member, who shall be a former speaker of the house 1276
of representatives, appointed by the current speaker of the 1277
house of representatives. If the current speaker of the house of 1278
representatives, in the current speaker's discretion, decides 1279
for any reason not to make the appointment or if no person is 1280
eligible or available to serve, the seat shall remain vacant. 1281

(6) The clerk of the senate and the clerk of the house of 1282
representatives. 1283

(B) All appointed members of the board serve at the 1284
pleasure of the appointing authority and may be discharged from 1285
the board, by the appointing authority, without cause. Terms of 1286
office of each member appointed under divisions (A) (3), (4), and 1287

(5) of this section shall be for three years unless discharged 1288
by the appointing authority before the end of the term. Members 1289
of the general assembly appointed to the board may be members of 1290
the board only so long as they are members of the general 1291
assembly and the chief of staff of the governor's office may be 1292
a member of the board only so long as the appointing governor 1293
remains in office. In case of a vacancy occurring on the board, 1294
the president of the senate, the speaker of the house of 1295
representatives, or the governor, as the case may be, shall in 1296
the same manner prescribed for the regular appointment to the 1297
commission, fill the vacancy by appointing a member. Any member 1298
appointed to fill a vacancy occurring prior to the expiration of 1299
the term for which the member's predecessor was appointed shall 1300
hold office for the remainder of the term. Any appointed member 1301
may be reappointed, provided the member continues to meet all 1302
other eligibility requirements. 1303

(C) The board shall hold meetings in a manner and at times 1304
prescribed by the rules adopted by the board. A majority of the 1305
board constitutes a quorum, and no action shall be taken by the 1306
board unless approved by at least six members or by at least 1307
seven members if a person is appointed under division (A) (4) or 1308
(5) of this section. At its first meeting, the board shall adopt 1309
rules for the conduct of its business and the election of its 1310
officers, and shall organize by selecting officers other than a 1311
chairperson as it considers necessary. In odd-numbered years, 1312
the majority member from the senate shall serve as chairperson; 1313
in even-numbered years, the majority member from the house of 1314
representatives shall serve as chairperson. Board members shall 1315
serve without compensation but shall be reimbursed for actual 1316
and necessary expenses incurred in the performance of their 1317
duties. 1318

- (D) The board may do any of the following: 1319
- (1) Employ or hire on a consulting basis professional, 1320
technical, and clerical employees as are necessary for the 1321
performance of its duties. All employees of the board are in the 1322
unclassified service and serve at the pleasure of the board. For 1323
purposes of section 4117.01 of the Revised Code, employees of 1324
the board shall be considered employees of the general assembly, 1325
except that employees who are covered by a collective bargaining 1326
agreement on September 29, 2011, shall remain subject to the 1327
agreement until the agreement expires on its terms, and the 1328
agreement shall not be extended or renewed. Upon expiration of 1329
the agreement, the employees are considered employees of the 1330
general assembly for purposes of section 4117.01 of the Revised 1331
Code and are in the unclassified service and serve at the 1332
pleasure of the board. 1333
- (2) Hold public hearings at times and places as determined 1334
by the board; 1335
- (3) Enter into an indefinite delivery indefinite quantity 1336
contract, under section 153.013 of the Revised Code, for an 1337
architect or engineer; 1338
- ~~(4) Adopt, amend, or rescind rules necessary to accomplish 1339
the duties of the board as set forth in this section; 1340~~
- ~~(5) Sponsor, conduct, and support such social events as 1341
the board may authorize and consider appropriate for the 1342
employees of the board, employees and members of the general 1343
assembly, employees of persons under contract with the board or 1344
otherwise engaged to perform services on the premises of capitol 1345
square, or other persons as the board may consider appropriate. 1346
Subject to the requirements of Chapter 4303. of the Revised 1347~~

Code, the board may provide beer, wine, and intoxicating liquor, 1348
with or without charge, for those events and may use funds only 1349
from the sale of goods and services fund to purchase the beer, 1350
wine, and intoxicating liquor the board provides; 1351

~~(6)~~(5) Purchase a warehouse in which to store items of the 1352
capitol collection trust and, whenever necessary, equipment or 1353
other property of the board. 1354

(E) The board shall do all of the following: 1355

(1) Have sole authority to coordinate and approve any 1356
improvements, additions, and renovations that are made to the 1357
capitol square. The improvements shall include, but not be 1358
limited to, the placement of monuments and sculpture on the 1359
capitol grounds. 1360

(2) Operate the capitol square, and have sole authority to 1361
regulate all uses of the capitol square. The uses shall include, 1362
but not be limited to, the casual and recreational use of the 1363
capitol square. 1364

(3) Employ, fix the compensation of, and prescribe the 1365
duties of the executive director of the board and other 1366
employees the board considers necessary for the performance of 1367
its powers and duties; 1368

(4) Establish and maintain the capitol collection trust. 1369
The capitol collection trust shall consist of furniture, 1370
antiques, and other items of personal property that the board 1371
shall store in suitable facilities until they are ready to be 1372
displayed in the capitol square. 1373

(5) Perform repair, construction, contracting, purchasing, 1374
maintenance, supervisory, and operating activities the board 1375
determines are necessary for the operation and maintenance of 1376

the capitol square; 1377

(6) Maintain and preserve the capitol square, in 1378
accordance with guidelines issued by the United States secretary 1379
of the interior for application of the secretary's standards for 1380
rehabilitation adopted in 36 C.F.R. part 67; 1381

(7) Plan and develop a center at the capitol building for 1382
the purpose of educating visitors about the history of Ohio, 1383
including its political, economic, and social development and 1384
the design and erection of the capitol building and its grounds. 1385

(F) (1) The board shall lease capital facilities improved 1386
by the department of administrative services or financed by the 1387
treasurer of state pursuant to Chapter 154. of the Revised Code 1388
for the use of the board, and may enter into any other 1389
agreements with the department, the Ohio public facilities 1390
commission, or any other authorized governmental agency 1391
ancillary to improvement, financing, or leasing of those capital 1392
facilities, including, but not limited to, any agreement 1393
required by the applicable bond proceedings authorized by 1394
Chapter 154. of the Revised Code. Any lease of capital 1395
facilities authorized by this section shall be governed by 1396
Chapter 154. of the Revised Code. 1397

(2) Fees, receipts, and revenues received by the board 1398
from the state underground parking garage constitute available 1399
receipts as defined in section 154.24 of the Revised Code, and 1400
may be pledged to the payment of bond service charges on 1401
obligations issued by the treasurer of state pursuant to Chapter 1402
154. of the Revised Code to improve, finance, or purchase 1403
capital facilities useful to the board. The treasurer of state 1404
may, with the consent of the board, provide in the bond 1405
proceedings for a pledge of all or a portion of those fees, 1406

receipts, and revenues as the treasurer of state determines. The 1407
treasurer of state may provide in the bond proceedings or by 1408
separate agreement with the board for the transfer of those 1409
fees, receipts, and revenues to the appropriate bond service 1410
fund or bond service reserve fund as required to pay the bond 1411
service charges when due, and any such provision for the 1412
transfer of those fees, receipts, and revenues shall be 1413
controlling notwithstanding any other provision of law 1414
pertaining to those fees, receipts, and revenues. 1415

(3) All moneys received by the treasurer of state on 1416
account of the board and required by the applicable bond 1417
proceedings or by separate agreement with the board to be 1418
deposited, transferred, or credited to the bond service fund or 1419
bond service reserve fund established by the bond proceedings 1420
shall be transferred by the treasurer of state to such fund, 1421
whether or not it is in the custody of the treasurer of state, 1422
without necessity for further appropriation. 1423

(G) (1) Except as otherwise provided in division (G) (2) of 1424
this section, all fees, receipts, and revenues received by the 1425
board from the state underground parking garage shall be 1426
deposited into the state treasury to the credit of the 1427
underground parking garage operating fund, which is hereby 1428
created, to be used for the purposes specified in division (F) 1429
of this section and for the operation and maintenance of the 1430
garage. All investment earnings of the fund shall be credited to 1431
the fund. 1432

(2) There is hereby created the parking garage automated 1433
equipment fund, which shall be in the custody of the treasurer 1434
of state but shall not be part of the state treasury. Money in 1435
the fund shall be used to purchase the automated teller machine 1436

quality dollar bills needed for operation of the parking garage 1437
automated equipment. The fund shall consist of fees, receipts, 1438
or revenues received by the board from the state underground 1439
parking garage; provided, however, that the total amount 1440
deposited into the fund at any one time shall not exceed ten 1441
thousand dollars. All investment earnings of the fund shall be 1442
credited to the fund. 1443

(H) All donations received by the board shall be deposited 1444
into the state treasury to the credit of the capitol square 1445
renovation gift fund, which is hereby created. The fund shall be 1446
used by the board as follows: 1447

(1) To provide part or all of the funding related to 1448
construction, goods, or services for the renovation of the 1449
capitol square; 1450

(2) To purchase art, antiques, and artifacts for display 1451
at the capitol square; 1452

(3) To award contracts or make grants to organizations for 1453
educating the public regarding the historical background and 1454
governmental functions of the capitol square. Chapters 125., 1455
127., and 153. and section 3517.13 of the Revised Code do not 1456
apply to purchases made exclusively from the fund, 1457
notwithstanding anything to the contrary in those chapters or 1458
that section. All investment earnings of the fund shall be 1459
credited to the fund. 1460

(I) Except as provided in divisions (G), (H), and (J) of 1461
this section, all fees, receipts, and revenues received by the 1462
board shall be deposited into the state treasury to the credit 1463
of the sale of goods and services fund, which is hereby created. 1464
Money credited to the fund shall be used solely to pay costs of 1465

the board other than those specified in divisions (F) and (G) of 1466
this section. All investment earnings of the fund shall be 1467
credited to the fund. 1468

(J) There is hereby created in the state treasury the 1469
capitol square improvement fund, to be used by the board to pay 1470
construction, renovation, and other costs related to the capitol 1471
square for which money is not otherwise available to the board. 1472
Whenever the board determines that there is a need to incur 1473
those costs and that the unencumbered, unobligated balance to 1474
the credit of the underground parking garage operating fund 1475
exceeds the amount needed for the purposes specified in division 1476
(F) of this section and for the operation and maintenance of the 1477
garage, the board may request the director of budget and 1478
management to transfer from the underground parking garage 1479
operating fund to the capitol square improvement fund the amount 1480
needed to pay such construction, renovation, or other costs. The 1481
director then shall transfer the amount needed from the excess 1482
balance of the underground parking garage operating fund. 1483

(K) As the operation and maintenance of the capitol square 1484
constitute essential government functions of a public purpose, 1485
the board shall not be required to pay taxes or assessments upon 1486
the square, upon any property acquired or used by the board 1487
under this section, or upon any income generated by the 1488
operation of the square. 1489

(L) As used in this section, "capitol square" means the 1490
capitol building, senate building, capitol atrium, capitol 1491
grounds, the state underground parking garage, and the warehouse 1492
owned by the board. 1493

(M) The capitol annex shall be known as the senate 1494
building. 1495

(N) Any person may possess a firearm in a motor vehicle in 1496
the state underground parking garage at the state capitol 1497
building, if the person's possession of the firearm in the motor 1498
vehicle is not in violation of section 2923.16 of the Revised 1499
Code or any other provision of the Revised Code. Any person may 1500
store or leave a firearm in a locked motor vehicle that is 1501
parked in the state underground parking garage at the state 1502
capitol building, if the person's transportation and possession 1503
of the firearm in the motor vehicle while traveling to the 1504
garage was not in violation of section 2923.16 of the Revised 1505
Code or any other provision of the Revised Code. 1506

Sec. 107.56. (A) As used in this section, "board or 1507
commission" means any of the following: 1508

- (1) The accountancy board; 1509
- (2) The architects board; 1510
- (3) The state cosmetology and barber board; 1511
- (4) The board of embalmers and funeral directors; 1512
- (5) The board of executives of long-term services and 1513
supports; 1514
- (6) The crematory review board; 1515
- (7) The motor vehicle dealers board; 1516
- (8) The motor vehicle repair board; 1517
- (9) The motor vehicle salvage dealer's licensing board; 1518
- (10) The Ohio athletic commission; 1519
- (11) The Ohio construction industry licensing board; 1520
- (12) The Ohio landscape architects board; 1521

(13) The Ohio real estate commission;	1522
(14) The real estate appraiser board;	1523
(15) The state auctioneers commission;	1524
(16) The state speech and hearing professionals board;	1525
(17) The state board of education;	1526
(18) The state board of emergency medical, fire, and transportation services;	1527 1528
(19) The board of nursing;	1529
(20) The state board of pharmacy;	1530
(21) The state board of registration for professional engineers and surveyors;	1531 1532
(22) The state board of psychology;	1533
(23) The state chiropractic board;	1534
(24) The state dental board;	1535
(25) The state medical board;	1536
(26) The state veterinary medical licensing board;	1537
(27) The state vision professionals board;	1538
(28) The counselor, social worker, and marriage and family therapist board;	1539 1540
(29) The chemical dependency professionals board;	1541
(30) The Ohio occupational therapy, physical therapy, and athletic trainers board;	1542 1543
(31) Any other multi-member body created under state law that licenses or otherwise regulates an occupation or industry	1544 1545

to which one or more members of the body belongs. 1546

(B) The common sense initiative office shall review an 1547
action taken or proposed by a board or commission that is 1548
subject to review under this section and that is referred to the 1549
office pursuant to division (C) of this section. 1550

(1) The following actions are subject to review under this 1551
section: 1552

(a) Any action that directly or indirectly has an effect 1553
of any of the following: 1554

(i) Fixing prices, limiting price competition, or 1555
increasing prices in this state for the goods or services that 1556
are provided by the occupation or industry regulated by the 1557
board or commission; 1558

(ii) Dividing, allocating, or assigning customers, 1559
potential customers, or geographic markets in this state among 1560
members of the occupation or industry regulated by the board or 1561
commission; 1562

(iii) Excluding present or potential competitors from the 1563
occupation or industry regulated by the board or commission; 1564

(iv) Limiting the output or supply in this state of any 1565
good or service provided by the members of the occupation or 1566
industry regulated by the board or commission. 1567

(b) Any other activity that could be subject to state or 1568
federal antitrust law if the action were undertaken by a private 1569
person or combination of private persons. 1570

(2) Except as provided in division (H) of this section, 1571
the following actions are not subject to review under this 1572
section: 1573

(a) Denying an application to obtain a license because the applicant has violated or has not complied with the Ohio Revised Code or the Ohio Administrative Code;	1574 1575 1576
(b) Taking disciplinary action against an individual or corporation that is licensed by a board or commission for violations of the Ohio Revised Code or the Ohio Administrative Code.	1577 1578 1579 1580
(C) (1) The following persons or entities may refer an action to the office for review under this section:	1581 1582
(a) A board or commission that has taken or is proposing to take an action;	1583 1584
(b) A person who is affected by an action taken by a board or commission or is likely to be affected by an action proposed by a board or commission;	1585 1586 1587
(c) A person who has been granted a stay pursuant to division (G) of this section.	1588 1589
(2) A board or commission or person who refers an action to the office shall prepare a brief statement explaining the action and its consistency or inconsistency with state or federal antitrust law and file the statement with the office. If the action is in writing, the board or commission or person shall attach a copy of it to the statement. The person shall transmit a copy of the statement to the board or commission.	1590 1591 1592 1593 1594 1595 1596
(3) The referral of an action by a board or commission for review by the office does not constitute an admission that the action violates any state or federal law.	1597 1598 1599
(4) A person who is affected by an action taken by a board or commission or is likely to be affected by an action proposed	1600 1601

by a board or commission shall refer the action to the office 1602
for review within thirty days after receiving notice of the 1603
action or proposed action. 1604

(5) If an ongoing action or an action proposed by a board 1605
or commission is referred to the office for review under this 1606
section, the board or commission shall cease the ongoing action 1607
or not take the proposed action until the office has approved of 1608
the action pursuant to division (E) of this section and prepared 1609
and transmitted the memorandum required under division (F) of 1610
this section. 1611

(D) The office shall determine whether an action referred 1612
to the office under this section is supported by, and consistent 1613
with, a clearly articulated state policy as expressed in the 1614
statutes creating the board or commission or the statutes and 1615
rules setting forth the board's or commission's powers, 1616
authority, and duties. If the office finds this to be the case, 1617
the office shall determine whether the clearly articulated state 1618
policy is merely a pretext by which the board or commission 1619
enables the members of an occupation or industry the board or 1620
commission regulates to engage in anticompetitive conduct that 1621
could be subject to state or federal antitrust law if the action 1622
were taken by a private person or combination of private 1623
persons. 1624

(E) After making the determinations required under 1625
division (D) of this section, the office shall take one of the 1626
following actions: 1627

(1) Approve the board or commission action if the office 1628
determines that the action is pursuant to a clearly articulated 1629
state policy and that the policy is not a pretext as described 1630
in division (D) of this section. If the office approves the 1631

board's or commission's action, the board or commission may 1632
proceed to take or may continue the action. 1633

(2) Disapprove the board or commission action if the 1634
office determines that the action is not pursuant to a clearly 1635
articulated state policy or that if it is pursuant to a clearly 1636
articulated state policy, that policy is a pretext as described 1637
in division (D) of this section. If the office disapproves the 1638
board's or commission's action, the action is void. 1639

(F) The office shall prepare a memorandum that explains 1640
the office's approval or disapproval. The office shall transmit 1641
a copy of the memorandum to the person and the board or 1642
commission or to the board or commission if only the board or 1643
commission is involved. The office shall post the memorandum on 1644
the web site maintained by the office. 1645

(G) (1) A person having standing to commence and prosecute 1646
a state or federal antitrust action against a board or 1647
commission shall exhaust the remedies provided by this section 1648
before commencing such an action. This division shall not apply 1649
to the attorney general, a county prosecuting attorney, or any 1650
assistant prosecutor designated to assist a county prosecuting 1651
attorney. 1652

(2) The state, a board or commission, or a member of a 1653
board or commission in the member's official capacity, may 1654
request a stay of any lawsuit alleging that a board or 1655
commission engaged in anticompetitive conduct by taking an 1656
action described in division (B) (1) or (2) of this section that 1657
has not been previously reviewed by the office under this 1658
section. If the lawsuit was initiated by a person other than the 1659
attorney general, a county prosecuting attorney, or any 1660
assistant prosecutor designated to assist a county prosecuting 1661

attorney, the court shall grant the request. If the lawsuit was 1662
initiated by the attorney general, a county prosecuting 1663
attorney, or any assistant prosecutor designated to assist a 1664
county prosecuting attorney, the court shall deny the request. 1665
Any stay granted under this division will continue in effect 1666
until the office has prepared and transmitted the memorandum 1667
required under division (F) of this section. 1668

(H) The office shall review any action referred to the 1669
office by a party who has been granted a stay pursuant to 1670
division (G) of this section. 1671

(I) Notwithstanding any provision of this section to the 1672
contrary, an action taken by a board or commission is not 1673
subject to review under this section if the members of the board 1674
or commission who are members of the occupation or industry 1675
affected by the action are prohibited by statute from hearing, 1676
considering, deciding, or otherwise participating in the action. 1677

~~(J) The office shall adopt rules under Chapter 119. of the 1678
Revised Code that are necessary for the implementation and 1679
administration of this section. 1680~~

Sec. 109.08. The attorney general may appoint and 1681
authorize special counsel to represent the state and any 1682
political subdivision in connection with all claims of 1683
whatsoever nature which are certified to the attorney general 1684
for collection under any law or which the attorney general is 1685
authorized to collect. 1686

Such special counsel shall be paid for their services from 1687
funds collected by them in an amount approved by the attorney 1688
general. In addition to the amount certified, the amounts paid 1689
to special counsel may be assessed as collection costs 1690

consistent with section 131.02 of the Revised Code and shall be 1691
fully recoverable from the party indebted. The amounts assessed 1692
as collection costs under this section are in addition to any 1693
amounts authorized under section 109.081 of the Revised Code. 1694

The attorney general is authorized to provide to the 1695
special counsel the official letterhead stationery of the 1696
attorney general. The attorney general may authorize the special 1697
counsel to use the letterhead stationery, but only in connection 1698
with the collection of such claims arising out of amounts 1699
certified by the state and political subdivisions. 1700

~~The attorney general may adopt rules under Chapter 119. of 1701
the Revised Code as necessary for the implementation of this 1702
section and section 109.081 of the Revised Code. 1703~~

Sec. 109.36. As used in this section and sections 109.361 1704
to ~~109.366~~109.365 of the Revised Code: 1705

(A) (1) "Officer or employee" means any of the following: 1706

(a) A person who, at the time a cause of action against 1707
the person arises, is serving in an elected or appointed office 1708
or position with the state or is employed by the state. 1709

(b) A person that, at the time a cause of action against 1710
the person, partnership, or corporation arises, is rendering 1711
medical, nursing, dental, podiatric, optometric, physical 1712
therapeutic, psychiatric, or psychological services pursuant to 1713
a personal services contract or purchased service contract with 1714
a department, agency, or institution of the state. 1715

(c) A person that, at the time a cause of action against 1716
the person, partnership, or corporation arises, is rendering 1717
peer review, utilization review, or drug utilization review 1718
services in relation to medical, nursing, dental, podiatric, 1719

optometric, physical therapeutic, psychiatric, or psychological 1720
services pursuant to a personal services contract or purchased 1721
service contract with a department, agency, or institution of 1722
the state. 1723

(d) A person who, at the time a cause of action against 1724
the person arises, is rendering medical, nursing, dental, 1725
podiatric, optometric, physical therapeutic, psychiatric, or 1726
psychological services to patients in a state institution 1727
operated by the department of mental health and addiction 1728
services pursuant to an agreement with the department. 1729

(2) "Officer or employee" does not include any person 1730
elected, appointed, or employed by any political subdivision of 1731
the state. 1732

(B) "State" means the state of Ohio, including but not 1733
limited to, the general assembly, the supreme court, courts of 1734
appeals, the offices of all elected state officers, and all 1735
departments, boards, offices, commissions, agencies, 1736
institutions, and other instrumentalities of the state of Ohio. 1737
"State" does not include political subdivisions. 1738

(C) "Political subdivisions" of the state means municipal 1739
corporations, townships, counties, school districts, and all 1740
other bodies corporate and politic responsible for governmental 1741
activities only in geographical areas smaller than that of the 1742
state. 1743

(D) "Employer" means the general assembly, the supreme 1744
court, courts of appeals, any office of an elected state 1745
officer, or any department, board, office, commission, agency, 1746
institution, or other instrumentality of the state of Ohio that 1747
employs or contracts with an officer or employee or to which an 1748

officer or employee is elected or appointed. 1749

Sec. 109.361. Upon the receipt of a written request by any 1750
officer or employee, the attorney general, except as provided in 1751
section 109.362 of the Revised Code, except under the 1752
circumstances described in division (E) of section 120.06 of the 1753
Revised Code, and except for civil actions in which the state is 1754
the plaintiff, shall represent and defend the officer or 1755
employee in any civil action instituted against the officer or 1756
employee. All expenses and court costs, including the reasonable 1757
compensation of special counsel, incurred by the attorney 1758
general in the defense of an officer or employee shall be paid 1759
by the employer that employed the officer or employee at the 1760
time the alleged act or omission occurred. 1761

The defense of the officer or employee may be rendered by 1762
the attorney general, an assistant attorney general, or any 1763
special counsel appointed by the attorney general, who, in 1764
addition to providing the defense of the officer or employee, 1765
may file counterclaims and cross-claims and engage in third- 1766
party practice on behalf of the officer or employee. If the 1767
officer or employee recovers any money pursuant to any 1768
counterclaim or cross-claim so filed, the officer or employee, 1769
to the extent of the recovery on the counterclaim or cross- 1770
claim, shall reimburse the attorney general for all expenses and 1771
court costs, including the reasonable compensation of assistant 1772
attorneys general and special counsel, incurred in bringing the 1773
counterclaim or cross-claim. The officer or employee shall 1774
cooperate fully with the attorney general's defense. Sections 1775
109.36 to ~~109.366~~109.365 of the Revised Code do not deprive any 1776
officer or employee of the right to select counsel of ~~his~~the 1777
officer's or employee's own choice or settle ~~his~~the case at 1778
~~his~~the officer's or employee's own expense at any time, and, 1779

except under the circumstances described in division (E) of 1780
section 120.06 of the Revised Code, do not prohibit the attorney 1781
general from entering ~~his~~an appearance in a case to protect the 1782
interest of the state even though no request for the appearance 1783
has been made by the officer or employee. 1784

Sec. 109.541. (A) As used in this section: 1785

(1) "Investigator" means an officer or employee of the 1786
bureau of criminal identification and investigation described in 1787
section 109.54 of the Revised Code. 1788

(2) "Peace officer" has the same meaning as in section 1789
2935.01 of the Revised Code. 1790

(B) An investigator, while providing assistance to a law 1791
enforcement officer pursuant to division (B) of section 109.54 1792
of the Revised Code, has the same arrest authority as a peace 1793
officer of the law enforcement agency served by the law 1794
enforcement officer requesting the assistance. The investigator 1795
may exercise this arrest authority only in connection with the 1796
investigation or activities for which the investigator's 1797
assistance was requested. 1798

(C) (1) No state official shall command, order, or direct 1799
an investigator to perform any duty or service that is not 1800
authorized by law. The power and duties conferred by this 1801
section on the bureau of criminal identification and 1802
investigation are supplementary to, and in no way a limitation 1803
on, the power and duties of sheriffs or other peace officers of 1804
the state or a political subdivision of the state. 1805

(2) An investigator, pursuant to the policy established by 1806
the superintendent of the bureau of criminal identification and 1807
investigation under division (D) (1) of this section, may render 1808

emergency assistance to any peace officer who has arrest 1809
authority under section 2935.03 of the Revised Code if both of 1810
the following apply: 1811

(a) There is a threat of imminent physical harm to the 1812
peace officer, a threat of physical harm to another person, or 1813
any serious emergency situation. 1814

(b) The peace officer requests emergency assistance, or it 1815
appears to the investigator that the peace officer is unable to 1816
request emergency assistance and that the circumstances 1817
reasonably indicate that emergency assistance is appropriate. 1818

(D) (1) The superintendent of the bureau of criminal 1819
identification and investigation, not later than sixty days 1820
after the effective date of this section, shall establish a 1821
policy specifying the manner and procedures by which an 1822
investigator may render emergency assistance to a peace officer 1823
pursuant to division (C) (2) of this section. 1824

(2) An investigator who renders assistance to a law 1825
enforcement officer pursuant to division (B) of section 109.54 1826
of the Revised Code or renders emergency assistance to any peace 1827
officer pursuant to division (C) (2) of this section and under 1828
the policy established under division (D) (1) of this section 1829
shall be considered to be engaged in the investigator's regular 1830
employment for the purpose of compensation, retirement benefits, 1831
indemnification rights, workers' compensation, and any other 1832
rights or benefits to which the investigator may be entitled 1833
incident to the investigator's regular employment. 1834

(3) An investigator who renders emergency assistance to a 1835
peace officer pursuant to division (C) (2) of this section and 1836
under the policy established under division (D) (1) of this 1837

section has the same authority as the peace officer to whom the 1838
assistance is rendered. 1839

(4) An investigator who renders emergency assistance to a 1840
peace officer pursuant to division (C) (2) of this section and 1841
under the policy established under division (D) (1) of this 1842
section retains personal immunity from liability as described in 1843
sections 9.85 to 9.87 of the Revised Code, the right to defense 1844
under sections 109.36 to ~~109.366~~109.365 of the Revised Code, and 1845
the right to indemnification under section 9.87 of the Revised 1846
Code. This section does not affect the provisions of section 1847
2743.02 of the Revised Code that pertain to the commencement of 1848
a civil action against a state officer or employee. 1849

Sec. 109.57. (A) (1) The superintendent of the bureau of 1850
criminal identification and investigation shall procure from 1851
wherever procurable and file for record photographs, pictures, 1852
descriptions, fingerprints, measurements, and other information 1853
that may be pertinent of all persons who have been convicted of 1854
committing within this state a felony, any crime constituting a 1855
misdemeanor on the first offense and a felony on subsequent 1856
offenses, or any misdemeanor described in division (A) (1) (a), 1857
(A) (4) (a), or (A) (6) (a) of section 109.572 of the Revised Code, 1858
of all children under eighteen years of age who have been 1859
adjudicated delinquent children for committing within this state 1860
an act that would be a felony or an offense of violence if 1861
committed by an adult or who have been convicted of or pleaded 1862
guilty to committing within this state a felony or an offense of 1863
violence, and of all well-known and habitual criminals. The 1864
person in charge of any county, multicounty, municipal, 1865
municipal-county, or multicounty-municipal jail or workhouse, 1866
community-based correctional facility, halfway house, 1867
alternative residential facility, or state correctional 1868

institution and the person in charge of any state institution 1869
having custody of a person suspected of having committed a 1870
felony, any crime constituting a misdemeanor on the first 1871
offense and a felony on subsequent offenses, or any misdemeanor 1872
described in division (A) (1) (a), (A) (4) (a), or (A) (6) (a) of 1873
section 109.572 of the Revised Code or having custody of a child 1874
under eighteen years of age with respect to whom there is 1875
probable cause to believe that the child may have committed an 1876
act that would be a felony or an offense of violence if 1877
committed by an adult shall furnish such material to the 1878
superintendent of the bureau. Fingerprints, photographs, or 1879
other descriptive information of a child who is under eighteen 1880
years of age, has not been arrested or otherwise taken into 1881
custody for committing an act that would be a felony or an 1882
offense of violence who is not in any other category of child 1883
specified in this division, if committed by an adult, has not 1884
been adjudicated a delinquent child for committing an act that 1885
would be a felony or an offense of violence if committed by an 1886
adult, has not been convicted of or pleaded guilty to committing 1887
a felony or an offense of violence, and is not a child with 1888
respect to whom there is probable cause to believe that the 1889
child may have committed an act that would be a felony or an 1890
offense of violence if committed by an adult shall not be 1891
procured by the superintendent or furnished by any person in 1892
charge of any county, multicounty, municipal, municipal-county, 1893
or multicounty-municipal jail or workhouse, community-based 1894
correctional facility, halfway house, alternative residential 1895
facility, or state correctional institution, except as 1896
authorized in section 2151.313 of the Revised Code. 1897

(2) Every clerk of a court of record in this state, other 1898
than the supreme court or a court of appeals, shall send to the 1899

superintendent of the bureau a weekly report containing a 1900
summary of each case involving a felony, involving any crime 1901
constituting a misdemeanor on the first offense and a felony on 1902
subsequent offenses, involving a misdemeanor described in 1903
division (A) (1) (a), (A) (4) (a), or (A) (6) (a) of section 109.572 1904
of the Revised Code, or involving an adjudication in a case in 1905
which a child under eighteen years of age was alleged to be a 1906
delinquent child for committing an act that would be a felony or 1907
an offense of violence if committed by an adult. The clerk of 1908
the court of common pleas shall include in the report and 1909
summary the clerk sends under this division all information 1910
described in divisions (A) (2) (a) to (f) of this section 1911
regarding a case before the court of appeals that is served by 1912
that clerk. The summary shall be written on the standard forms 1913
furnished by the superintendent pursuant to division (B) of this 1914
section and shall include the following information: 1915

(a) The incident tracking number contained on the standard 1916
forms furnished by the superintendent pursuant to division (B) 1917
of this section; 1918

(b) The style and number of the case; 1919

(c) The date of arrest, offense, summons, or arraignment; 1920

(d) The date that the person was convicted of or pleaded 1921
guilty to the offense, adjudicated a delinquent child for 1922
committing the act that would be a felony or an offense of 1923
violence if committed by an adult, found not guilty of the 1924
offense, or found not to be a delinquent child for committing an 1925
act that would be a felony or an offense of violence if 1926
committed by an adult, the date of an entry dismissing the 1927
charge, an entry declaring a mistrial of the offense in which 1928
the person is discharged, an entry finding that the person or 1929

child is not competent to stand trial, or an entry of a nolle
prosequi, or the date of any other determination that
constitutes final resolution of the case;

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

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

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

(3) The superintendent shall cooperate with and assist
sheriffs, chiefs of police, and other law enforcement officers
in the establishment of a complete system of criminal
identification and in obtaining fingerprints and other means of
identification of all persons arrested on a charge of a felony,
any crime constituting a misdemeanor on the first offense and a
felony on subsequent offenses, or a misdemeanor described in
division (A) (1) (a), (A) (4) (a), or (A) (6) (a) of section 109.572
of the Revised Code and of all children under eighteen years of
age arrested or otherwise taken into custody for committing an
act that would be a felony or an offense of violence if
committed by an adult. The superintendent also shall file for
record the fingerprint impressions of all persons confined in a
county, multicounty, municipal, municipal-county, or
multicounty-municipal jail or workhouse, community-based
correctional facility, halfway house, alternative residential

facility, or state correctional institution for the violation of 1960
state laws and of all children under eighteen years of age who 1961
are confined in a county, multicounty, municipal, municipal- 1962
county, or multicounty-municipal jail or workhouse, community- 1963
based correctional facility, halfway house, alternative 1964
residential facility, or state correctional institution or in 1965
any facility for delinquent children for committing an act that 1966
would be a felony or an offense of violence if committed by an 1967
adult, and any other information that the superintendent may 1968
receive from law enforcement officials of the state and its 1969
political subdivisions. 1970

(4) The superintendent shall carry out Chapter 2950. of 1971
the Revised Code with respect to the registration of persons who 1972
are convicted of or plead guilty to a sexually oriented offense 1973
or a child-victim oriented offense and with respect to all other 1974
duties imposed on the bureau under that chapter. 1975

(5) The bureau shall perform centralized recordkeeping 1976
functions for criminal history records and services in this 1977
state for purposes of the national crime prevention and privacy 1978
compact set forth in section 109.571 of the Revised Code and is 1979
the criminal history record repository as defined in that 1980
section for purposes of that compact. The superintendent or the 1981
superintendent's designee is the compact officer for purposes of 1982
that compact and shall carry out the responsibilities of the 1983
compact officer specified in that compact. 1984

(6) The superintendent shall, upon request, assist a 1985
county coroner in the identification of a deceased person 1986
through the use of fingerprint impressions obtained pursuant to 1987
division (A)(1) of this section or collected pursuant to section 1988
109.572 or 311.41 of the Revised Code. 1989

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

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

(2) The superintendent or the superintendent's designee shall gather information of the nature described in division (C)

(1) of this section that pertains to the offense and delinquency 2021
history of a person who has been convicted of, pleaded guilty 2022
to, or been adjudicated a delinquent child for committing a 2023
sexually oriented offense or a child-victim oriented offense for 2024
inclusion in the state registry of sex offenders and child- 2025
victim offenders maintained pursuant to division (A) (1) of 2026
section 2950.13 of the Revised Code and in the internet database 2027
operated pursuant to division ~~(A) (13)~~ (A) (12) of that section and 2028
for possible inclusion in the internet database operated 2029
pursuant to division ~~(A) (11)~~ (A) (10) of that section. 2030

(3) In addition to any other authorized use of 2031
information, data, and statistics of the nature described in 2032
division (C) (1) of this section, the superintendent or the 2033
superintendent's designee may provide and exchange the 2034
information, data, and statistics pursuant to the national crime 2035
prevention and privacy compact as described in division (A) (5) 2036
of this section. 2037

(4) The Ohio law enforcement gateway shall contain the 2038
name, confidential address, and telephone number of program 2039
participants in the address confidentiality program established 2040
under sections 111.41 to 111.47 of the Revised Code. 2041

(5) The attorney general may adopt rules under Chapter 2042
119. of the Revised Code establishing guidelines for the 2043
operation of and participation in the Ohio law enforcement 2044
gateway. The rules may include criteria for granting and 2045
restricting access to information gathered and disseminated 2046
through the Ohio law enforcement gateway. The attorney general 2047
shall adopt rules under Chapter 119. of the Revised Code that 2048
grant access to information in the gateway regarding an address 2049
confidentiality program participant under sections 111.41 to 2050

111.47 of the Revised Code to only chiefs of police, village marshals, county sheriffs, county prosecuting attorneys, and a designee of each of these individuals. The attorney general shall permit an office of a county coroner, the state medical board, and board of nursing to access and view, but not alter, information gathered and disseminated through the Ohio law enforcement gateway.

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

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

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

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

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

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

(E) (1) The attorney general shall adopt rules, in 2080
accordance with Chapter 119. of the Revised Code and subject to 2081
division (E) (2) of this section, setting forth the procedure by 2082
which a person may receive or release information gathered by 2083
the superintendent pursuant to division (A) of this section. A 2084
reasonable fee may be charged for this service. If a temporary 2085
employment service submits a request for a determination of 2086
whether a person the service plans to refer to an employment 2087
position has been convicted of or pleaded guilty to an offense 2088
listed or described in division (A) (1), (2), or (3) of section 2089
109.572 of the Revised Code, the request shall be treated as a 2090
single request and only one fee shall be charged. 2091

(2) Except as otherwise provided in this division or 2092
division (E) (3) or (4) of this section, a rule adopted under 2093
division (E) (1) of this section may provide only for the release 2094
of information gathered pursuant to division (A) of this section 2095
that relates to the conviction of a person, or a person's plea 2096
of guilty to, a criminal offense or to the arrest of a person as 2097
provided in division (E) (3) of this section. The superintendent 2098
shall not release, and the attorney general shall not adopt any 2099
rule under division (E) (1) of this section that permits the 2100
release of, any information gathered pursuant to division (A) of 2101
this section that relates to an adjudication of a child as a 2102
delinquent child, or that relates to a criminal conviction of a 2103
person under eighteen years of age if the person's case was 2104
transferred back to a juvenile court under division (B) (2) or 2105
(3) of section 2152.121 of the Revised Code and the juvenile 2106
court imposed a disposition or serious youthful offender 2107
disposition upon the person under either division, unless either 2108
of the following applies with respect to the adjudication or 2109
conviction: 2110

(a) The adjudication or conviction was for a violation of 2111
section 2903.01 or 2903.02 of the Revised Code. 2112

(b) The adjudication or conviction was for a sexually 2113
oriented offense, the juvenile court was required to classify 2114
the child a juvenile offender registrant for that offense under 2115
section 2152.82, 2152.83, or 2152.86 of the Revised Code, that 2116
classification has not been removed, and the records of the 2117
adjudication or conviction have not been sealed or expunged 2118
pursuant to sections 2151.355 to 2151.358 or sealed or expunged 2119
pursuant to section 2953.32 of the Revised Code. 2120

(3) A rule adopted under division (E)(1) of this section 2121
may provide for the release of information gathered pursuant to 2122
division (A) of this section that relates to the arrest of a 2123
person who is eighteen years of age or older when the person has 2124
not been convicted as a result of that arrest if any of the 2125
following applies: 2126

(a) The arrest was made outside of this state. 2127

(b) A criminal action resulting from the arrest is 2128
pending, and the superintendent confirms that the criminal 2129
action has not been resolved at the time the criminal records 2130
check is performed. 2131

(c) The bureau cannot reasonably determine whether a 2132
criminal action resulting from the arrest is pending, and not 2133
more than one year has elapsed since the date of the arrest. 2134

(4) A rule adopted under division (E)(1) of this section 2135
may provide for the release of information gathered pursuant to 2136
division (A) of this section that relates to an adjudication of 2137
a child as a delinquent child if not more than five years have 2138
elapsed since the date of the adjudication, the adjudication was 2139

for an act that would have been a felony if committed by an 2140
adult, the records of the adjudication have not been sealed or 2141
expunged pursuant to sections 2151.355 to 2151.358 of the 2142
Revised Code, and the request for information is made under 2143
division (F) of this section or under section 109.572 of the 2144
Revised Code. In the case of an adjudication for a violation of 2145
the terms of community control or supervised release, the five- 2146
year period shall be calculated from the date of the 2147
adjudication to which the community control or supervised 2148
release pertains. 2149

(F) (1) As used in division (F) (2) of this section, "head 2150
start agency" means an entity in this state that has been 2151
approved to be an agency for purposes of subchapter II of the 2152
"Community Economic Development Act," 95 Stat. 489 (1981), 42 2153
U.S.C.A. 9831, as amended. 2154

(2) (a) In addition to or in conjunction with any request 2155
that is required to be made under section 109.572, 2151.86, 2156
3301.32, 3301.541, division (C) of section 3310.58, or section 2157
3319.39, 3319.391, 3327.10, 3740.11, 5103.053, 5104.013, 2158
5123.081, or 5153.111 of the Revised Code or that is made under 2159
section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised 2160
Code, the board of education of any school district; the 2161
director of developmental disabilities; any county board of 2162
developmental disabilities; any provider or subcontractor as 2163
defined in section 5123.081 of the Revised Code; the chief 2164
administrator of any chartered nonpublic school; the chief 2165
administrator of a registered private provider that is not also 2166
a chartered nonpublic school; the chief administrator of any 2167
home health agency; the chief administrator of or person 2168
operating any child care center, type A family child care home, 2169
or type B family child care home licensed under Chapter 5104. of 2170

the Revised Code; the chief administrator of or person operating 2171
any authorized private before and after school care program; the 2172
chief administrator of any head start agency; the executive 2173
director of a public children services agency; the operator of a 2174
residential facility, as defined in section 2151.46 of the 2175
Revised Code; a private company described in section 3314.41, 2176
3319.392, 3326.25, or 3328.20 of the Revised Code; or an 2177
employer described in division (J) (2) of section 3327.10 of the 2178
Revised Code may request that the superintendent of the bureau 2179
investigate and determine, with respect to any individual who 2180
has applied for employment in any position after October 2, 2181
1989, or any individual wishing to apply for employment with a 2182
board of education may request, with regard to the individual, 2183
whether the bureau has any information gathered under division 2184
(A) of this section that pertains to that individual. On receipt 2185
of the request, subject to division (E) (2) of this section, the 2186
superintendent shall determine whether that information exists 2187
and, upon request of the person, board, or entity requesting 2188
information, also shall request from the federal bureau of 2189
investigation any criminal records it has pertaining to that 2190
individual. The superintendent or the superintendent's designee 2191
also may request criminal history records from other states or 2192
the federal government pursuant to the national crime prevention 2193
and privacy compact set forth in section 109.571 of the Revised 2194
Code. Within thirty days of the date that the superintendent 2195
receives a request, subject to division (E) (2) of this section, 2196
the superintendent shall send to the board, entity, or person a 2197
report of any information that the superintendent determines 2198
exists, including information contained in records that have 2199
been sealed under section 2953.32 of the Revised Code, and, 2200
within thirty days of its receipt, subject to division (E) (2) of 2201
this section, shall send the board, entity, or person a report 2202

of any information received from the federal bureau of 2203
investigation, other than information the dissemination of which 2204
is prohibited by federal law. 2205

(b) When a board of education or a registered private 2206
provider is required to receive information under this section 2207
as a prerequisite to employment of an individual pursuant to 2208
division (C) of section 3310.58 or section 3319.39 of the 2209
Revised Code, it may accept a certified copy of records that 2210
were issued by the bureau of criminal identification and 2211
investigation and that are presented by an individual applying 2212
for employment with the district in lieu of requesting that 2213
information itself. In such a case, the board shall accept the 2214
certified copy issued by the bureau in order to make a photocopy 2215
of it for that individual's employment application documents and 2216
shall return the certified copy to the individual. In a case of 2217
that nature, a district or provider only shall accept a 2218
certified copy of records of that nature within one year after 2219
the date of their issuance by the bureau. 2220

(c) Notwithstanding division (F) (2) (a) of this section, in 2221
the case of a request under section 3319.39, 3319.391, or 2222
3327.10 of the Revised Code only for criminal records maintained 2223
by the federal bureau of investigation, the superintendent shall 2224
not determine whether any information gathered under division 2225
(A) of this section exists on the person for whom the request is 2226
made. 2227

(3) The state board of education or the department of 2228
education and workforce may request, with respect to any 2229
individual who has applied for employment after October 2, 1989, 2230
in any position with the state board or the department of 2231
education and workforce, any information that a school district 2232

board of education is authorized to request under division (F) 2233
(2) of this section, and the superintendent of the bureau shall 2234
proceed as if the request has been received from a school 2235
district board of education under division (F)(2) of this 2236
section. 2237

(4) When the superintendent of the bureau receives a 2238
request for information under section 3319.291 of the Revised 2239
Code, the superintendent shall proceed as if the request has 2240
been received from a school district board of education and 2241
shall comply with divisions (F)(2)(a) and (c) of this section. 2242

(G) In addition to or in conjunction with any request that 2243
is required to be made under section 3712.09, 3721.121, or 2244
3740.11 of the Revised Code with respect to an individual who 2245
has applied for employment in a position that involves providing 2246
direct care to an older adult or adult resident, the chief 2247
administrator of a home health agency, hospice care program, 2248
home licensed under Chapter 3721. of the Revised Code, or adult 2249
day-care program operated pursuant to rules adopted under 2250
section 3721.04 of the Revised Code may request that the 2251
superintendent of the bureau investigate and determine, with 2252
respect to any individual who has applied after January 27, 2253
1997, for employment in a position that does not involve 2254
providing direct care to an older adult or adult resident, 2255
whether the bureau has any information gathered under division 2256
(A) of this section that pertains to that individual. 2257

In addition to or in conjunction with any request that is 2258
required to be made under section 173.27 of the Revised Code 2259
with respect to an individual who has applied for employment in 2260
a position that involves providing ombudsman services to 2261
residents of long-term care facilities or recipients of 2262

community-based long-term care services, the state long-term 2263
care ombudsman, the director of aging, a regional long-term care 2264
ombudsman program, or the designee of the ombudsman, director, 2265
or program may request that the superintendent investigate and 2266
determine, with respect to any individual who has applied for 2267
employment in a position that does not involve providing such 2268
ombudsman services, whether the bureau has any information 2269
gathered under division (A) of this section that pertains to 2270
that applicant. 2271

In addition to or in conjunction with any request that is 2272
required to be made under section 173.38 of the Revised Code 2273
with respect to an individual who has applied for employment in 2274
a direct-care position, the chief administrator of a provider, 2275
as defined in section 173.39 of the Revised Code, may request 2276
that the superintendent investigate and determine, with respect 2277
to any individual who has applied for employment in a position 2278
that is not a direct-care position, whether the bureau has any 2279
information gathered under division (A) of this section that 2280
pertains to that applicant. 2281

In addition to or in conjunction with any request that is 2282
required to be made under section 3712.09 of the Revised Code 2283
with respect to an individual who has applied for employment in 2284
a position that involves providing direct care to a pediatric 2285
respite care patient, the chief administrator of a pediatric 2286
respite care program may request that the superintendent of the 2287
bureau investigate and determine, with respect to any individual 2288
who has applied for employment in a position that does not 2289
involve providing direct care to a pediatric respite care 2290
patient, whether the bureau has any information gathered under 2291
division (A) of this section that pertains to that individual. 2292

On receipt of a request under this division, the 2293
superintendent shall determine whether that information exists 2294
and, on request of the individual requesting information, shall 2295
also request from the federal bureau of investigation any 2296
criminal records it has pertaining to the applicant. The 2297
superintendent or the superintendent's designee also may request 2298
criminal history records from other states or the federal 2299
government pursuant to the national crime prevention and privacy 2300
compact set forth in section 109.571 of the Revised Code. Within 2301
thirty days of the date a request is received, subject to 2302
division (E) (2) of this section, the superintendent shall send 2303
to the requester a report of any information determined to 2304
exist, including information contained in records that have been 2305
sealed under section 2953.32 of the Revised Code, and, within 2306
thirty days of its receipt, shall send the requester a report of 2307
any information received from the federal bureau of 2308
investigation, other than information the dissemination of which 2309
is prohibited by federal law. 2310

(H) Information obtained by a government entity or person 2311
under this section is confidential and shall not be released or 2312
disseminated. 2313

(I) The superintendent may charge a reasonable fee for 2314
providing information or criminal records under division (F) (2) 2315
or (G) of this section. 2316

(J) As used in this section: 2317

(1) "Pediatric respite care program" and "pediatric care 2318
patient" have the same meanings as in section 3712.01 of the 2319
Revised Code. 2320

(2) "Sexually oriented offense" and "child-victim oriented 2321

offense" have the same meanings as in section 2950.01 of the Revised Code.

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

Sec. 109.68. (A) As used in this section, "victim" means a person from whom a sexual assault examination kit was collected.

(B) In consultation with the attorney general's advisory group on sexual assault examination kit tracking, the attorney general shall develop recommendations for establishing a statewide sexual assault examination kit tracking system. Based on those recommendations, the attorney general shall create, operate, and maintain the statewide tracking system and shall identify and allocate money for that purpose from the appropriate funds available to the attorney general.

(C) The attorney general may contract with state or private entities, including private software and technology providers, for the creation, operation, and maintenance of the statewide tracking system. The tracking system shall do all of the following:

(1) Track the status of sexual assault examination kits from the collection site through the criminal justice process, including the initial collection at medical facilities, inventory and storage by law enforcement agencies, analysis at crime laboratories, and storage or destruction after completion of analysis;

(2) Allow all entities that receive, maintain, store, or preserve sexual assault examination kits to update the status and location of the kits;

(3) Allow individuals to anonymously access the statewide tracking system regarding the location and status of their sexual assault examination kit.

(D) (1) A victim may request the following from the appropriate official with custody of the kit:

(a) Information regarding the testing date and results of the kit;

(b) Whether a DNA profile was obtained from the kit;

(c) Whether a match was found to that DNA profile in state or federal databases;

(d) The estimated destruction date of the kit.

The victim is entitled to receive this information in writing, by electronic mail, or by telephone, as designated by the victim.

(2) A victim who has requested information regarding the tracking of the victim's sexual assault examination kit shall be informed by the appropriate official with custody of the kit when there is any change in the status of the case, including if the case has been closed or reopened.

(3) A victim may request written notification from the appropriate official with custody of the kit notice of the destruction or disposal date of the kit and shall receive that notice not later than sixty days before the date of the intended destruction or disposal.

(4) A victim may request further preservation of the 2378
sexual assault examination kit or its probative contents beyond 2379
the intended destruction or disposal date as provided under 2380
section 2933.82 of the Revised Code, for a period of up to 2381
thirty years. 2382

(5) In responding to a victim's request under divisions 2383
(D) (1) to (4) of this section, the appropriate official with 2384
custody of the kit also shall provide the victim with 2385
information about the victim's right to apply for an award of 2386
reparations pursuant to section 2743.56 of the Revised Code. 2387

(E) Not later than one year after creation of the 2388
statewide tracking system, all entities in the chain of custody 2389
of sexual assault examination kits shall participate in the 2390
system. 2391

~~(F) The attorney general may adopt rules under Chapter 2392
119. of the Revised Code to facilitate the implementation of the 2393
statewide sexual assault examination kit tracking system 2394
pursuant to this section. Except as provided in division (B) (3) 2395
of this section, information contained in the statewide tracking 2396
system is confidential and not subject to public disclosure. 2397~~

Sec. 111.15. (A) As used in this section: 2398

(1) "Rule" includes any rule, regulation, bylaw, or 2399
standard having a general and uniform operation adopted by an 2400
agency under the authority of the laws governing the agency; any 2401
appendix to a rule; and any internal management rule. "Rule" 2402
does not include any guideline adopted pursuant to section 2403
3301.0714 of the Revised Code, any order respecting the duties 2404
of employees, any finding, any determination of a question of 2405
law or fact in a matter presented to an agency, or any rule 2406

promulgated pursuant to Chapter 119. ~~or division (C) (1) or (2)~~ 2407
~~of section 5117.02~~ of the Revised Code. "Rule" includes any 2408
amendment or rescission of a rule. 2409

(2) "Agency" means any governmental entity of the state 2410
and includes, but is not limited to, any board, department, 2411
division, commission, bureau, society, council, institution, 2412
state college or university, community college district, 2413
technical college district, or state community college. "Agency" 2414
does not include the general assembly, the controlling board, 2415
the adjutant general's department, or any court. 2416

(3) "Internal management rule" means any rule, regulation, 2417
bylaw, or standard governing the day-to-day staff procedures and 2418
operations within an agency. 2419

(B) (1) Any rule, other than a rule of an emergency nature, 2420
adopted by any agency pursuant to this section shall be 2421
effective on the tenth day after the day on which the rule in 2422
final form and in compliance with division (B) (3) of this 2423
section is filed as follows: 2424

(a) The rule shall be filed in electronic form with both 2425
the secretary of state and the director of the legislative 2426
service commission; 2427

(b) The rule shall be filed in electronic form with the 2428
joint committee on agency rule review. Division (B) (1) (b) of 2429
this section does not apply to any rule to which division (D) of 2430
this section does not apply. 2431

An agency that adopts or amends a rule that is subject to 2432
division (D) of this section shall assign a review date to the 2433
rule that is not later than five years after its effective date. 2434
If a review date assigned to a rule exceeds the five-year 2435

maximum, the review date for the rule is five years after its 2436
effective date. A rule with a review date is subject to review 2437
under section 106.03 of the Revised Code. This paragraph does 2438
not apply to a rule of a state college or university, community 2439
college district, technical college district, or state community 2440
college. 2441

If an agency in adopting a rule designates an effective 2442
date that is later than the effective date provided for by 2443
division (B) (1) of this section, the rule if filed as required 2444
by such division shall become effective on the later date 2445
designated by the agency. 2446

Any rule that is required to be filed under division (B) 2447
(1) of this section is also subject to division (D) of this 2448
section if not exempted by that division. 2449

If a rule incorporates a text or other material by 2450
reference, the agency shall comply with sections 121.71 to 2451
121.75 of the Revised Code. 2452

(2) A rule of an emergency nature necessary for the 2453
immediate preservation of the public peace, health, or safety 2454
shall state the reasons for the necessity. The emergency rule, 2455
in final form and in compliance with division (B) (3) of this 2456
section, shall be filed in electronic form with the secretary of 2457
state, the director of the legislative service commission, and 2458
the joint committee on agency rule review. The emergency rule is 2459
effective immediately upon completion of the latest filing, 2460
except that if the agency in adopting the emergency rule 2461
designates an effective date, or date and time of day, that is 2462
later than the effective date and time provided for by division 2463
(B) (2) of this section, the emergency rule if filed as required 2464
by such division shall become effective at the later date, or 2465

later date and time of day, designated by the agency. 2466

Except as provided in section 107.43 of the Revised Code, 2467
an emergency rule becomes invalid at the end of the one hundred 2468
twentieth day it is in effect. Prior to that date, the agency 2469
may file the emergency rule as a nonemergency rule in compliance 2470
with division (B) (1) of this section. The agency may not refile 2471
the emergency rule in compliance with division (B) (2) of this 2472
section so that, upon the emergency rule becoming invalid under 2473
such division, the emergency rule will continue in effect 2474
without interruption for another one hundred twenty-day period. 2475

The adoption of an emergency rule under division (B) (2) of 2476
this section in response to a state of emergency, as defined 2477
under section 107.42 of the Revised Code, may be invalidated by 2478
the general assembly, in whole or in part, by adopting a 2479
concurrent resolution in accordance with section 107.43 of the 2480
Revised Code. 2481

(3) An agency shall file a rule under division (B) (1) or 2482
(2) of this section in compliance with the following standards 2483
and procedures: 2484

(a) The rule shall be numbered in accordance with the 2485
numbering system devised by the director for the Ohio 2486
administrative code. 2487

(b) The rule shall be prepared and submitted in compliance 2488
with section 103.05 of the Revised Code and the rule drafting 2489
manual of the legislative service commission. 2490

(c) The rule shall clearly state the date on which it is 2491
to be effective and the date on which it will expire, if known. 2492

(d) Each rule that amends or rescinds another rule shall 2493
clearly refer to the rule that is amended or rescinded. Each 2494

amendment shall fully restate the rule as amended. 2495

If the director of the legislative service commission or 2496
the director's designee gives an agency notice pursuant to 2497
section 103.05 of the Revised Code that a rule filed by the 2498
agency is not in compliance with section 103.05 of the Revised 2499
Code and the rule drafting manual of the legislative service 2500
commission, the agency shall within thirty days after receipt of 2501
the notice conform the rule to the rules of the commission as 2502
directed in the notice. 2503

(C) All rules filed pursuant to divisions (B) (1) (a) and 2504
(2) of this section shall be recorded by the secretary of state 2505
and the director under the title of the agency adopting the rule 2506
and shall be numbered according to the numbering system devised 2507
by the director. The secretary of state and the director shall 2508
preserve the rules in an accessible manner. Each such rule shall 2509
be a public record open to public inspection and may be 2510
transmitted to any law publishing company that wishes to 2511
reproduce it. 2512

(D) At least sixty-five days before a board, commission, 2513
department, division, or bureau of the government of the state 2514
files a rule under division (B) (1) of this section, it shall 2515
file the full text of the proposed rule in electronic form with 2516
the joint committee on agency rule review, and the proposed rule 2517
is subject to legislative review and invalidation under section 2518
106.021 of the Revised Code. If a state board, commission, 2519
department, division, or bureau makes a revision in a proposed 2520
rule after it is filed with the joint committee, the state 2521
board, commission, department, division, or bureau shall 2522
promptly file the full text of the proposed rule in its revised 2523
form in electronic form with the joint committee. A state board, 2524

commission, department, division, or bureau shall also file the 2525
rule summary and fiscal analysis prepared under section 106.024 2526
of the Revised Code in electronic form along with a proposed 2527
rule, and along with a proposed rule in revised form, that is 2528
filed under this division. If a proposed rule has an adverse 2529
impact on businesses, the state board, commission, department, 2530
division, or bureau also shall file the business impact 2531
analysis, any recommendations received from the common sense 2532
initiative office, and the associated memorandum of response, if 2533
any, in electronic form along with the proposed rule, or the 2534
proposed rule in revised form, that is filed under this 2535
division. 2536

A proposed rule that is subject to legislative review 2537
under this division may not be adopted and filed in final form 2538
under division (B)(1) of this section unless the proposed rule 2539
has been filed with the joint committee on agency rule review 2540
under this division and the time for the joint committee to 2541
review the proposed rule has expired without recommendation of a 2542
concurrent resolution to invalidate the proposed rule. 2543

If a proposed rule that is subject to legislative review 2544
under this division implements a federal law or rule, the agency 2545
shall provide to the joint committee a citation to the federal 2546
law or rule the proposed rule implements and a statement as to 2547
whether the proposed rule implements the federal law or rule in 2548
a manner that is more or less stringent or burdensome than the 2549
federal law or rule requires. 2550

As used in this division, "commission" includes the public 2551
utilities commission when adopting rules under a federal or 2552
state statute. 2553

This division does not apply to any of the following: 2554

(1) A proposed rule of an emergency nature;	2555
(2) A rule proposed under section 1121.05, 1121.06, 1349.33 , 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 4123.342, 4123.345, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised Code;	2556 2557 2558 2559
(3) A rule proposed by an agency other than a board, commission, department, division, or bureau of the government of the state;	2560 2561 2562
(4) A proposed internal management rule of a board, commission, department, division, or bureau of the government of the state;	2563 2564 2565
(5) Any proposed rule that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a federally reimbursed program in this state, so long as the proposed rule contains both of the following:	2566 2567 2568 2569 2570
(a) A statement that it is proposed for the purpose of complying with a federal law or rule;	2571 2572
(b) A citation to the federal law or rule that requires verbatim compliance.	2573 2574
(6) An initial rule proposed by the director of health to impose quality standards on a health care facility as defined in section 3702.30 of the Revised Code;	2575 2576 2577
(7) A rule of the state lottery commission pertaining to instant game rules.	2578 2579
If a rule is exempt from legislative review under division (D) (5) of this section, and if the federal law or rule pursuant to which the rule was adopted expires, is repealed or rescinded,	2580 2581 2582

or otherwise terminates, the rule is thereafter subject to 2583
legislative review under division (D) of this section. 2584

Whenever a state board, commission, department, division, 2585
or bureau files a proposed rule or a proposed rule in revised 2586
form under division (D) of this section, it shall also file the 2587
full text of the same proposed rule or proposed rule in revised 2588
form in electronic form with the secretary of state and the 2589
director of the legislative service commission. A state board, 2590
commission, department, division, or bureau shall file the rule 2591
summary and fiscal analysis prepared under section 106.024 of 2592
the Revised Code in electronic form along with a proposed rule 2593
or proposed rule in revised form that is filed with the 2594
secretary of state or the director of the legislative service 2595
commission. 2596

Sec. 111.18. (A) The secretary of state shall keep a 2597
record of all fees collected by the secretary of state and, 2598
except as otherwise provided in the Revised Code, shall pay them 2599
into the state treasury to the credit of the corporate and 2600
uniform commercial code filing fund created by section 1309.528 2601
of the Revised Code. 2602

(B) The secretary of state may implement alternative 2603
payment programs that permit payment of any fee charged by the 2604
secretary of state by means other than cash, check, money order, 2605
or credit card; an alternative payment program may include, but 2606
is not limited to, one that permits a fee to be paid by 2607
electronic means of transmission. Fees paid under an alternative 2608
payment program shall be deposited to the credit of the 2609
secretary of state alternative payment program fund, which is 2610
hereby created in the state treasury. Any investment income of 2611
the secretary of state alternative payment program fund shall be 2612

credited to that fund and used to operate the alternative 2613
payment program. Within two working days following the deposit 2614
of funds to the credit of the secretary of state alternative 2615
payment program fund, the secretary of state shall pay those 2616
funds to the credit of the corporate and uniform commercial code 2617
filing fund, subject to division (B) of section 1309.401 of the 2618
Revised Code and except as otherwise provided in the Revised 2619
Code. 2620

~~The secretary of state shall adopt rules necessary to 2621
carry out the purposes of this division. 2622~~

Sec. 111.47. ~~(A)~~ Notwithstanding division (A) (3) of 2623
section 2743.02 of the Revised Code and except if the 2624
performance or nonperformance was manifestly outside the scope 2625
of the officer's or employee's office or employment or the 2626
officer or employee acted with malicious purpose, in bad faith, 2627
or in a wanton or reckless manner, the state is immune from 2628
liability in any civil action or proceeding involving the 2629
performance or nonperformance of a public duty under the address 2630
confidentiality program. 2631

~~(B) The secretary of state shall adopt rules under Chapter 2632
119. of the Revised Code to facilitate the administration of 2633
sections 111.41 to 111.46 of the Revised Code. 2634~~

Sec. 113.21. The treasury education fund is hereby created 2635
in the state treasury. The fund shall consist of gifts, grants, 2636
and contributions received by the treasurer of state for the 2637
purposes of the fund. The fund shall be used to support various 2638
education programs, which may include, but are not limited to, 2639
programs on capital project financing, local government 2640
investment, linked deposits, and other finance-related topics. 2641
The fund shall be administered by the treasurer of state, ~~who~~ 2642

~~shall adopt rules for the distribution of fund moneys.~~ Moneys in 2643
the fund shall not replace other moneys expended by local 2644
programs for similar purposes. 2645

Sec. 113.51. (A) The treasurer of state shall implement 2646
and administer a program under the terms and conditions 2647
established under sections 113.50 to 113.56 of the Revised Code. 2648
For that purpose, the treasurer shall do all of the following: 2649

(1) Develop and implement the program in a manner 2650
consistent with the provisions of sections 113.50 to 113.56 of 2651
the Revised Code; 2652

(2) Engage the services of consultants on a contract basis 2653
for rendering professional and technical assistance and advice; 2654

(3) Seek rulings and other guidance from the secretary and 2655
the internal revenue service relating to the program; 2656

(4) Make modifications to the program as necessary for 2657
participants in the program to qualify for the federal income 2658
tax benefits or treatment provided under section 529A of the 2659
Internal Revenue Code or rules adopted thereunder; 2660

(5) Impose and collect administrative fees and service 2661
charges in connection with any agreement or transaction relating 2662
to the program; 2663

(6) Develop marketing plans and promotional materials to 2664
publicize the program; 2665

(7) Establish the procedures by which funds held in 2666
program accounts shall be disbursed; 2667

(8) Administer the issuance of interests by the Ohio ABLE 2668
savings program trust fund to designated beneficiaries; 2669

(9) Establish the procedures by which funds held in program accounts shall be allocated to pay for administrative costs;

(10) Take any other action necessary to implement and administer the program;

~~(11) Adopt rules in accordance with Chapter 119. of the Revised Code necessary to implement and administer the program;~~

~~(12)~~ Notify the secretary when a program account has been opened for a designated beneficiary and submit other reports concerning the program as required by the secretary or under section 529A of the Internal Revenue Code.

(B) The treasurer of state may enter into agreements with other states or agencies of, subdivisions of, or residents of those states related to the program or a similar ABLE account program established by another state in accordance with section 529A of the Internal Revenue Code.

(C) Any record of the treasurer of state indicating the identity of account beneficiaries and the balances and activity in ABLE accounts is not a public record under section 149.43 of the Revised Code.

(D) The treasurer of state shall pay account fees associated with an ABLE account on behalf of an Ohio account owner or beneficiary.

Sec. 113.60. (A) As used in this section and sections 113.61 and 113.62 of the Revised Code:

(1) "Service intermediary" means a person or entity that enters into a pay for success contract under this section and sections 113.61 and 113.62 of the Revised Code. The service

intermediary may act as the service provider that delivers the 2698
services specified in the contract or may contract with a 2699
separate service provider to deliver those services. 2700

(2) "State agency" and "political subdivision" have the 2701
same meanings as in section 9.23 of the Revised Code. 2702

(B) The treasurer of state shall administer the pay for 2703
success contracting program, shall develop procedures for 2704
awarding pay for success contracts, and may take any action 2705
necessary to implement and administer the program. Under the 2706
program, the treasurer of state may enter into a pay for success 2707
contract with a service intermediary for the delivery of 2708
specified services that benefit the state, a political 2709
subdivision, or a group of political subdivisions, such as 2710
programs addressing education, public health, criminal justice, 2711
or natural resource management. In the case of a contract for 2712
the delivery of services that benefit the state, the treasurer 2713
of state shall enter into the contract jointly with the director 2714
of administrative services. The treasurer of state and, as 2715
applicable, the director of administrative services, may enter 2716
into a pay for success contract under either of the following 2717
circumstances: 2718

(1) Upon receiving an appropriation from the general 2719
assembly for the purpose of entering into a pay for success 2720
contract; 2721

(2) (a) At the request of a state agency, a political 2722
subdivision, or a group of state agencies or political 2723
subdivisions that the treasurer of state and, as applicable, the 2724
director of administrative services, enter into a pay for 2725
success contract on behalf of the requesting state agency, 2726
political subdivision, or group. The requesting state agency, 2727

political subdivision, or group shall deposit the cost of the 2728
contract with the treasurer of state in the appropriate fund 2729
established in section 113.62 of the Revised Code. 2730

(b) A political subdivision or group of political 2731
subdivisions that requests the treasurer of state to enter into 2732
a pay for success contract on behalf of the political 2733
subdivision or group shall not use state funds to pay the cost 2734
of the contract. 2735

(c) The treasurer of state may apply for federal grant 2736
moneys on behalf of a requesting state agency, political 2737
subdivision, or group to pay the cost of all or part of the 2738
contract. The treasurer of state shall not apply for federal 2739
grant moneys for the purpose of entering into a pay for success 2740
contract without first entering into an agreement with a 2741
requesting state agency, political subdivision, or group for the 2742
treasurer of state to apply for those moneys. 2743

(C) The treasurer of state may adopt rules in accordance 2744
with Chapter 119. of the Revised Code to administer the pay for 2745
success contracting program, including rules concerning the 2746
following: 2747

(1) The procedure for a state agency, political 2748
subdivision, or group of state agencies or political 2749
subdivisions to request the treasurer of state and, as 2750
applicable, the director of administrative services to enter 2751
into a pay for success contract and to deposit the cost of the 2752
contract with the treasurer of state; 2753

(2) The types of services that are appropriate for a 2754
service provider to provide under a pay for success contract; 2755

~~(3) Any other rule necessary for the implementation and 2756~~

~~administration of section 113.60 to 113.62 of the Revised Code.~~ 2757

Sec. 119.01. As used in sections 119.01 to 119.13 of the 2758
Revised Code: 2759

(A) (1) "Agency" means, except as limited by this division, 2760
any official, board, or commission having authority to 2761
promulgate rules or make adjudications in the civil service 2762
commission, the division of liquor control, the department of 2763
taxation, the industrial commission, the bureau of workers' 2764
compensation, the functions of any administrative or executive 2765
officer, department, division, bureau, board, or commission of 2766
the government of the state specifically made subject to 2767
sections 119.01 to 119.13 of the Revised Code, and the licensing 2768
functions of any administrative or executive officer, 2769
department, division, bureau, board, or commission of the 2770
government of the state having the authority or responsibility 2771
of issuing, suspending, revoking, or canceling licenses. 2772

Sections 119.01 to 119.13 of the Revised Code do not apply 2773
to the public utilities commission. Sections 119.01 to 119.13 of 2774
the Revised Code do not apply to the utility radiological safety 2775
board; to the controlling board; to actions of the 2776
superintendent of financial institutions and the superintendent 2777
of insurance in the taking possession of, and rehabilitation or 2778
liquidation of, the business and property of banks, savings and 2779
loan associations, savings banks, credit unions, insurance 2780
companies, associations, reciprocal fraternal benefit societies, 2781
and bond investment companies; to any action taken by the 2782
division of securities under section 1707.201 of the Revised 2783
Code; or to any action that may be taken by the superintendent 2784
of financial institutions under section 1113.03, 1121.06, 2785
1121.10, 1125.09, 1125.12, 1125.18, ~~1349.33~~, 1733.35, 1733.361, 2786

1733.37, or 1761.03 of the Revised Code. 2787

Sections 119.01 to 119.13 of the Revised Code do not apply 2788
to actions of the industrial commission or the bureau of 2789
workers' compensation under sections 4123.01 to 4123.94 of the 2790
Revised Code with respect to all matters of adjudication, or to 2791
the actions of the industrial commission, bureau of workers' 2792
compensation board of directors, and bureau of workers' 2793
compensation under division (D) of section 4121.32, sections 2794
4123.29, 4123.34, 4123.341, 4123.342, 4123.345, 4123.40, 2795
4123.411, 4123.44, ~~4123.442~~, 4123.441, 4123.442, 4127.07, 2796
divisions (B), (C), and (E) of section 4131.04, and divisions 2797
(B), (C), and (E) of section 4131.14 of the Revised Code with 2798
respect to all matters concerning the establishment of premium, 2799
contribution, and assessment rates. 2800

(2) "Agency" also means any official or work unit having 2801
authority to promulgate rules or make adjudications in the 2802
department of job and family services, but only with respect to 2803
both of the following: 2804

(a) The adoption, amendment, or rescission of rules that 2805
section 5101.09 of the Revised Code requires be adopted in 2806
accordance with this chapter; 2807

(b) The issuance, suspension, revocation, or cancellation 2808
of licenses. 2809

(B) "License" means any license, permit, certificate, 2810
commission, or charter issued by any agency. "License" does not 2811
include any arrangement whereby a person or government entity 2812
furnishes medicaid services under a provider agreement with the 2813
department of medicaid. 2814

(C) "Rule" means any rule, regulation, or standard, having 2815

a general and uniform operation, adopted, promulgated, and 2816
enforced by any agency under the authority of the laws governing 2817
such agency, and includes any appendix to a rule. "Rule" does 2818
not include any internal management rule of an agency unless the 2819
internal management rule affects private rights and does not 2820
include any guideline adopted pursuant to section 3301.0714 of 2821
the Revised Code. 2822

(D) "Adjudication" means the determination by the highest 2823
or ultimate authority of an agency of the rights, duties, 2824
privileges, benefits, or legal relationships of a specified 2825
person, but does not include the issuance of a license in 2826
response to an application with respect to which no question is 2827
raised, nor other acts of a ministerial nature. 2828

(E) "Hearing" means a public hearing by any agency in 2829
compliance with procedural safeguards afforded by sections 2830
119.01 to 119.13 of the Revised Code. 2831

(F) "Person" means a person, firm, corporation, 2832
association, or partnership. 2833

(G) "Party" means the person whose interests are the 2834
subject of an adjudication by an agency. 2835

(H) "Appeal" means the procedure by which a person, 2836
aggrieved by a finding, decision, order, or adjudication of any 2837
agency, invokes the jurisdiction of a court. 2838

(I) "Internal management rule" means any rule, regulation, 2839
or standard governing the day-to-day staff procedures and 2840
operations within an agency. 2841

Sec. 119.03. In the adoption, amendment, or rescission of 2842
any rule, an agency shall comply with the following procedure: 2843

(A) Reasonable public notice shall be given in the register of Ohio at least thirty days prior to the date set for a hearing, in the form the agency determines. The agency shall file copies of the public notice under division (B) of this section. (The agency gives public notice in the register of Ohio when the public notice is published in the register under that division.)

The public notice shall include:

(1) A statement of the agency's intention to consider adopting, amending, or rescinding a rule;

(2) A synopsis of the proposed rule, amendment, or rule to be rescinded or a general statement of the subject matter to which the proposed rule, amendment, or rescission relates;

(3) A statement of the reason or purpose for adopting, amending, or rescinding the rule;

(4) The date, time, and place of a hearing on the proposed action, which shall be not earlier than the thirty-first nor later than the fortieth day after the proposed rule, amendment, or rescission is filed under division (B) of this section.

In addition to public notice given in the register of Ohio, the agency may give whatever other notice it reasonably considers necessary to ensure notice constructively is given to all persons who are subject to or affected by the proposed rule, amendment, or rescission.

The agency shall provide a copy of the public notice required under division (A) of this section to any person who requests it and pays a reasonable fee, not to exceed the cost of copying and mailing.

(B) The full text of the proposed rule, amendment, or rule 2872
to be rescinded, accompanied by the public notice required under 2873
division (A) of this section, shall be filed in electronic form 2874
with the secretary of state and with the director of the 2875
legislative service commission. (If in compliance with this 2876
division an agency files more than one proposed rule, amendment, 2877
or rescission at the same time, and has prepared a public notice 2878
under division (A) of this section that applies to more than one 2879
of the proposed rules, amendments, or rescissions, the agency 2880
shall file only one notice with the secretary of state and with 2881
the director for all of the proposed rules, amendments, or 2882
rescissions to which the notice applies.) The proposed rule, 2883
amendment, or rescission and public notice shall be filed as 2884
required by this division at least sixty-five days prior to the 2885
date on which the agency, in accordance with division (E) of 2886
this section, issues an order adopting the proposed rule, 2887
amendment, or rescission. 2888

If the proposed rule, amendment, or rescission 2889
incorporates a text or other material by reference, the agency 2890
shall comply with sections 121.71 to 121.75 of the Revised Code. 2891

The proposed rule, amendment, or rescission shall be 2892
available for at least thirty days prior to the date of the 2893
hearing at the office of the agency in printed or other legible 2894
form without charge to any person affected by the proposal. 2895
Failure to furnish such text to any person requesting it shall 2896
not invalidate any action of the agency in connection therewith. 2897

If the agency files a revision in the text of the proposed 2898
rule, amendment, or rescission, it shall also promptly file the 2899
full text of the proposed rule, amendment, or rescission in its 2900
revised form in electronic form with the secretary of state and 2901

with the director of the legislative service commission. 2902

The agency shall file the rule summary and fiscal analysis 2903
prepared under section 106.024 of the Revised Code in electronic 2904
form along with a proposed rule, amendment, or rescission or 2905
proposed rule, amendment, or rescission in revised form that is 2906
filed with the secretary of state or the director of the 2907
legislative service commission. 2908

The agency shall file the hearing report relating to a 2909
proposed rule, amendment, or rescission in electronic form with 2910
the secretary of state and the director of the legislative 2911
service commission at the same time the agency files the hearing 2912
report with the joint committee on agency rule review. 2913

The director of the legislative service commission shall 2914
publish in the register of Ohio the full text of the original 2915
and each revised version of a proposed rule, amendment, or 2916
rescission; the full text of a public notice; the full text of a 2917
rule summary and fiscal analysis; and the full text of a hearing 2918
report that is filed with the director under this division. 2919

(C) When an agency files a proposed rule, amendment, or 2920
rescission under division (B) of this section, it also shall 2921
file in electronic form with the joint committee on agency rule 2922
review the full text of the proposed rule, amendment, or rule to 2923
be rescinded in the same form and the public notice required 2924
under division (A) of this section. (If in compliance with this 2925
division an agency files more than one proposed rule, amendment, 2926
or rescission at the same time, and has given a public notice 2927
under division (A) of this section that applies to more than one 2928
of the proposed rules, amendments, or rescissions, the agency 2929
shall file only one notice with the joint committee for all of 2930
the proposed rules, amendments, or rescissions to which the 2931

notice applies.) The proposed rule, amendment, or rescission is 2932
subject to legislative review and invalidation under sections 2933
106.02, 106.021, and 106.022 of the Revised Code. If the agency 2934
makes a revision in a proposed rule, amendment, or rescission 2935
after it is filed with the joint committee, the agency promptly 2936
shall file the full text of the proposed rule, amendment, or 2937
rescission in its revised form in electronic form with the joint 2938
committee. 2939

An agency shall file the rule summary and fiscal analysis 2940
prepared under section 106.024 of the Revised Code in electronic 2941
form along with a proposed rule, amendment, or rescission, and 2942
along with a proposed rule, amendment, or rescission in revised 2943
form, that is filed under this division. 2944

If a proposed rule, amendment, or rescission has an 2945
adverse impact on businesses, the agency also shall file the 2946
business impact analysis, any recommendations received from the 2947
common sense initiative office, and the agency's memorandum of 2948
response, if any, in electronic form along with the proposed 2949
rule, amendment, or rescission, or along with the proposed rule, 2950
amendment, or rescission in revised form, that is filed under 2951
this division. 2952

The agency shall file the hearing report in electronic 2953
form with the joint committee before the joint committee holds 2954
its public hearing on the proposed rule, amendment, or 2955
rescission. The filing of a hearing report does not constitute a 2956
revision of the proposed rule, amendment, or rescission to which 2957
the hearing report relates. 2958

If the proposed rule, amendment, or rescission requires 2959
liability insurance, a bond, or any other financial 2960
responsibility instrument as a condition of licensure, the 2961

agency shall conduct a diligent search to determine if the 2962
liability insurance, bond, or other financial responsibility 2963
instrument is readily available in the amounts required as a 2964
condition of licensure, and shall certify to the joint committee 2965
that the search was conducted. 2966

If the proposed rule, amendment, or rescission implements 2967
a federal law or rule, the agency shall provide to the joint 2968
committee a citation to the federal law or rule the proposed 2969
rule, amendment, or rescission implements and a statement as to 2970
whether the proposed rule implements the federal law or rule in 2971
a manner that is more or less stringent or burdensome than the 2972
federal law or rule requires. 2973

A proposed rule, amendment, or rescission that is subject 2974
to legislative review under this division may not be adopted 2975
under division (E) of this section or filed in final form under 2976
section 119.04 of the Revised Code unless the proposed rule, 2977
amendment, or rescission has been filed with the joint committee 2978
on agency rule review under this division and the time for 2979
legislative review of the proposed rule, amendment, or 2980
rescission has expired without adoption of a concurrent 2981
resolution to invalidate the proposed rule, amendment, or 2982
rescission. 2983

This division does not apply to: 2984

(1) An emergency rule, amendment, or rescission; 2985

(2) A proposed rule, amendment, or rescission that must be 2986
adopted verbatim by an agency pursuant to federal law or rule, 2987
to become effective within sixty days of adoption, in order to 2988
continue the operation of a federally reimbursed program in this 2989
state, so long as the proposed rule contains both of the 2990

following:	2991
(a) A statement that it is proposed for the purpose of	2992
complying with a federal law or rule;	2993
(b) A citation to the federal law or rule that requires	2994
verbatim compliance.	2995
(3) A proposed rule, amendment, or rescission that, as set	2996
forth in section 3719.41 of the Revised Code, must be adopted by	2997
the state board of pharmacy pursuant to federal law or rule, to	2998
become effective within sixty days of adoption, so long as the	2999
proposed rule contains a statement that it is proposed for the	3000
purpose of complying with federal law or rule.	3001
If a rule or amendment is exempt from legislative review	3002
under division (C) (2) of this section, and if the federal law or	3003
rule pursuant to which the rule or amendment was adopted	3004
expires, is repealed or rescinded, or otherwise terminates, the	3005
rule or amendment, or its rescission, is thereafter subject to	3006
legislative review under division (C) of this section.	3007
(D) On the date and at the time and place designated in	3008
the notice, the agency shall conduct a public hearing at which	3009
any person affected by the proposed action of the agency may	3010
appear and be heard in person, by the person's attorney, or	3011
both, may present the person's position, arguments, or	3012
contentions, orally or in writing, offer and examine witnesses,	3013
and present evidence tending to show that the proposed rule,	3014
amendment, or rescission, if adopted or effectuated, will be	3015
unreasonable or unlawful. An agency may permit persons affected	3016
by the proposed rule, amendment, or rescission to present their	3017
positions, arguments, or contentions in writing, not only at the	3018
hearing, but also for a reasonable period before, after, or both	3019

before and after the hearing. A person who presents a position 3020
or arguments or contentions in writing before or after the 3021
hearing is not required to appear at the hearing. 3022

At the hearing, the testimony shall be recorded. Such 3023
record shall be made at the expense of the agency. The agency is 3024
required to transcribe a record that is not sight readable only 3025
if a person requests transcription of all or part of the record 3026
and agrees to reimburse the agency for the costs of the 3027
transcription. An agency may require the person to pay in 3028
advance all or part of the cost of the transcription. 3029

In any hearing under this section the agency may 3030
administer oaths or affirmations. 3031

The agency shall consider the positions, arguments, or 3032
contentions presented at, or before or after, the hearing. The 3033
agency shall prepare a hearing summary of the positions, 3034
arguments, or contentions, and of the issues raised by the 3035
positions, arguments, or contentions. The agency then shall 3036
prepare a hearing report explaining, with regard to each issue, 3037
how it is reflected in the rule, amendment, or rescission. If an 3038
issue is not reflected in the rule, amendment, or rescission, 3039
the hearing report shall explain why the issue is not reflected. 3040
The agency shall include the hearing summary in the hearing 3041
report as an appendix thereto. And, in the hearing report, the 3042
agency shall identify the proposed rule, amendment, or 3043
rescission to which the hearing report relates. 3044

(E) After divisions (A), (B), (C), and (D) of this section 3045
have been complied with, and when the time for legislative 3046
review under sections 106.02, 106.022, and 106.023 of the 3047
Revised Code has expired without adoption of a concurrent 3048
resolution to invalidate the proposed rule, amendment, or 3049

rescission, the agency may issue an order adopting the proposed 3050
rule or the proposed amendment or rescission of the rule, 3051
consistent with the synopsis or general statement included in 3052
the public notice. At that time the agency shall designate the 3053
effective date of the rule, amendment, or rescission, which 3054
shall not be earlier than the tenth day after the rule, 3055
amendment, or rescission has been filed in its final form as 3056
provided in section 119.04 of the Revised Code. 3057

(F) Prior to the effective date of a rule, amendment, or 3058
rescission, the agency shall make a reasonable effort to inform 3059
those affected by the rule, amendment, or rescission and to have 3060
available for distribution to those requesting it the full text 3061
of the rule as adopted or as amended. 3062

(G) (1) If the governor, upon the request of an agency, 3063
determines that an emergency requires the immediate adoption, 3064
amendment, or rescission of a rule, the governor shall issue an 3065
order, the text of which shall be filed in electronic form with 3066
the agency, the secretary of state, the director of the 3067
legislative service commission, and the joint committee on 3068
agency rule review, that the procedure prescribed by this 3069
section with respect to the adoption, amendment, or rescission 3070
of a specified rule is suspended. The agency may then adopt 3071
immediately the emergency rule, amendment, or rescission and it 3072
becomes effective on the date the rule, amendment, or 3073
rescission, in final form and in compliance with division (A) (2) 3074
of section 119.04 of the Revised Code, is filed in electronic 3075
form with the secretary of state, the director of the 3076
legislative service commission, and the joint committee on 3077
agency rule review. The director shall publish the full text of 3078
the emergency rule, amendment, or rescission in the register of 3079
Ohio. 3080

Except as provided in division (G) (2) of this section, or 3081
section 107.43 of the Revised Code, the emergency rule, 3082
amendment, or rescission shall become invalid at the end of the 3083
one hundred twentieth day it is in effect. Prior to that date 3084
the agency may adopt the emergency rule, amendment, or 3085
rescission as a nonemergency rule, amendment, or rescission by 3086
complying with the procedure prescribed by this section for the 3087
adoption, amendment, and rescission of nonemergency rules. The 3088
agency shall not use the procedure of division (G) (1) of this 3089
section to readopt the emergency rule, amendment, or rescission 3090
so that, upon the emergency rule, amendment, or rescission 3091
becoming invalid under division (G) (1) of this section, the 3092
emergency rule, amendment, or rescission will continue in effect 3093
without interruption for another one-hundred-twenty-day period, 3094
except when section 106.02 of the Revised Code prevents the 3095
agency from adopting the emergency rule, amendment, or 3096
rescission as a nonemergency rule, amendment, or rescission 3097
within the one-hundred-twenty-day period. 3098

Division (G) (1) of this section does not apply to the 3099
adoption of any emergency rule, amendment, or rescission by the 3100
~~tax commissioner~~ director of development services under division 3101
(C) (2) of section 5117.02 of the Revised Code. 3102

(2) An emergency rule or amendment adding a substance to a 3103
controlled substance schedule shall become invalid at the end of 3104
the one hundred eightieth day it is in effect. Prior to that 3105
date, the state board of pharmacy may adopt the emergency rule 3106
or amendment as a nonemergency rule or amendment by complying 3107
with the procedure prescribed by this section for adoption and 3108
amendment of nonemergency rules. The board shall not use the 3109
procedure of division (G) (1) of this section to readopt the 3110
emergency rule or amendment so that, upon the emergency rule or 3111

amendment becoming invalid under division (G) (2) of this 3112
section, the emergency rule or amendment will continue in effect 3113
beyond the one-hundred-eighty-day period. 3114

(3) The general assembly, by adopting a concurrent 3115
resolution, and in accordance with section 107.43 of the Revised 3116
Code, may do either of the following: 3117

(a) Invalidate, in whole or in part, an emergency rule 3118
adopted or amended by an agency in response to a state of 3119
emergency, as defined under section 107.42 of the Revised Code, 3120
under division (G) (1) of this section; 3121

(b) Authorize an agency to readopt, in whole or in part, a 3122
rule that was rescinded in response to a state of emergency 3123
under division (G) (1) of this section. 3124

(H) Rules adopted by an authority within the department of 3125
job and family services for the administration or enforcement of 3126
Chapter 4141. of the Revised Code or of the department of 3127
taxation shall be effective without a hearing as provided by 3128
this section if the statutes pertaining to such agency 3129
specifically give a right of appeal to the board of tax appeals 3130
or to a higher authority within the agency or to a court, and 3131
also give the appellant a right to a hearing on such appeal. 3132
This division does not ~~apply to the adoption of any rule,~~ 3133
~~amendment, or rescission by the tax commissioner under division~~ 3134
~~(C) (1) or (2) of section 5117.02 of the Revised Code, or deny~~ 3135
the right to file an action for declaratory judgment as provided 3136
in Chapter 2721. of the Revised Code from the decision of the 3137
board of tax appeals or of the higher authority within such 3138
agency. 3139

Sec. 120.03. (A) The Ohio public defender commission shall 3140

appoint the state public defender, who shall serve at the 3141
pleasure of the commission. 3142

(B) The Ohio public defender commission shall establish 3143
rules for the conduct of the offices of the county and joint 3144
county public defenders and for the conduct of county appointed 3145
counsel systems in the state. These rules shall include, but are 3146
not limited to, the following: 3147

(1) Standards of indigency and minimum qualifications for 3148
legal representation by a public defender or appointed counsel. 3149
In establishing standards of indigency and determining who is 3150
eligible for legal representation by a public defender or 3151
appointed counsel, the commission shall consider an indigent 3152
person to be an individual who at the time ~~his~~the person's need 3153
is determined is unable to provide for the payment of an 3154
attorney and all other necessary expenses of representation. 3155
Release on bail shall not prevent a person from being determined 3156
to be indigent. 3157

(2) Standards for the hiring of outside counsel; 3158

(3) Standards for contracts by a public defender with law 3159
schools, legal aid societies, and nonprofit organizations for 3160
providing counsel; 3161

(4) Standards for the qualifications, training, and size 3162
of the legal and supporting staff for a public defender, 3163
facilities, and other requirements needed to maintain and 3164
operate an office of a public defender; 3165

(5) Minimum caseload standards; 3166

(6) Procedures for the assessment and collection of the 3167
costs of legal representation that is provided by public 3168
defenders or appointed counsel; 3169

(7) Standards and guidelines for determining whether a client is able to make an up-front contribution toward the cost of ~~his~~ the client's legal representation;

(8) Procedures for the collection of up-front contributions from clients who are able to contribute toward the cost of their legal representation, as determined pursuant to the standards and guidelines developed under division (B)(7) of this section. All of such up-front contributions shall be paid into the appropriate county fund.

(9) Standards for contracts between a board of county commissioners, a county public defender commission, or a joint county public defender commission and a municipal corporation for the legal representation of indigent persons charged with violations of the ordinances of the municipal corporation.

(C) The Ohio public defender commission shall adopt rules prescribing minimum qualifications of counsel appointed pursuant to this chapter or appointed by the courts. Without limiting its general authority to prescribe different qualifications for different categories of appointed counsel, the commission shall prescribe, by rule, special qualifications for counsel and co-counsel appointed in capital cases.

(D) In administering the office of the Ohio public defender commission:

(1) The commission shall do the following:

(a) Approve an annual operating budget;

(b) Make an annual report to the governor, the general assembly, and the supreme court of Ohio on the operation of the state public defender's office, the county appointed counsel systems, and the county and joint county public defenders'

offices. 3199

(2) The commission may do the following: 3200

(a) Accept the services of volunteer workers and 3201
consultants at no compensation other than reimbursement of 3202
actual and necessary expenses; 3203

(b) Prepare and publish statistical and case studies and 3204
other data pertinent to the legal representation of indigent 3205
persons; 3206

(c) Conduct programs having a general objective of 3207
training and educating attorneys and others in the legal 3208
representation of indigent persons. 3209

(E) There is hereby established in the state treasury the 3210
public defender training fund for the deposit of fees received 3211
by the Ohio public defender commission from educational 3212
seminars, and the sale of publications, on topics concerning 3213
criminal law and procedure. Expenditures from this fund shall be 3214
made only for the operation of activities authorized by division 3215
(D) (2) (c) of this section. 3216

(F) (1) In accordance with sections 109.02, 109.07, and 3217
109.361 to ~~109.366~~ 109.365 of the Revised Code, but subject to 3218
division (E) of section 120.06 of the Revised Code, the attorney 3219
general shall represent or provide for the representation of the 3220
Ohio public defender commission, the state public defender, 3221
assistant state public defenders, and other employees of the 3222
commission or the state public defender. 3223

(2) Subject to division (E) of section 120.06 of the 3224
Revised Code, the attorney general shall represent or provide 3225
for the representation of attorneys described in division (C) of 3226
section 120.41 of the Revised Code in malpractice or other civil 3227

actions or proceedings that arise from alleged actions or 3228
omissions related to responsibilities derived pursuant to this 3229
chapter, or in civil actions that are based upon alleged 3230
violations of the constitution or statutes of the United States, 3231
including section 1983 of Title 42 of the United States Code, 93 3232
Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arise 3233
from alleged actions or omissions related to responsibilities 3234
derived pursuant to this chapter. For purposes of the 3235
representation, sections 109.361 to ~~109.366~~109.365 of the 3236
Revised Code shall apply to an attorney described in division 3237
(C) of section 120.41 of the Revised Code as if ~~he~~the attorney 3238
were an officer or employee, as defined in section 109.36 of the 3239
Revised Code, and the Ohio public defender commission or the 3240
state public defender, whichever contracted with the attorney, 3241
shall be considered ~~his~~the attorney's employer. 3242

Sec. 120.06. (A) (1) The state public defender, when 3243
designated by the court or requested by a county public defender 3244
or joint county public defender, may provide legal 3245
representation in all courts throughout the state to indigent 3246
adults and juveniles who are charged with the commission of an 3247
offense or act for which the penalty or any possible 3248
adjudication includes the potential loss of liberty. 3249

(2) The state public defender may provide legal 3250
representation to any indigent person who, while incarcerated in 3251
any state correctional institution, is charged with a felony 3252
offense, for which the penalty or any possible adjudication that 3253
may be imposed by a court upon conviction includes the potential 3254
loss of liberty. 3255

(3) The state public defender may provide legal 3256
representation to any person incarcerated in any correctional 3257

institution of the state, in any matter in which the person 3258
asserts the person is unlawfully imprisoned or detained. 3259

(4) The state public defender, in any case in which the 3260
state public defender has provided legal representation or is 3261
requested to do so by a county public defender or joint county 3262
public defender, may provide legal representation on appeal. 3263

(5) (a) Except as provided in division (A) (5) (b) of this 3264
section, the state public defender, when designated by the court 3265
or requested by a county public defender, joint county public 3266
defender, or the director of rehabilitation and correction, 3267
shall provide legal representation in parole and probation 3268
revocation matters or matters relating to the revocation of 3269
community control or post-release control under a community 3270
control sanction or post-release control sanction, unless the 3271
state public defender finds that the alleged parole or probation 3272
violation or alleged violator of a community control sanction or 3273
post-release control sanction has the financial capacity to 3274
retain the alleged violator's own counsel. 3275

(b) If the state public defender determines that the state 3276
public defender does not have the capacity to provide the legal 3277
representation described in division (A) (5) (a) of this section, 3278
the state public defender may contract with private legal 3279
counsel to provide the legal representation described in that 3280
division. 3281

(6) If the state public defender contracts with a county 3282
public defender commission, a joint county public defender 3283
commission, or a board of county commissioners for the provision 3284
of services, under authority of division (C) (7) of section 3285
120.04 of the Revised Code, the state public defender shall 3286
provide legal representation in accordance with the contract. 3287

(B) The state public defender shall not be required to 3288
prosecute any appeal, postconviction remedy, or other proceeding 3289
pursuant to division (A) (3), (4), or (5) of this section, unless 3290
the state public defender first is satisfied that there is 3291
arguable merit to the proceeding. 3292

(C) A court may appoint counsel or allow an indigent 3293
person to select the indigent's own personal counsel to assist 3294
the state public defender as co-counsel when the interests of 3295
justice so require. When co-counsel is appointed to assist the 3296
state public defender, the co-counsel shall receive any 3297
compensation that the court may approve, not to exceed the 3298
amounts provided for in section 2941.51 of the Revised Code. 3299

(D) (1) When the state public defender is designated by the 3300
court or requested by a county public defender or joint county 3301
public defender to provide legal representation for an indigent 3302
person in any case, other than pursuant to a contract entered 3303
into under authority of division (C) (7) of section 120.04 of the 3304
Revised Code, the state public defender shall send to the county 3305
in which the case is filed a bill detailing the actual cost of 3306
the representation that separately itemizes legal fees and 3307
expenses. The county, upon receipt of an itemized bill from the 3308
state public defender pursuant to this division, shall pay the 3309
state public defender one hundred per cent of the amount 3310
identified as legal fees and expenses in the itemized bill. 3311

(2) Upon payment of the itemized bill under division (D) 3312
(1) of this section, the county may submit the cost of the legal 3313
fees and expenses to the state public defender for reimbursement 3314
pursuant to section 120.33 of the Revised Code. 3315

(3) When the state public defender provides investigation 3316
or mitigation services to private appointed counsel or to a 3317

county or joint county public defender as approved by the 3318
appointing court, other than pursuant to a contract entered into 3319
under authority of division (C) (7) of section 120.04 of the 3320
Revised Code, the state public defender shall send to the county 3321
in which the case is filed a bill itemizing the actual cost of 3322
the services provided. The county, upon receipt of an itemized 3323
bill from the state public defender pursuant to this division, 3324
shall pay one hundred per cent of the amount as set forth in the 3325
itemized bill. Upon payment of the itemized bill received 3326
pursuant to this division, the county may submit the cost of the 3327
investigation and mitigation services to the state public 3328
defender for reimbursement pursuant to section 120.33 of the 3329
Revised Code. 3330

(4) There is hereby created in the state treasury the 3331
county representation fund for the deposit of moneys received 3332
from counties under this division. All moneys credited to the 3333
fund shall be used by the state public defender to provide legal 3334
representation for indigent persons when designated by the court 3335
or requested by a county or joint county public defender or to 3336
provide investigation or mitigation services, including 3337
investigation or mitigation services to private appointed 3338
counsel or a county or joint county public defender, as approved 3339
by the court. 3340

(5) If the state public defender determines that the state 3341
public defender does not have the capacity to provide the legal 3342
representation described in division (A) (5) (a) of this section 3343
and the state public defender contracts with private legal 3344
counsel to provide the legal representation, the state public 3345
defender shall directly pay private legal counsel's fees and 3346
expenses from the indigent defense support fund pursuant to 3347
section 120.08 of the Revised Code. 3348

(E) (1) Notwithstanding any contrary provision of sections 3349
109.02, 109.07, 109.361 to ~~109.366~~109.365, and 120.03 of the 3350
Revised Code that pertains to representation by the attorney 3351
general, an assistant attorney general, or special counsel of an 3352
officer or employee, as defined in section 109.36 of the Revised 3353
Code, or of an entity of state government, the state public 3354
defender may elect to contract with, and to have the state pay 3355
pursuant to division (E) (2) of this section for the services of, 3356
private legal counsel to represent the Ohio public defender 3357
commission, the state public defender, assistant state public 3358
defenders, other employees of the commission or the state public 3359
defender, and attorneys described in division (C) of section 3360
120.41 of the Revised Code in a malpractice or other civil 3361
action or proceeding that arises from alleged actions or 3362
omissions related to responsibilities derived pursuant to this 3363
chapter, or in a civil action that is based upon alleged 3364
violations of the constitution or statutes of the United States, 3365
including section 1983 of Title 42 of the United States Code, 93 3366
Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arises 3367
from alleged actions or omissions related to responsibilities 3368
derived pursuant to this chapter, if the state public defender 3369
determines, in good faith, that the defendant in the civil 3370
action or proceeding did not act manifestly outside the scope of 3371
the defendant's employment or official responsibilities, with 3372
malicious purpose, in bad faith, or in a wanton or reckless 3373
manner. If the state public defender elects not to contract 3374
pursuant to this division for private legal counsel in a civil 3375
action or proceeding, then, in accordance with sections 109.02, 3376
109.07, 109.361 to ~~109.366~~109.365, and 120.03 of the Revised 3377
Code, the attorney general shall represent or provide for the 3378
representation of the Ohio public defender commission, the state 3379
public defender, assistant state public defenders, other 3380

employees of the commission or the state public defender, or 3381
attorneys described in division (C) of section 120.41 of the 3382
Revised Code in the civil action or proceeding. 3383

(2) (a) Subject to division (E) (2) (b) of this section, 3384
payment from the state treasury for the services of private 3385
legal counsel with whom the state public defender has contracted 3386
pursuant to division (E) (1) of this section shall be 3387
accomplished only through the following procedure: 3388

(i) The private legal counsel shall file with the attorney 3389
general a copy of the contract; a request for an award of legal 3390
fees, court costs, and expenses earned or incurred in connection 3391
with the defense of the Ohio public defender commission, the 3392
state public defender, an assistant state public defender, an 3393
employee, or an attorney in a specified civil action or 3394
proceeding; a written itemization of those fees, costs, and 3395
expenses, including the signature of the state public defender 3396
and the state public defender's attestation that the fees, 3397
costs, and expenses were earned or incurred pursuant to division 3398
(E) (1) of this section to the best of the state public 3399
defender's knowledge and information; a written statement 3400
whether the fees, costs, and expenses are for all legal services 3401
to be rendered in connection with that defense, are only for 3402
legal services rendered to the date of the request and 3403
additional legal services likely will have to be provided in 3404
connection with that defense, or are for the final legal 3405
services rendered in connection with that defense; a written 3406
statement indicating whether the private legal counsel 3407
previously submitted a request for an award under division (E) 3408
(2) of this section in connection with that defense and, if so, 3409
the date and the amount of each award granted; and, if the fees, 3410
costs, and expenses are for all legal services to be rendered in 3411

connection with that defense or are for the final legal services 3412
rendered in connection with that defense, a certified copy of 3413
any judgment entry in the civil action or proceeding or a signed 3414
copy of any settlement agreement entered into between the 3415
parties to the civil action or proceeding. 3416

(ii) Upon receipt of a request for an award of legal fees, 3417
court costs, and expenses and the requisite supportive 3418
documentation described in division (E) (2) (a) (i) of this 3419
section, the attorney general shall review the request and 3420
documentation; determine whether any of the limitations 3421
specified in division (E) (2) (b) of this section apply to the 3422
request; and, if an award of legal fees, court costs, or 3423
expenses is permissible after applying the limitations, prepare 3424
a document awarding legal fees, court costs, or expenses to the 3425
private legal counsel. The document shall name the private legal 3426
counsel as the recipient of the award; specify the total amount 3427
of the award as determined by the attorney general; itemize the 3428
portions of the award that represent legal fees, court costs, 3429
and expenses; specify any limitation applied pursuant to 3430
division (E) (2) (b) of this section to reduce the amount of the 3431
award sought by the private legal counsel; state that the award 3432
is payable from the state treasury pursuant to division (E) (2) 3433
(a) (iii) of this section; and be approved by the inclusion of 3434
the signatures of the attorney general, the state public 3435
defender, and the private legal counsel. 3436

(iii) The attorney general shall forward a copy of the 3437
document prepared pursuant to division (E) (2) (a) (ii) of this 3438
section to the director of budget and management. The award of 3439
legal fees, court costs, or expenses shall be paid out of the 3440
state public defender's appropriations, to the extent there is a 3441
sufficient available balance in those appropriations. If the 3442

state public defender does not have a sufficient available 3443
balance in the state public defender's appropriations to pay the 3444
entire award of legal fees, court costs, or expenses, the 3445
director shall make application for a transfer of appropriations 3446
out of the emergency purposes account or any other appropriation 3447
for emergencies or contingencies in an amount equal to the 3448
portion of the award that exceeds the sufficient available 3449
balance in the state public defender's appropriations. A 3450
transfer of appropriations out of the emergency purposes account 3451
or any other appropriation for emergencies or contingencies 3452
shall be authorized if there are sufficient moneys greater than 3453
the sum total of then pending emergency purposes account 3454
requests, or requests for releases from the other appropriation. 3455
If a transfer of appropriations out of the emergency purposes 3456
account or other appropriation for emergencies or contingencies 3457
is made to pay an amount equal to the portion of the award that 3458
exceeds the sufficient available balance in the state public 3459
defender's appropriations, the director shall cause the payment 3460
to be made to the private legal counsel. If sufficient moneys do 3461
not exist in the emergency purposes account or other 3462
appropriation for emergencies or contingencies to pay an amount 3463
equal to the portion of the award that exceeds the sufficient 3464
available balance in the state public defender's appropriations, 3465
the private legal counsel shall request the general assembly to 3466
make an appropriation sufficient to pay an amount equal to the 3467
portion of the award that exceeds the sufficient available 3468
balance in the state public defender's appropriations, and no 3469
payment in that amount shall be made until the appropriation has 3470
been made. The private legal counsel shall make the request 3471
during the current biennium and during each succeeding biennium 3472
until a sufficient appropriation is made. 3473

(b) An award of legal fees, court costs, and expenses 3474
pursuant to division (E) of this section is subject to the 3475
following limitations: 3476

(i) The maximum award or maximum aggregate of a series of 3477
awards of legal fees, court costs, and expenses to the private 3478
legal counsel in connection with the defense of the Ohio public 3479
defender commission, the state public defender, an assistant 3480
state public defender, an employee, or an attorney in a 3481
specified civil action or proceeding shall not exceed fifty 3482
thousand dollars. 3483

(ii) The private legal counsel shall not be awarded legal 3484
fees, court costs, or expenses to the extent the fees, costs, or 3485
expenses are covered by a policy of malpractice or other 3486
insurance. 3487

(iii) The private legal counsel shall be awarded legal 3488
fees and expenses only to the extent that the fees and expenses 3489
are reasonable in light of the legal services rendered by the 3490
private legal counsel in connection with the defense of the Ohio 3491
public defender commission, the state public defender, an 3492
assistant state public defender, an employee, or an attorney in 3493
a specified civil action or proceeding. 3494

(c) If, pursuant to division (E) (2) (a) of this section, 3495
the attorney general denies a request for an award of legal 3496
fees, court costs, or expenses to private legal counsel because 3497
of the application of a limitation specified in division (E) (2) 3498
(b) of this section, the attorney general shall notify the 3499
private legal counsel in writing of the denial and of the 3500
limitation applied. 3501

(d) If, pursuant to division (E) (2) (c) of this section, a 3502

private legal counsel receives a denial of an award notification 3503
or if a private legal counsel refuses to approve a document 3504
under division (E) (2) (a) (ii) of this section because of the 3505
proposed application of a limitation specified in division (E) 3506
(2) (b) of this section, the private legal counsel may commence a 3507
civil action against the attorney general in the court of claims 3508
to prove the private legal counsel's entitlement to the award 3509
sought, to prove that division (E) (2) (b) of this section does 3510
not prohibit or otherwise limit the award sought, and to recover 3511
a judgment for the amount of the award sought. A civil action 3512
under division (E) (2) (d) of this section shall be commenced no 3513
later than two years after receipt of a denial of award 3514
notification or, if the private legal counsel refused to approve 3515
a document under division (E) (2) (a) (ii) of this section because 3516
of the proposed application of a limitation specified in 3517
division (E) (2) (b) of this section, no later than two years 3518
after the refusal. Any judgment of the court of claims in favor 3519
of the private legal counsel shall be paid from the state 3520
treasury in accordance with division (E) (2) (a) of this section. 3521

(F) If a court appoints the office of the state public 3522
defender to represent a petitioner in a postconviction relief 3523
proceeding under section 2953.21 of the Revised Code, the 3524
petitioner has received a sentence of death, and the proceeding 3525
relates to that sentence, all of the attorneys who represent the 3526
petitioner in the proceeding pursuant to the appointment, 3527
whether an assistant state public defender, the state public 3528
defender, or another attorney, shall be certified under Rule 20 3529
of the Rules of Superintendence for the Courts of Ohio to 3530
represent indigent defendants charged with or convicted of an 3531
offense for which the death penalty can be or has been imposed. 3532

(G) (1) The state public defender may conduct a legal 3533

assistance referral service for children committed to the 3534
department of youth services relative to conditions of 3535
confinement claims. If the legal assistance referral service 3536
receives a request for assistance from a child confined in a 3537
facility operated, or contracted for, by the department of youth 3538
services and the state public defender determines that the child 3539
has a conditions of confinement claim that has merit, the state 3540
public defender may refer the child to a private attorney. If no 3541
private attorney who the child has been referred to by the state 3542
public defender accepts the case within a reasonable time, the 3543
state public defender may prepare, as appropriate, pro se 3544
pleadings in the form of a complaint regarding the conditions of 3545
confinement at the facility where the child is confined with a 3546
motion for appointment of counsel and other applicable pleadings 3547
necessary for sufficient pro se representation. 3548

(2) Division (G) (1) of this section does not authorize the 3549
state public defender to represent a child committed to the 3550
department of youth services in general civil matters arising 3551
solely out of state law. 3552

(3) The state public defender shall not undertake the 3553
representation of a child in court based on a conditions of 3554
confinement claim arising under this division. 3555

(H) A child's right to representation or services under 3556
this section is not affected by the child, or another person on 3557
behalf of the child, previously having paid for similar 3558
representation or services or having waived legal 3559
representation. 3560

(I) The state public defender shall have reasonable access 3561
to any child committed to the department of youth services, 3562
department of youth services institution, and department of 3563

youth services record as needed to implement this section. 3564

(J) As used in this section: 3565

(1) "Community control sanction" has the same meaning as 3566
in section 2929.01 of the Revised Code. 3567

(2) "Conditions of confinement" means any issue involving 3568
a constitutional right or other civil right related to a child's 3569
incarceration, including, but not limited to, actions cognizable 3570
under 42 U.S.C. 1983. 3571

(3) "Post-release control sanction" has the same meaning 3572
as in section 2967.01 of the Revised Code. 3573

Sec. 120.521. (A) The state public defender shall 3574
establish a charitable, tax exempt foundation, named the Ohio 3575
access to justice foundation, to actively solicit and accept 3576
gifts, bequests, donations, and contributions for use in 3577
providing financial assistance to legal aid societies, enhancing 3578
or improving the delivery of civil legal services to indigents, 3579
and operating the foundation. The Ohio access to justice 3580
foundation shall deposit all gifts, bequests, donations, and 3581
contributions accepted by it into the access to justice 3582
foundation fund established under this section. If the state 3583
public defender, pursuant to section 120.52 of the Revised Code 3584
as it existed prior to June 30, 1995, established a charitable, 3585
tax exempt foundation named the Ohio access to justice 3586
foundation and if that foundation is in existence on the day 3587
before June 30, 1995, that foundation shall continue in 3588
existence and shall serve as the Ohio access to justice 3589
foundation described in this section. 3590

There is hereby established the access to justice 3591
foundation fund, which shall be under the custody and control of 3592

the Ohio access to justice foundation. The fund shall contain 3593
all moneys distributed to the Ohio access to justice foundation 3594
pursuant to section 120.53 of the Revised Code and all gifts, 3595
bequests, donations, and contributions accepted by the Ohio 3596
access to justice foundation under this section. 3597

The Ohio access to justice foundation shall distribute or 3598
use all moneys in the access to justice foundation fund for the 3599
charitable public purpose of providing financial assistance to 3600
legal aid societies that provide civil legal services to 3601
indigents, enhancing or improving the delivery of civil legal 3602
services to indigents, and operating the foundation. ~~The Ohio~~ 3603
~~access to justice foundation shall establish rules governing the~~ 3604
~~administration of the access to justice foundation fund.~~ 3605

The Ohio access to justice foundation shall include, in 3606
the annual report it is required to make to the governor, the 3607
general assembly, and the supreme court pursuant to division (G) 3608
(2) of section 120.53 of the Revised Code, an audited financial 3609
statement on the distribution and use of the access to justice 3610
foundation fund. No information contained in the statement shall 3611
identify or enable the identification of any person served by a 3612
legal aid society or in any way breach confidentiality. 3613

Membership on the board of the Ohio access to justice 3614
foundation does not constitute holding another public office and 3615
does not constitute grounds for resignation from the senate or 3616
house of representatives under section 101.26 of the Revised 3617
Code. 3618

The Ohio access to justice foundation shall assist the 3619
chancellor of higher education by determining the ratio, for 3620
each county in the state, of attorneys to total population for 3621
the purpose described in section 3333.132 of the Revised Code. 3622

(B) A foundation is tax exempt for purposes of this 3623
section if the foundation is exempt from federal income taxation 3624
under subsection 501(a) of the "Internal Revenue Code of 1986," 3625
100 Stat. 2085, 26 U.S.C. 501(a), as amended, and if the 3626
foundation has received from the internal revenue service a 3627
determination letter that is in effect stating that the 3628
foundation is exempt from federal income taxation under that 3629
subsection. 3630

Sec. 121.36. (A) As used in this section, "home care 3631
dependent adult" means an individual who resides in a private 3632
home or other noninstitutional and unlicensed living 3633
arrangement, without the presence of a parent or guardian, but 3634
has health and safety needs that require the provision of 3635
regularly scheduled home care services to remain in the home or 3636
other living arrangement because one of the following is the 3637
case: 3638

(1) The individual is at least twenty-one years of age but 3639
less than sixty years of age and has a physical disability or 3640
mental impairment. 3641

(2) The individual is sixty years of age or older, 3642
regardless of whether the individual has a physical disability 3643
or mental impairment. 3644

(B) Except as provided in division (D) of this section, 3645
the departments of developmental disabilities, aging, job and 3646
family services, and health shall each implement this section 3647
with respect to all contracts entered into by the department for 3648
the provision of home care services to home care dependent 3649
adults that are paid for in whole or in part with federal, 3650
state, or local funds. Except as provided in division (D) of 3651
this section, each department shall also require all public and 3652

private entities that receive money from or through the 3653
department to comply with this section when entering into 3654
contracts for the provision of home care services to home care 3655
dependent adults that are paid for in whole or in part with 3656
federal, state, or local funds. Such entities may include county 3657
boards of developmental disabilities, area agencies on aging, 3658
county departments of job and family services, and boards of 3659
health of city and general health districts. 3660

(C) Each contract subject to this section shall include 3661
terms requiring that the provider of home care services to home 3662
care dependent adults have a system in place that effectively 3663
monitors the delivery of the services by its employees. To be 3664
considered an effective monitoring system for purposes of the 3665
contract, the system established by a provider must include at 3666
least the following components: 3667

(1) When providing home care services to home care 3668
dependent adults who have a mental impairment or life- 3669
threatening health condition, a mechanism to verify whether the 3670
provider's employees are present at the location where the 3671
services are to be provided and at the time the services are to 3672
be provided; 3673

(2) When providing home care services to all other home 3674
care dependent adults, a system to verify at the end of each 3675
working day whether the provider's employees have provided the 3676
services at the proper location and time; 3677

(3) A protocol to be followed in scheduling a substitute 3678
employee when the monitoring system identifies that an employee 3679
has failed to provide home care services at the proper location 3680
and time, including standards for determining the length of time 3681
that may elapse without jeopardizing the health and safety of 3682

the home care dependent adult; 3683

(4) Procedures for maintaining records of the information 3684
obtained through the monitoring system; 3685

(5) Procedures for compiling annual reports of the 3686
information obtained through the monitoring system, including 3687
statistics on the rate at which home care services were provided 3688
at the proper location and time; 3689

(6) Procedures for conducting random checks of the 3690
accuracy of the monitoring system. For purposes of conducting 3691
these checks, a random check is considered to be a check of not 3692
more than five per cent of the home care visits the provider's 3693
employees make to different home care dependent adults within a 3694
particular work shift. 3695

(D) In implementing this section, the departments shall 3696
exempt the following from the section's requirements: 3697

(1) Providers of home care services who are self-employed 3698
providers with no other employees or are otherwise considered by 3699
the departments not to be agency providers; 3700

(2) Providers who utilize an electronic visit verification 3701
system as described in section 12006 of the "21st Century Cures 3702
Act of 2016," 42 U.S.C. 1903(1). 3703

~~(E) The departments of developmental disabilities, aging, 3704
job and family services, and health shall each adopt rules as 3705
necessary to implement this section. The rules shall be adopted 3706
in accordance with Chapter 119. of the Revised Code. 3707~~

Sec. 121.41. As used in sections 121.41 to ~~121.50~~ 121.49 3708
of the Revised Code: 3709

(A) "Appropriate ethics commission" has the same meaning 3710

as in section 102.01 of the Revised Code. 3711

(B) "Appropriate licensing agency" means a public or 3712
private entity that is responsible for licensing, certifying, or 3713
registering persons who are engaged in a particular vocation. 3714

(C) "Person" has the same meaning as in section 1.59 of 3715
the Revised Code and also includes any officer or employee of 3716
the state or any political subdivision of the state. 3717

(D) "State agency" has the same meaning as in section 1.60 3718
of the Revised Code and includes the Ohio casino control 3719
commission, but does not include any of the following: 3720

(1) The general assembly; 3721

(2) Any court; 3722

(3) The secretary of state, auditor of state, treasurer of 3723
state, or attorney general and their respective offices. 3724

(E) "State employee" means any person who is an employee 3725
of a state agency, or any person who does business with the 3726
state including, only for the purposes of sections 121.41 to 3727
~~121.50~~121.49 of the Revised Code, the nonprofit corporation 3728
formed under section 187.01 of the Revised Code. 3729

(F) "State officer" means any person who is elected or 3730
appointed to a public office in a state agency. 3731

(G) "Wrongful act or omission" means an act or omission, 3732
committed in the course of office holding or employment, that is 3733
not in accordance with the requirements of law or such standards 3734
of proper governmental conduct as are commonly accepted in the 3735
community and thereby subverts, or tends to subvert, the process 3736
of government. 3737

Sec. 121.68. (A) The joint legislative ethics committee 3738
shall keep on file the statements required by sections 121.62, 3739
121.63, and 121.64 of the Revised Code. These statements are 3740
public records and open to public inspection, and the joint 3741
committee shall computerize them so that the information 3742
contained in them is readily accessible to the general public. 3743
The joint committee shall provide copies of the statements to 3744
the general public on request and may charge a reasonable fee 3745
not to exceed the cost of copying and delivering the statement. 3746

(B) Not later than the last day of February and October of 3747
each year, the joint committee shall compile from the 3748
registration statements filed with it a complete and updated 3749
list of registered executive agency lobbyists and their 3750
employers, and distribute the list to each elected executive 3751
official and the director of each department created under 3752
section 121.02 of the Revised Code, who shall distribute the 3753
list to the appropriate personnel under ~~his~~ the official's or 3754
director's jurisdiction. The joint committee shall provide 3755
copies of the list to the general public upon request and may 3756
charge a reasonable fee not to exceed the cost of copying and 3757
delivering the list. 3758

(C) The joint committee shall maintain a list of all 3759
executive agencies. The joint committee shall provide copies of 3760
the list to the general public on request and may charge a 3761
reasonable fee not to exceed the cost of copying and delivering 3762
the document. 3763

(D) The joint committee shall prescribe and make available 3764
an appropriate form for the filings required by sections 121.62, 3765
121.63, and 121.64 of the Revised Code. The form shall contain 3766
the following notice in boldface type: "ANY PERSON WHO KNOWINGLY 3767

FILES A FALSE STATEMENT IS GUILTY OF FALSIFICATION UNDER SECTION 3768
2921.13 OF THE REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST 3769
DEGREE." 3770

~~(E) The joint committee may adopt rules as necessary to 3771
implement sections 121.60 to 121.69 of the Revised Code, and any 3772
such rules it adopts shall be adopted in accordance with section 3773
111.15 of the Revised Code. 3774~~

~~(F) The joint committee shall publish a handbook that 3775
explains in clear and concise language the provisions of 3776
sections 121.60 to 121.69 of the Revised Code and make it 3777
available free of charge to executive agency lobbyists, 3778
employers, and any other interested persons. 3779~~

Sec. 121.96. (A) As used in this section: 3780

(1) "Agency" means any governmental entity of the state 3781
and includes any board, department, division, commission, 3782
bureau, society, council, institution, state college or 3783
university, community college district, technical college 3784
district, or state community college. 3785

(2) "Review date" has the same meaning as in section 3786
106.01 of the Revised Code. 3787

(3) "Rule" means any rule, regulation, or standard, having 3788
a general and uniform operation, adopted and enforced by any 3789
agency under the authority of the laws governing the agency. 3790

(B) Each agency shall identify all rules adopted by the 3791
agency existing on the effective date of this section that were 3792
adopted under authority granted by the Revised Code sections 3793
amended or repealed by this act. The agency shall determine 3794
whether a rule identified under this division exceeds or 3795
conflicts with the agency's rulemaking authority in light of the 3796

amendments to, or the repeals of, those Revised Code sections by 3797
this act. If a rule exceeds or conflicts with the agency's 3798
rulemaking authority in light of the amendments or repeals made 3799
by this act, both of the following apply: 3800

(1) The agency shall immediately stop enforcing the rule 3801
to the extent it exceeds or conflicts with the agency's 3802
rulemaking authority. 3803

(2) Except as provided in division (C) of this section, 3804
not later than the rule's review date, the agency shall commence 3805
the process of amending or rescinding the rule so that it no 3806
longer exceeds or conflicts with the agency's rulemaking 3807
authority. 3808

(C) If a rule identified under division (B) of this 3809
section does not have a review date and exceeds or conflicts 3810
with an agency's rulemaking authority in light of the amendments 3811
to, or the repeals of, the Revised Code sections included in 3812
this act, the agency shall commence the process of amending or 3813
rescinding the rule not later than the date that is five years 3814
after the effective date of this section. 3815

Sec. 122.075. (A) As used in this section: 3816

(1) "Alternative fuel" has the same meaning as in section 3817
125.831 of the Revised Code. 3818

(2) "Biodiesel" means a mono-alkyl ester combustible 3819
liquid fuel that is derived from vegetable oils or animal fats, 3820
or any combination of those reagents, and that meets American 3821
society for testing and materials specification D6751-03a for 3822
biodiesel fuel (B100) blend stock distillate fuels. 3823

(3) "Diesel fuel" and "gasoline" have the same meanings as 3824
in section 5735.01 of the Revised Code. 3825

- (4) "Ethanol" means fermentation ethyl alcohol derived 3826
from agricultural products, including potatoes, cereal, grains, 3827
cheese whey, and sugar beets; forest products; or other 3828
renewable resources, including residue and waste generated from 3829
the production, processing, and marketing of agricultural 3830
products, forest products, and other renewable resources that 3831
meet all of the specifications in the American society for 3832
testing and materials (ASTM) specification D 4806-88 and is 3833
denatured as specified in Parts 20 and 21 of Title 27 of the 3834
Code of Federal Regulations. 3835
- (5) "Blended biodiesel" means diesel fuel containing at 3836
least twenty per cent biodiesel by volume. 3837
- (6) "Blended gasoline" means gasoline containing at least 3838
eighty-five per cent ethanol by volume. 3839
- (7) "Incremental cost" means either of the following: 3840
- (a) The difference in cost between blended gasoline and 3841
gasoline containing ten per cent or less ethanol at the time 3842
that the blended gasoline is purchased; 3843
- (b) The difference in cost between blended biodiesel and 3844
diesel fuel containing two per cent or less biodiesel at the 3845
time that the blended biodiesel is purchased. 3846
- (B) For the purpose of improving the air quality in this 3847
state, the director of development services shall establish an 3848
alternative fuel transportation program under which the director 3849
may make grants and loans to businesses, nonprofit 3850
organizations, public school systems, or local governments for 3851
the purchase and installation of alternative fuel refueling or 3852
distribution facilities and terminals, for the purchase and use 3853
of alternative fuel, to pay the cost of fleet conversion, and to 3854

pay the costs of educational and promotional materials and 3855
activities intended for prospective alternative fuel consumers, 3856
fuel marketers, and others in order to increase the availability 3857
and use of alternative fuel. 3858

(C) The director, in consultation with the director of 3859
agriculture, shall adopt rules in accordance with Chapter 119. 3860
of the Revised Code ~~that are necessary for the administration of~~ 3861
~~the alternative fuel transportation program. The rules shall~~ 3862
~~establish at least~~ establishing all of the following: 3863

(1) An application form and procedures governing the 3864
application process for receiving funds under the program; 3865

(2) A procedure for prioritizing the award of grants and 3866
loans under the program. The procedures shall give preference to 3867
all of the following: 3868

(a) Publicly accessible refueling facilities; 3869

(b) Entities applying to the program that have secured 3870
funding from other sources, including, but not limited to, 3871
private or federal incentives; 3872

(c) Entities that have presented compelling evidence of 3873
demand in the market in which the facilities or terminals will 3874
be located; 3875

(d) Entities that have committed to utilizing purchased or 3876
installed facilities or terminals for the greatest number of 3877
years; 3878

(e) Entities that will be purchasing or installing 3879
facilities or terminals for any type of alternative fuel. 3880

(3) A requirement that the maximum incentive for the 3881
purchase and installation of an alternative fuel refueling or 3882

distribution facility or terminal be eighty per cent of the cost 3883
of the facility or terminal, except that at least twenty per 3884
cent of the total cost of the facility or terminal shall be 3885
incurred by the recipient and not compensated for by any other 3886
source; 3887

(4) A requirement that the maximum incentive for the 3888
purchase of alternative fuel be eighty per cent of the cost of 3889
the fuel or, in the case of blended biodiesel or blended 3890
gasoline, eighty per cent of the incremental cost of the blended 3891
biodiesel or blended gasoline; 3892

(5) ~~Any other criteria~~Criteria, procedures, or guidelines 3893
~~that the director determines are necessary to administer the~~ 3894
~~program, including~~ related to fees, charges, interest rates, and 3895
payment schedules. 3896

(D) An applicant for a grant or loan under this section 3897
that sells motor vehicle fuel at retail shall agree that if the 3898
applicant receives funding, the applicant will report to the 3899
director the gallon or gallon equivalent amounts of alternative 3900
fuel the applicant sells at retail in this state for a period of 3901
three years after the project is completed. 3902

The director shall enter into a written confidentiality 3903
agreement with the applicant regarding the gallon or gallon 3904
equivalent amounts sold as described in this division, and upon 3905
execution of the agreement this information is not a public 3906
record. 3907

(E) There is hereby created in the state treasury the 3908
alternative fuel transportation fund. The fund shall consist of 3909
money transferred to the fund under division (B) of section 3910
125.836 of the Revised Code, money that is appropriated to it by 3911

the general assembly, money as may be specified by the general 3912
assembly from the advanced energy fund created by section 3913
4928.61 of the Revised Code, and all money received from the 3914
repayment of loans made from the fund or in the event of a 3915
default on any such loan. Money in the fund shall be used to 3916
make grants and loans under the alternative fuel transportation 3917
program and by the director in the administration of that 3918
program. 3919

Sec. 122.076. (A) As used in this section: 3920

(1) "Alternative fuel" means compressed natural gas, 3921
liquid natural gas, or liquid petroleum gas. 3922

(2) "Alternative fuel vehicle" means a motor vehicle that 3923
is registered in this state for operation on public highways, is 3924
propelled by a motor that runs on alternative fuel, and has a 3925
gross vehicle rating of at least twenty-six thousand pounds. 3926
"Alternative fuel vehicle" includes a bi-fueled or dual-fueled 3927
vehicle with a motor that can run on both alternative fuel and 3928
on gasoline or diesel fuel. 3929

(3) "New alternative fuel vehicle" means an alternative 3930
fuel vehicle that meets all of the following criteria: 3931

(a) The purchaser purchased the vehicle from an original 3932
equipment manufacturer, automobile retailer, or after-market 3933
conversion facility. 3934

(b) The purchaser was the first person to purchase the 3935
vehicle not for resale. 3936

(c) The purchaser purchased the vehicle for use in 3937
business. 3938

(d) The alternative fuel technology used in the vehicle 3939

has received a compliance designation or been certified by the 3940
United States environmental protection agency for new or 3941
intermediate use. 3942

(4) "Traditional fuel vehicle" means a motor vehicle that 3943
is registered in this state for operation on public highways and 3944
that is propelled by gasoline or diesel fuel. 3945

(5) "Adjusted purchase price" means the portion of the 3946
purchase price of a new alternative fuel vehicle that is 3947
attributable to the parts and equipment used for the storage of 3948
alternative fuel, the delivery of alternative fuel to the motor, 3949
and the exhaust of gases from the combustion of alternative 3950
fuel. 3951

(6) "Conversion parts and equipment" shall not include 3952
parts and equipment that have previously been used to modify or 3953
retrofit another traditional fuel vehicle. 3954

(7) "Person" includes a political subdivision of this 3955
state. 3956

(B) The director of environmental protection shall 3957
administer an alternative fuel vehicle conversion program under 3958
which the director may make grants to a person that purchases 3959
one or more new alternative fuel vehicles or converts one or 3960
more traditional fuel vehicles into alternative fuel vehicles. 3961

(C) The director shall adopt rules in accordance with 3962
Chapter 119. of the Revised Code ~~that are necessary for the~~ 3963
~~administration of the alternative fuel vehicle conversion~~ 3964
~~program. The rules shall establish establishing all of the~~ 3965
following: 3966

(1) An application form and procedures governing the 3967
process for applying to receive a grant under the program; 3968

(2) The maximum grant amount allowed per alternative fuel vehicle, which shall equal the lesser of fifty per cent of the adjusted purchase price of the new alternative fuel vehicle or of the cost of the conversion parts and equipment, as applicable, or twenty-five thousand dollars;

(3) The limit on the total amount of grants allowed to a person that purchases or converts multiple alternative fuel vehicles, which shall equal four hundred thousand dollars;

(4) A requirement that each grant recipient attest that, of the total number of miles that the recipient or any employee or agent of the recipient will drive the alternative fuel vehicle, over half will be within this state;

~~(5) Any other procedures, criteria, or grant terms that the director determines necessary to administer the program.~~

Sec. 122.077. For the purpose of promoting the use of energy efficient products to reduce greenhouse gas emissions in this state, the director of development shall establish an energy star rebate program under which the director may provide rebates to consumers for household devices carrying the energy star label indicating that the device meets the energy efficiency criteria of the energy star program established by the United States department of energy and the United States environmental protection agency. The director shall adopt rules under Chapter 119. of the Revised Code ~~that are necessary for successful and efficient administration of the energy star rebate program and shall specify in the rules~~ establishing that grant availability is limited to federal stimulus funds or any other funds specifically appropriated for such a program.

Sec. 122.081. (A) The office of small business and

entrepreneurship in the development services agency shall 3998
prepare and publish a "small business register" or contract with 3999
any person as provided in this section to prepare and publish 4000
the register. The small business register shall contain the 4001
following information regarding each proposed rule recorded by 4002
the office of small business and entrepreneurship: 4003

(1) The title and administrative code rule number of the 4004
proposed rule; 4005

(2) A brief summary of the proposed rule; 4006

(3) The date on which the proposed rule was recorded by 4007
the office of small business and entrepreneurship; and 4008

(4) The name, address, and telephone number of an 4009
individual or office within the agency that proposed the rule 4010
who can provide information about the proposed rule. 4011

(B) The small business register shall be published on a 4012
weekly basis. The information required under division (A) of 4013
this section shall be published in the register no later than 4014
two weeks after the proposed rule to which the information 4015
relates is recorded by the office of small business and 4016
entrepreneurship. The office shall furnish the small business 4017
register, on a single copy or subscription basis, to any person 4018
who requests it and pays a single copy price or subscription 4019
rate fixed by the office. The office shall furnish the 4020
chairpersons of the standing committees of the senate and house 4021
of representatives having jurisdiction over small businesses 4022
with free subscriptions to the small business register. 4023

(C) Upon the request of the office of small business and 4024
entrepreneurship, the director of administrative services shall, 4025
in accordance with the competitive selection procedure of 4026

Chapter 125. of the Revised Code, let a contract for the 4027
compilation, printing, and distribution of the small business 4028
register. 4029

~~(D) The office of small business and entrepreneurship 4030
shall adopt, and may amend or rescind, in accordance with 4031
Chapter 119. of the Revised Code, such rules as are necessary to 4032
enable it to properly carry out this section. 4033~~

Sec. 122.083. (A) The director of development shall 4034
administer a shovel ready sites program to provide grants for 4035
projects to port authorities and development entities approved 4036
by the director. Grants may be used to pay the costs of any or 4037
all of the following: 4038

(1) Acquisition of property, including options; 4039

(2) Preparation of sites, including brownfield clean-up 4040
activities; 4041

(3) Construction of road, water, telecommunication, and 4042
utility infrastructure; 4043

(4) Payment of professional fees the amount of which shall 4044
not exceed twenty per cent of the grant amount for a project. 4045

(B) The director shall adopt rules in accordance with 4046
Chapter 119. of the Revised Code ~~that establish procedures and 4047
requirements necessary for the administration of the program, 4048
including a requirement that requiring that a recipient of a 4049
grant enter into an agreement with the director governing the 4050
use of the grant. 4051~~

Sec. 122.086. (A) There is hereby created the job ready 4052
site program to provide grants to pay for allowable costs of 4053
eligible applicants for eligible projects. The program shall be 4054

administered by the department of development. All grants shall 4055
be awarded through one of the following two processes: 4056

(1) The annual competitive process under sections 122.087 4057
to 122.0811, 122.0814, and 122.0815 of the Revised Code; 4058

(2) The discretionary process under sections 122.0812 to 4059
122.0815 of the Revised Code. 4060

(B) The annual competitive process shall be administered 4061
by the department of development pursuant to ~~rules adopted~~ 4062
guidelines established by the director of development under 4063
~~Chapter 119. of the Revised Code. The rules shall not establish~~ 4064
~~criteria that have the~~, but the guidelines shall not have the 4065
effect of excluding applications for grants from any county of 4066
the state. 4067

(C) The discretionary process shall be administered by the 4068
department of development pursuant to guidelines established by 4069
the director of development. 4070

Sec. 122.087. The director of development shall establish 4071
an annual competitive process for making grants described in 4072
section 122.086 of the Revised Code ~~in accordance with rules~~ 4073
~~adopted under that section.~~ At least two-thirds of the amounts 4074
that may be distributed as grants each year under the job ready 4075
site program shall be distributed under the annual competitive 4076
process. 4077

Sec. 122.09. (A) As used in this section: 4078

(1) "Development costs" means all expenditures paid or 4079
incurred by the property owner in completing a certified 4080
transformational mixed use development project including 4081
acquisition costs and all costs incurred before the project is 4082
certified by the director of development. 4083

(2) "Eligible expenditures" means certain expenditures 4084
paid or incurred by the property owner in completing a certified 4085
transformational mixed use development project after the project 4086
is certified by the director of development, including 4087
architectural or engineering fees, due diligence costs, hard and 4088
soft construction costs, paid or incurred in connection with the 4089
project and architectural and engineering fees and due diligence 4090
costs incurred before the date the project is certified by the 4091
director of development under division (C) of this section. 4092

(3) "Property owner" means a person or persons holding a 4093
fee simple or leasehold interest in real property, including 4094
interests in real property acquired through a capital lease 4095
arrangement, and a person or persons in contract to acquire real 4096
property with the only remaining contractual contingency being 4097
receipt of an award under this section. "Owner" does not include 4098
the state or a state agency, or any political subdivision as 4099
defined in section 9.23 of the Revised Code. For the purpose of 4100
this division, "fee simple interest," "leasehold interest," and 4101
"capital lease" shall be construed in accordance with generally 4102
accepted accounting principles. 4103

(4) "Transformational mixed use development" means a 4104
project that consists of eligible expenditures for new 4105
construction or the redevelopment, rehabilitation, expansion, or 4106
other improvement of vacant buildings or structures, or a 4107
combination of the foregoing, and that, inclusively: 4108

(a) Will have a transformational economic impact on the 4109
project site; 4110

(b) Integrates at least two of the following uses into one 4111
mixed use development: 4112

(i) Office;	4113
(ii) Residential;	4114
(iii) Retail, which may include restaurant space;	4115
(iv) Hotel and hospitality;	4116
(v) Recreation.	4117
(c) Satisfies one of the following criteria:	4118
(i) If the project site is located within ten miles of a	4119
major city, the project includes at least one new or previously	4120
vacant building that is fifteen or more stories in height or has	4121
a floor area of at least three hundred fifty thousand square	4122
feet, or after completion will be the site of employment	4123
accounting for at least five million dollars in annual payroll,	4124
or includes two or more buildings that are connected to each	4125
other, are located on the same parcel or on contiguous parcels,	4126
and that collectively have a floor area of at least three	4127
hundred fifty thousand square feet;	4128
(ii) If the project site is not located within ten miles	4129
of a major city, the project includes at least one new or	4130
previously vacant building that is two or more stories in height	4131
or has a floor area of at least seventy-five thousand square	4132
feet or two or more new buildings that are located on the same	4133
parcel or on contiguous parcels and that collectively have a	4134
floor area of at least seventy-five thousand square feet.	4135
A "transformational mixed use development" does not	4136
include a project located wholly or partially in a	4137
transformational major sports facility mixed-use project	4138
district as defined in section 123.28 of the Revised Code.	4139
(5) "Increase in tax collections" means the difference, if	4140

positive, of the amount of state and local taxes estimated to be 4141
derived from economic activity occurring within the project 4142
site, but excluding any other phases of the development project 4143
for developments completed in phases, during the completion 4144
period minus the amount of such taxes that are estimated to be 4145
derived from such economic activity in that site during the same 4146
period if the transformational mixed use development project 4147
were not certified by the director of development and completed. 4148

(6) "Completion period" means the time period beginning on 4149
the day after a transformational mixed use development project 4150
is certified by the director of development and ending on the 4151
fifth anniversary of the day the project is completed. 4152

(7) "Contribute capital" means to invest, loan, or donate 4153
cash in exchange for an equity interest in an asset, or a debt 4154
instrument. 4155

(8) "Major city" means a municipal corporation that has a 4156
population greater than one hundred thousand. 4157

(9) "Project site" means the land, and improvements 4158
thereon, upon which a transformational mixed use development 4159
will be constructed, which consists of a single parcel or 4160
multiple parcels that are contiguous with one another, including 4161
parcels separated only by a publicly dedicated road. 4162

(B) The property owner of one or more parcels of land in 4163
this state within which a transformational mixed use development 4164
project is planned may apply to the director of development for 4165
certification of the development project and preliminary 4166
approval of a tax credit in an amount up to ten per cent of the 4167
estimated eligible expenditures. Each application shall be filed 4168
in the form and manner prescribed by the director and shall, at 4169

minimum, include a development plan comprised of all of the 4170
following information: 4171

(1) The location of the project site and an indication of 4172
whether it is located within ten miles of a major city; 4173

(2) A detailed description of the proposed 4174
transformational mixed use development project including site 4175
plans, elevations, construction drawings, architectural 4176
renderings, or other means sufficient to convey the appearance, 4177
size, purposes, capacity, and scope of the project; 4178

(3) A viable project budget supported by construction hard 4179
cost estimates, organized by line item, that estimates the 4180
development costs and eligible expenditures that have been or 4181
will be incurred in the completion of the project; 4182

(4) A viable financial plan showing both (a) at least 4183
fifty-one per cent of the needed funding secured, as evidenced 4184
by commitment letters, letters of intent, or terms sheets and 4185
third party equity verification, and (b) a strategy for 4186
obtaining any needed but not yet secured funding; 4187

(5) An estimated schedule for the progression and 4188
completion of the project; 4189

(6) An assessment of the projected newly created economic 4190
impact of and from the project based upon the projected increase 4191
in tax collections during the completion period at the project 4192
site, excluding economic activity existing at the time of or 4193
before certification of the development project and preliminary 4194
approval of a tax credit, prepared by an economic impact 4195
consultant with experience performing economic impact studies in 4196
Ohio and reviewed by an independent third party reviewer 4197
retained by the director of development to ensure accuracy, 4198

uniformity, consistency, and fairness; 4199

(7) Evidence that the increase in tax collections during 4200
the completion period will exceed ten per cent of the estimated 4201
eligible expenditures reported under division (B) (3) of this 4202
section; 4203

(8) The portion of any tax credit issued that the 4204
applicant would like issued to the property owner or to an 4205
insurance company, financial institution, or other person based 4206
upon capital contributions that have been made or will be made 4207
to the project; 4208

(9) Evidence that, but for the applicant's receipt of the 4209
credit, the project will not be completed. If any portion of the 4210
project the applicant seeks certification and preliminary 4211
approval for has commenced construction, excluding brownfield 4212
remediation and demolition, or the project has closed on 4213
construction financing, this division's standard is not met and 4214
the project is not eligible for certification and preliminary 4215
approval. 4216

(C) (1) In determining whether to certify a project that is 4217
the subject of an application submitted under division (B) of 4218
this section, the director of development shall consider the 4219
potential impact of the transformational mixed use development 4220
on the project site in terms of architecture, accessibility to 4221
pedestrians, retail entertainment and dining sales, job 4222
creation, and revenue from sales, income, lodging, and property 4223
taxes. The director shall not certify a project unless it 4224
satisfies the following conditions: 4225

(a) The project qualifies as a transformational mixed use 4226
development project and satisfies all other criteria prescribed 4227

by this section or by rule of the director; 4228

(b) The estimated increase in tax collections from the 4229
project site during the completion period exceeds ten per cent 4230
of the estimated eligible expenditures for the project reported 4231
under division (B) (3) of this section; 4232

(c) The applicant will not be able to (i) close on 4233
construction financing, (ii) commence construction, excluding 4234
any brownfield remediation or demolition that may have already 4235
been performed, and (iii) complete the project unless the 4236
applicant receives the credit; 4237

(d) If the project site is located within ten miles of a 4238
major city, the estimated eligible expenditures to complete the 4239
project exceed fifty million dollars. 4240

In making a determination of whether or not to approve an 4241
application, the director may conduct an interview of the 4242
applicant. 4243

(2) If the director of development approves an 4244
application, the director shall issue a statement certifying the 4245
associated transformational mixed use development project and 4246
preliminarily approving a tax credit. The statement shall 4247
stipulate that issuance of a tax credit certificate is 4248
contingent upon completion of the transformational mixed use 4249
development project as described in the development plan for the 4250
project. The statement shall specify the estimated amount of the 4251
tax credit preliminarily approved and the amount of credit 4252
preliminarily approved for each person identified in the 4253
application pursuant to division (B) (8) of this section, but 4254
state that the amount of the credit is dependent upon 4255
determination of the actual eligible expenditures attributed to 4256

the project. 4257

The amount of the credit shall not exceed the amount 4258
applied for in the application approved by the director. 4259

(3) The total estimated amount of the tax credit shall 4260
equal up to ten per cent of the estimated eligible expenditures 4261
for the project as reported in the project development plan 4262
pursuant to division (B) of this section. The estimated credit 4263
amounts may be reduced by the director of development as a 4264
condition of certifying the project if such a reduction is 4265
necessary to comply with the limitations on the amount of 4266
credits that may be preliminarily approved as prescribed by 4267
division (C) (5) of this section. The estimated credit amounts 4268
shall not be adjusted after the statement described in division 4269
(C) (2) of this section has been issued, except as provided by 4270
division (G) of this section. 4271

(4) If the director of development denies an application, 4272
the director shall notify the applicant of the reason or reasons 4273
for such determination. The director's determination is final, 4274
but an applicant may revise and resubmit a previously denied 4275
application in a future year. 4276

(5) (a) The director of development may not preliminarily 4277
approve more than one hundred twenty-five million dollars of new 4278
estimated tax credits in each of fiscal years 2026 and 2027. The 4279
director shall not preliminarily approve any dollar amount of 4280
new estimated tax credits under this section in any fiscal year 4281
after fiscal year 2027 unless specifically authorized by an act 4282
of the general assembly. 4283

Tax credits preliminarily approved under this section in 4284
preceding fiscal years and for which preliminary approval was 4285

rescinded in the fiscal year immediately preceding the current 4286
fiscal year shall be available for preliminary approval under 4287
this section in the current fiscal year. Credit amounts 4288
available due to such rescission do not apply towards the one 4289
hundred twenty-five million dollar limit prescribed in this 4290
division. 4291

(b) Except as provided in division (C) (6) of this section, 4292
not more than eighty-five million dollars of estimated new tax 4293
credits, plus an amount equal to two-thirds of any credits for 4294
which preliminary approval was rescinded in the preceding fiscal 4295
year, may be preliminarily approved in connection with projects 4296
that are located within ten miles of a major city in the current 4297
fiscal year. 4298

(c) Not more than twenty million dollars of estimated tax 4299
credits may be preliminarily approved in connection with the 4300
same transformational mixed use development project. 4301

(6) If, for the current fiscal year, the dollar amount of 4302
tax credits applied for under division (B) of this section in 4303
connection with projects that are not located within ten miles 4304
of a major city exceeds forty million dollars, plus an amount 4305
equal to one-third of any credits for which preliminary approval 4306
was rescinded in the preceding fiscal year, the director of 4307
development shall rank those applications and certify and 4308
preliminarily approve tax credits for the associated projects in 4309
order, pursuant to division (C) (7) of this section. If the 4310
dollar amount of tax credits applied for under division (B) of 4311
this section in connection with such projects is less than that 4312
amount, the difference shall be available for projects within 4313
ten miles of a major city. 4314

If, for the current fiscal year, the dollar amount of tax 4315

credits applied for in connection with projects located within 4316
ten miles of a major city exceeds eighty-five million dollars, 4317
plus an amount equal to two-thirds of any credits for which 4318
preliminary approval was rescinded in the previous fiscal year 4319
and the amount of funds initially reserved for projects more 4320
than ten miles from a major city but unawarded to such projects, 4321
the director shall rank those applications and certify the 4322
associated projects in order, pursuant to division (C)(7) of 4323
this section. 4324

(7) When ranking is required under division (C)(6) of this 4325
section, the director of development shall compare applicant 4326
projects that are within ten miles of a major city to other 4327
applicant projects that are within ten miles of a major city, 4328
and the director shall compare applicant projects that are more 4329
than ten miles outside of a major city with other applicant 4330
projects that are more than ten miles outside of a major city. 4331
The director shall apply a point value to applications according 4332
to the following criteria: 4333

(a) Up to ten points based on comparative measurement of 4334
physical scope of the projects as measured by gross square 4335
footage of vertical improvements including new construction and 4336
renovated space. The largest project in terms of physical scope 4337
shall receive ten points and the remaining projects shall 4338
receive points based on a percentage basis in proportion to each 4339
project's relative size as compared to the largest project in 4340
that location category, by gross square footage. 4341

(b) Up to five points based on a comparative measurement 4342
of the density of the new project as measured by a building to 4343
land ratio using the gross square footage of new construction 4344
and renovated space and the gross land square footage of the 4345

project parcels excluding submerged land. The highest ratio in 4346
terms of building to land ratio shall receive five points and 4347
the remaining projects shall receive points based on a 4348
percentage basis in proportion to each project's relative ratio 4349
as compared to the highest project ratio. 4350

(c) Up to ten points based on an evaluation of the 4351
distribution of project end uses, with preference given to 4352
projects with greater variety and distribution of uses; 4353

(d) Up to fourteen points based on the project's receipt 4354
of necessary government approvals and local support, available 4355
as follows: 4356

(i) Two points for zoning approval or evidence, in the 4357
form of a letter from the governmental body with jurisdiction 4358
over the zoning of the project site, that the project site 4359
already has the necessary zoning for the project; 4360

(ii) Two points for planning commission approval or 4361
evidence that planning commission approval is not required; 4362

(iii) Two points available for existing utility 4363
connections or commitments to establish utility connections 4364
including water, sewer, sanitary storm, and electric documented 4365
by utility service letters; 4366

(iv) Two points for an approved and executed development 4367
agreement with each municipal corporation or township in which 4368
the development project is proposed; 4369

(v) Two points for approved construction drawings and 4370
issuance of construction permits for the entirety of the scope 4371
of work set forth in the application; 4372

(vi) Up to two points available for letters in support of 4373

the project and the application. One point is available for a letter in support of the project and the application from the mayor, city manager, or other chief executive of each municipal corporation or township, and one point is available for a letter in support of the project and the application from the chief executive of each county, where the development project is to be located.

(vii) Two points available for documented financial support for the project from each municipal corporation or township in which the project is located, which may include tax increment financing or creation of a community reinvestment area under section 3735.66 of the Revised Code.

(e) Up to ten points based on the committed funding sources as a percentage of total development costs. A project that has funding commitments for all projected development costs shall receive ten points, and projects with funding commitments for less than all projected development costs shall receive a number of points based on the relative amount of committed funding compared to total development costs of the given project.

The funding commitments may take into account the monetized value of the certificate applied for under this section so long as the applicant provides a letter of intent or commitment to purchase that certificate if issued. Letters of intent or loan commitments are required to earn points for any financing that is a funding source in this category and any such letter of intent or loan commitment may be subject to the receipt of an award under this section.

(f) Up to five points based on purchase or lease commitments from end users for the space created by the project.

Projects that have received commitments for all space shall 4404
receive five points, and projects with less than all end users 4405
committed shall be allocated points based on the relative square 4406
footage of committed space compared to total project square 4407
footage. 4408

(g) Up to ten points for projects in areas of higher 4409
relative walkability as measured by the United States 4410
environmental protection agency's walkability index for the 4411
project's census tract with projects in areas designated as the 4412
highest level of walkability receiving ten points and projects 4413
in areas with lower levels of walkability receiving proportional 4414
points; 4415

(h) Up to five points based on a comparative measurement 4416
of total retail, entertainment, and dining sales to be generated 4417
by the project. Projects generating the largest return on 4418
investment shall receive five points, and the remaining projects 4419
shall be allocated points based on relative return on investment 4420
in comparison to the highest scoring project in this category. 4421

(i) Up to five points based on a comparative measurement 4422
of the total new payroll to be generated by the project. 4423
Projects generating the largest return on investment shall 4424
receive five points, and remaining projects shall be allocated 4425
points based on relative return on investment in comparison to 4426
the highest scoring project in this category. 4427

(j) Up to twenty points based on a comparative measurement 4428
of the total sales, income, lodging, and property taxes to be 4429
generated by the project. Projects generating the largest return 4430
on investment shall receive twenty points, and remaining 4431
projects shall be allocated points based on relative return on 4432
investment in comparison to the highest scoring project in this 4433

category. 4434

(k) Up to six points for community impacts, available as 4435
follows: 4436

(i) Two points for evidence that the project supports the 4437
vision and goals stated in the local master plan or other 4438
economic development strategy adopted by the local 4439
jurisdiction; 4440

(ii) Two points for the projects that provide community 4441
gathering, event, park, or other similar space open to the 4442
public. Projects that incorporate public space that accounts for 4443
ten per cent or more public space relative to the total square 4444
footage of all project end uses will receive two points. 4445
Projects that incorporate public space that accounts for less 4446
than ten per cent but greater than zero per cent public space 4447
relative to the total square footage of all project end uses 4448
will receive one point. 4449

(iii) Two points for projects that include remediation of 4450
a brownfield or the rehabilitation of a building or structure 4451
that is one hundred per cent vacant for the twelve months 4452
immediately preceding the date of application. As used in this 4453
division "brownfield" has the same meaning as in section 4454
122.6511 of the Revised Code. 4455

(8) When calculating the economic impact of a project 4456
previously completed and future phases of a phased development 4457
are not permitted to be included in the economic impact analysis 4458
or scoring. 4459

(D) Within twelve months of the date a project is 4460
certified, the property owner shall provide the director of 4461
development with an updated schedule for the progression and 4462

completion of the project and documentation sufficient to 4463
demonstrate that construction of the project has begun. If the 4464
property owner does not provide the schedule and documentation 4465
or if construction of the project has not begun within the time 4466
prescribed by this division, the director shall rescind 4467
certification of the project and send notice of the rescission 4468
to the property owner. A property owner that receives notice of 4469
rescission may submit a new application concerning the same 4470
project under division (B) of this section. 4471

(E) An applicant that is preliminarily approved for a tax 4472
credit under this section may sell or transfer the rights to all 4473
or a portion of that credit to one or more persons. The 4474
applicant shall notify the tax credit authority upon selling or 4475
transferring the rights to the credit. The notice shall identify 4476
the person or persons to which the credit was sold or 4477
transferred and the credit amount sold or transferred to each 4478
such person. A credit may be divided among multiple purchasers 4479
through more than one transaction and any person to whom the 4480
right to claim all or a portion of a credit was transferred may 4481
transfer that right, in whole or in part, to another person. 4482

(F) (1) The property owner shall notify the director of 4483
development upon completion of a certified transformational 4484
mixed use development project. The notification shall include a 4485
report prepared by a third-party certified public accountant 4486
that contains a detailed accounting of the actual development 4487
costs and eligible expenditures attributed to the project. 4488

(2) Upon receiving such a notice, the director of 4489
development shall issue a tax credit certificate to each 4490
applicant, or other person identified in the application 4491
pursuant to division (B) (8) of this section, that is 4492

preliminarily approved for a credit associated with the project. 4493

(G) The value of the tax credit certificates issued in 4494
connection with the transformational mixed use development 4495
project shall be computed as the lesser of the amount 4496
preliminarily approved for the tax credit or ten per cent of the 4497
actual eligible expenditures attributed to the project. 4498

(H) The aggregate value of all tax credit certificates 4499
issued under this section for the same transformational mixed 4500
use development project shall not exceed (1) ten per cent of the 4501
actual eligible expenditures of that project or (2) the 4502
estimated credit amount preliminarily approved by the director 4503
of development in connection with the project. 4504

(I) Issuance of a tax credit certificate under this 4505
section does not represent a verification or certification by 4506
the director of development of the actual eligible expenditures 4507
of the project. Such amounts are subject to inspection and 4508
examination by other state agencies. 4509

(J) Upon the issuance of a tax credit certificate under 4510
this section, the director of development shall certify to the 4511
superintendent of insurance and the tax commissioner (1) the 4512
name of each person that was issued a tax credit certificate, 4513
(2) whether a person acquired the rights to the tax credit 4514
certificate from the property owner, and (3) the credit amount 4515
shown on each tax credit certificate, ~~and (4) any other~~ 4516
~~information required by the rules adopted under this section.~~ 4517
A person that holds the rights to a tax credit certificate issued 4518
under this section may claim a tax credit under section 5725.35, 4519
5726.62, 5729.18, or 5747.87 of the Revised Code, subject to any 4520
limitations in those sections. 4521

(K) The director of development shall publish information 4522
about each transformational mixed use development on the web 4523
site of the department of development not later than the first 4524
day of August following certification of the project. The 4525
director shall update the published information annually until 4526
the project is complete and the credit or credits are fully 4527
claimed. The published information shall include all of the 4528
following: 4529

(1) The location of the transformational mixed use 4530
development and the name by which it is known; 4531

(2) The estimated schedule for progression and completion 4532
of the project included in the development plan pursuant to 4533
division (B) (4) of this section; 4534

(3) The assessment of the projected economic impact of the 4535
project included in the development plan pursuant to division 4536
(B) (5) of this section; 4537

(4) The evidence supporting the estimated increase in tax 4538
collections included in the development plan pursuant to 4539
division (B) (6) of this section, except that the director may 4540
omit any proprietary or sensitive information included in such 4541
evidence; 4542

(5) The estimated eligible expenditures that have been or 4543
will be incurred in completion of the project; 4544

(6) A copy of each report submitted to the director of 4545
development by the applicant under division (D) of this section. 4546

(L) The director of development, in accordance with 4547
Chapter 119. of the Revised Code, shall adopt rules that 4548
establish all of the following: 4549

(1) Forms and procedures by which applicants may apply for a transformational mixed use development tax credit, and any deadlines for applying;

(2) Criteria and procedures for reviewing, evaluating, ranking, and approving applications within the limitations prescribed by this section, including rules prescribing the timing and frequency by which the director of development must rank applications and preliminarily approve tax credits under division (C) of this section;

(3) Eligibility requirements for obtaining a tax credit certificate under this section;

(4) The form of the tax credit certificate;

(5) Reporting requirements and monitoring procedures;

(6) Procedures for computing the increase in tax collections within the project site;

~~(7) Any other rules necessary to implement and administer this section.~~

Sec. 122.154. (A) Each rural business growth fund shall submit a report to the department of development on or before the first day of each March following the end of the calendar year that includes the closing date until the calendar year after the fund has decertified. The report shall provide an itemization of the fund's growth investments and shall include the following documents and information:

(1) A bank statement evidencing each growth investment;

(2) The name, location, and industry class of each business that received a growth investment from the fund and evidence that the business qualified as a rural business concern

at the time the investment was made. If the fund obtained a written opinion from the agency on the business's status as a rural business concern under section 122.156 of the Revised Code, or if the fund makes a written request for such an opinion and the agency failed to respond within thirty days as required by that section, a copy of the agency's favorable opinion or a dated copy of the fund's unanswered request, as applicable, shall be sufficient evidence that the business qualified as a rural business concern at the time the investment was made.

(3) The number of employment positions that existed at each business described in division (A) (2) of this section on the date the business received the growth investment;

(4) The number of new full-time equivalent employees resulting from each of the fund's growth investments made or maintained in the preceding calendar year;

(5) Any other information required by the agency.

(B) Each fund shall submit a report to the agency on or before the fifth business day after the first, second, and for program two funds, third anniversaries of the closing date that provides documentation sufficient to prove that the fund has met the investment thresholds described in division (A) of section 122.153 of the Revised Code and has not implicated any of the other recapture provisions described in division (B) of that section.

(C) Each certified rural business growth fund shall pay the agency an annual fee of twenty thousand dollars. The initial annual fee required of a fund shall be due and payable to the agency along with the submission of documentation required under division (H) of section 122.151 of the Revised Code. Each

subsequent annual fee is due and payable on the last day of 4607
February following the first and each ensuing anniversary of the 4608
closing date. If the fund is required to submit an annual report 4609
under division (A) of this section, the annual fee shall be 4610
submitted along with the report. No fund shall be required to 4611
pay an annual fee after the fund has decertified under section 4612
122.153 of the Revised Code. Annual fees paid to the agency 4613
under this section shall be credited to the tax incentives 4614
operating fund created under section 122.174 of the Revised 4615
Code. 4616

~~(D) The director of development, after consultation with 4617
the superintendent of insurance and in accordance with Chapter 4618
119. of the Revised Code, may adopt rules necessary to implement 4619
sections 122.15 to 122.156 of the Revised Code. 4620~~

Sec. 122.16. (A) As used in this section: 4621

(1) "Distressed area" means either a municipal corporation 4622
that has a population of at least fifty thousand according to 4623
the most recent federal decennial census published by the United 4624
States census bureau, or a county, that meets at least two of 4625
the following criteria: 4626

(a) Its average rate of unemployment, during the most 4627
recent five-year period for which local area unemployment 4628
statistics published by the United States bureau of labor 4629
statistics are available, as of the date the most recent federal 4630
decennial census was published, is equal to or greater than one 4631
hundred twenty-five per cent of the average rate of unemployment 4632
for the United States for the same period. 4633

(b) (i) In the case of a county, its per capita personal 4634
income is equal to or less than eighty per cent of the per 4635

capita personal income of the United States as determined by the 4636
most recently available data from the United States department 4637
of commerce, bureau of economic analysis as of the date the most 4638
recent federal decennial census was published. 4639

(ii) In the case of a municipal corporation, its per 4640
capita income is equal to or less than eighty per cent of the 4641
per capita income of the United States as determined by the most 4642
recently available five-year estimates published in the American 4643
community survey as of the date the most recent federal 4644
decennial census was published. 4645

(c) (i) In the case of a county, its ratio of personal 4646
current transfer receipts to total personal income is equal to 4647
or greater than twenty-five per cent, as determined by the most 4648
recently available data from the United States department of 4649
commerce, bureau of economic analysis as of the date the most 4650
recent federal decennial census was published. 4651

(ii) In the case of a municipal corporation, the 4652
percentage of its residents with incomes below the official 4653
poverty line is equal to or greater than twenty per cent as 4654
determined by the most recently available five-year estimates 4655
published in the American community survey as of the date the 4656
most recent federal decennial census was published. 4657

If a federal agency ceases to publish the applicable data 4658
described in division (A) (1) of this section, the director of 4659
development shall designate, on the department of development's 4660
web site, an alternative source of the applicable data published 4661
by a federal agency or, if no such source is available, another 4662
reliable source. 4663

(2) "Eligible area" means a distressed area, a labor 4664

surplus area, an inner city area, or a situational distress area. 4665
4666

(3) "Eligible costs associated with a voluntary action" 4667
means costs incurred during the qualifying period in performing 4668
a remedy or remedial activities, as defined in section 3746.01 4669
of the Revised Code, and any costs incurred during the 4670
qualifying period in performing both a phase I and phase II 4671
property assessment, as defined in the rules adopted under 4672
section 3746.04 of the Revised Code, provided that the 4673
performance of the phase I and phase II property assessment 4674
resulted in the implementation of the remedy or remedial 4675
activities. 4676

(4) "Inner city area" means, in a municipal corporation 4677
that has a population of at least one hundred thousand and does 4678
not meet the criteria of a labor surplus area or a distressed 4679
area, targeted investment areas established by the municipal 4680
corporation within its boundaries that are comprised of the most 4681
recent census block tracts that individually have at least 4682
twenty per cent of their population at or below the state 4683
poverty level or other census block tracts contiguous to such 4684
census block tracts. 4685

(5) "Labor surplus area" means an area designated as a 4686
labor surplus area by the United States department of labor. 4687

(6) "Official poverty line" has the same meaning as in 4688
division (A) of section 3923.51 of the Revised Code. 4689

(7) "Partner" includes a member of a limited liability 4690
company formed under former Chapter 1705. of the Revised Code, 4691
as that chapter existed prior to February 11, 2022, or Chapter 4692
1706. of the Revised Code or under the laws of any other state 4693

if the limited liability company is not treated as a corporation 4694
for purposes of Chapter 5733. of the Revised Code and is not 4695
classified as an association taxable as a corporation for 4696
federal income tax purposes. 4697

(8) "Partnership" includes a limited liability company 4698
formed under former Chapter 1705. of the Revised Code, as that 4699
chapter existed prior to February 11, 2022, or Chapter 1706. of 4700
the Revised Code or under the laws of any other state if the 4701
limited liability company is not treated as a corporation for 4702
purposes of Chapter 5733. of the Revised Code and is not 4703
classified as an association taxable as a corporation for 4704
federal income tax purposes. 4705

(9) "Qualifying period" means the period that begins July 4706
1, 1996, and ends June 30, 1999. 4707

(10) "S corporation" means a corporation that has made an 4708
election under subchapter S of chapter one of subtitle A of the 4709
Internal Revenue Code for its taxable year under the Internal 4710
Revenue Code; 4711

(11) "Situational distress area" means a county or a 4712
municipal corporation that has experienced or is experiencing a 4713
closing or downsizing of a major employer that will adversely 4714
affect the economy of the county or municipal corporation. In 4715
order for a county or municipal corporation to be designated as 4716
a situational distress area, the governing body of the county or 4717
municipal corporation shall submit a petition to the director of 4718
development in the form prescribed by the director. A county or 4719
municipal corporation may be designated as a situational 4720
distress area for a period not exceeding thirty-six months. 4721

The petition shall include written documentation that 4722

demonstrates all of the following:	4723
(a) The number of jobs lost by the closing or downsizing;	4724
(b) The impact that the job loss has on the unemployment rate of the county or municipal corporation as measured by the director of job and family services;	4725 4726 4727
(c) The annual payroll associated with the job loss;	4728
(d) The amount of state and local taxes associated with the job loss;	4729 4730
(e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.	4731 4732
(12) "Voluntary action" has the same meaning as in section 3746.01 of the Revised Code.	4733 4734
(13) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code or any person subject to the tax imposed by section 5747.02 of the Revised Code.	4735 4736 4737 4738
(14) "Governing body" means the board of county commissioners of a county, the board of township trustees of a township, or the legislative authority of a municipal corporation.	4739 4740 4741 4742
(15) "Eligible site" means property for which a covenant not to sue has been issued under section 3746.12 of the Revised Code.	4743 4744 4745
(16) "American community survey" means the supplementary statistics collected and published annually by the United States census bureau in accordance with 13 U.S.C. 141 and 193.	4746 4747 4748
(B) (1) A taxpayer, partnership, or S corporation that has	4749

been issued, under section 3746.12 of the Revised Code, a 4750
covenant not to sue for a site by the director of environmental 4751
protection during the qualifying period may apply to the 4752
director of development, in the manner prescribed by the 4753
director, to enter into an agreement under which the applicant 4754
agrees to economically redevelop the site in a manner that will 4755
create employment opportunities and a credit will be granted to 4756
the applicant against the tax imposed by section 5733.06 or 4757
5747.02 of the Revised Code. The application shall state the 4758
eligible costs associated with a voluntary action incurred by 4759
the applicant. The application shall be accompanied by proof, in 4760
a form prescribed by the director of development, that the 4761
covenant not to sue has been issued. 4762

The applicant shall request the certified professional 4763
that submitted the no further action letter for the eligible 4764
site under section 3746.11 of the Revised Code to submit an 4765
affidavit to the director of development verifying the eligible 4766
costs associated with the voluntary action at that site. 4767

The director shall review the applications in the order 4768
they are received. If the director determines that the applicant 4769
meets the requirements of this section, the director may enter 4770
into an agreement granting a credit against the tax imposed by 4771
section 5733.06 or 5747.02 of the Revised Code. In making the 4772
determination, the director may consider the extent to which 4773
political subdivisions and other units of government will 4774
cooperate with the applicant to redevelop the eligible site. The 4775
agreement shall state the amount of the tax credit and the 4776
reporting requirements described in division (F) of this 4777
section. 4778

(2) The maximum annual amount of credits the director of 4779

development may grant under such agreements shall be as follows: 4780

1996 \$5,000,000 4781

1997 \$10,000,000 4782

1998 \$10,000,000 4783

1999 \$5,000,000 4784

For any year in which the director of development does not 4785
grant tax credits under this section equal to the maximum annual 4786
amount, the amount not granted for that year shall be added to 4787
the maximum annual amount that may be granted for the following 4788
year. However, the director shall not grant any tax credits 4789
under this section after June 30, 1999. 4790

(C) (1) If the covenant not to sue was issued in connection 4791
with a site that is not located in an eligible area, the credit 4792
amount is equal to the lesser of five hundred thousand dollars 4793
or ten per cent of the eligible costs associated with a 4794
voluntary action incurred by the taxpayer, partnership, or S 4795
corporation. 4796

(2) If a covenant not to sue was issued in connection with 4797
a site that is located in an eligible area, the credit amount is 4798
equal to the lesser of seven hundred fifty thousand dollars or 4799
fifteen per cent of the eligible costs associated with a 4800
voluntary action incurred by the taxpayer, partnership, or S 4801
corporation. 4802

(3) A taxpayer, partnership, or S corporation that has 4803
been issued covenants not to sue under section 3746.12 of the 4804
Revised Code for more than one site may apply to the director of 4805
development to enter into more than one agreement granting a 4806
credit against the tax imposed by section 5733.06 or 5747.02 of 4807

the Revised Code. 4808

(4) For each year for which a taxpayer, partnership, or S 4809
corporation has been granted a credit under an agreement entered 4810
into under this section, the director of development shall issue 4811
a certificate to the taxpayer, partnership, or S corporation 4812
indicating the amount of the credit the taxpayer, the partners 4813
of the partnership, or the shareholders of the S corporation may 4814
claim for that year, not including any amount that may be 4815
carried forward from previous years under section 5733.34 of the 4816
Revised Code. 4817

(D) (1) Each agreement entered into under this section 4818
shall incorporate a commitment by the taxpayer, partnership, or 4819
S corporation not to permit the use of an eligible site to cause 4820
the relocation of employment positions to that site from 4821
elsewhere in this state, except as otherwise provided in 4822
division (D) (2) of this section. The commitment shall be binding 4823
on the taxpayer, partnership, or S corporation for the lesser of 4824
five years from the date the agreement is entered into or the 4825
number of years the taxpayer, partnership, or S corporation is 4826
entitled to claim the tax credit under the agreement. 4827

(2) An eligible site may be the site of employment 4828
positions relocated from elsewhere in this state if the director 4829
of development determines both of the following: 4830

(a) That the site from which the employment positions 4831
would be relocated is inadequate to meet market and industry 4832
conditions, expansion plans, consolidation plans, or other 4833
business considerations affecting the relocating employer; 4834

(b) That the governing body of the county, township, or 4835
municipal corporation from which the employment positions would 4836

be relocated has been notified of the possible relocation. 4837

For purposes of this section, the movement of an 4838
employment position from one political subdivision to another 4839
political subdivision shall be considered a relocation of an 4840
employment position, but the transfer of an individual employee 4841
from one political subdivision to another political subdivision 4842
shall not be considered a relocation of an employment position 4843
as long as the individual's employment position in the first 4844
political subdivision is refilled. 4845

(E) A taxpayer, partnership, or S corporation that has 4846
entered into an agreement granting a credit against the tax 4847
imposed by section 5733.06 or 5747.02 of the Revised Code that 4848
subsequently recovers in a lawsuit or settlement of a lawsuit at 4849
least seventy-five per cent of the eligible costs associated 4850
with a voluntary action shall not claim any credit amount 4851
remaining, including any amounts carried forward from prior 4852
years, beginning with the taxable year in which the judgment in 4853
the lawsuit is entered or the settlement is finally agreed to. 4854

Any amount of credit that a taxpayer, partnership, or S 4855
corporation may not claim by reason of this division shall not 4856
be considered to have been granted for the purpose of 4857
determining the total amount of credits that may be issued under 4858
division (B) (2) of this section. 4859

(F) Each year for which a taxpayer, partnership, or S 4860
corporation claims a credit under section 5733.34 of the Revised 4861
Code, the taxpayer, partnership, or S corporation shall report 4862
the following to the director of development: 4863

(1) The status of all cost recovery litigation described 4864
in division (E) of this section to which it was a party during 4865

the previous year; 4866

(2) Confirmation that the covenant not to sue has not been 4867
revoked or has not been voided; 4868

(3) Confirmation that the taxpayer, partnership, or S 4869
corporation has not permitted the eligible site to be used in 4870
such a manner as to cause the relocation of employment positions 4871
from elsewhere in this state in violation of the commitment 4872
required under division (D) of this section; 4873

(4) Any other information the director of development 4874
requires to perform the director's duties under this section. 4875

(G) The director of development shall annually certify, by 4876
the first day of January of each year during the qualifying 4877
period, the eligible areas for the calendar year that includes 4878
that first day of January. 4879

~~(H) The director of development, in accordance with 4880
Chapter 119. of the Revised Code, shall adopt rules necessary to 4881
implement this section, including rules prescribing forms 4882
required for administering this section. 4883~~

Sec. 122.17. (A) As used in this section: 4884

(1) "Payroll" means the total taxable income paid by the 4885
employer during the employer's taxable year, or during the 4886
calendar year that includes the employer's tax period, to each 4887
employee or each home-based employee employed in the project to 4888
the extent such payroll is not used to determine the credit 4889
under section 122.171 of the Revised Code. "Payroll" excludes 4890
amounts paid before the day the taxpayer becomes eligible for 4891
the credit and retirement or other benefits paid or contributed 4892
by the employer to or on behalf of employees. 4893

(2) "Baseline payroll" means Ohio employee payroll, except 4894
that the applicable measurement period is the twelve months 4895
immediately preceding the date the tax credit authority approves 4896
the taxpayer's application or the date the tax credit authority 4897
receives the recommendation described in division (C) (2) (a) of 4898
this section, whichever occurs first, multiplied by the sum of 4899
one plus an annual pay increase factor to be determined by the 4900
tax credit authority. 4901

(3) "Ohio employee payroll" means the amount of 4902
compensation used to determine the withholding obligations in 4903
division (A) of section 5747.06 of the Revised Code and paid by 4904
the employer during the employer's taxable year, or during the 4905
calendar year that includes the employer's tax period, to the 4906
following: 4907

(a) An employee employed in the project who is a resident 4908
of this state including a qualifying work-from-home employee not 4909
designated as a home-based employee by an applicant under 4910
division (C) (1) of this section; 4911

(b) An employee employed at the project location who is 4912
not a resident and whose compensation is not exempt from the tax 4913
imposed under section 5747.02 of the Revised Code pursuant to a 4914
reciprocity agreement with another state under division (A) (3) 4915
of section 5747.05 of the Revised Code; 4916

(c) A home-based employee employed in the project. 4917

"Ohio employee payroll" excludes any such compensation to 4918
the extent it is used to determine the credit under section 4919
122.171 of the Revised Code, and excludes amounts paid before 4920
the day the taxpayer becomes eligible for the credit under this 4921
section. 4922

- (4) "Excess payroll" means Ohio employee payroll minus
baseline payroll. 4923
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- (5) "Home-based employee" means an employee whose services
are performed primarily from the employee's residence in this 4925
state exclusively for the benefit of the project and whose rate 4926
of pay is at least one hundred thirty-one per cent of the 4927
federal minimum wage under 29 U.S.C. 206. 4928
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- (6) "Full-time equivalent employees" means the quotient 4930
obtained by dividing the total number of hours for which 4931
employees were compensated for employment in the project by two 4932
thousand eighty. "Full-time equivalent employees" excludes hours 4933
that are counted for a credit under section 122.171 of the 4934
Revised Code. 4935
- (7) "Metric evaluation date" means the date by which the 4936
taxpayer must meet all of the commitments included in the 4937
agreement. 4938
- (8) "Qualifying work-from-home employee" means an employee 4939
who is a resident of this state and whose services are 4940
supervised from the employer's project location and performed 4941
primarily from a residence of the employee located in this 4942
state. 4943
- (9) "Resident" or "resident of this state" means an 4944
individual who is a resident as defined in section 5747.01 of 4945
the Revised Code. 4946
- (10) "Reporting period" means a period corresponding to 4947
the annual report required under division (D) (6) of this 4948
section. 4949
- (11) "Megaproject" means a project in this state that 4950
meets all of the following requirements: 4951

- (a) At least one of the following applies: 4952
- (i) The project requires unique sites, extremely robust utility service, and a technically skilled workforce. 4953
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- (ii) The megaproject operator of the project has its corporate headquarters in the United States, incurs more than fifty per cent of its research and development expenses in the United States in the year preceding the date the tax credit authority approves the project for a credit under this section, and builds and operates semiconductor wafer manufacturing factories in this state or intends to do so by the metric evaluation date applicable to the megaproject operator. 4955
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- (b) The megaproject operator of the project agrees, in an agreement with the tax credit authority under division (D) of this section, that, on and after the metric evaluation date applicable to the megaproject operator and until the end of the last year for which the megaproject qualifies for the credit authorized under this section, the megaproject operator will compensate the project's employees at an average hourly wage of at least three hundred per cent of the federal minimum wage under 29 U.S.C. 206, exclusive of employee benefits, as determined at the time the tax credit authority approves the project for a credit under this section. 4963
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- (c) The megaproject operator agrees, in an agreement with the tax credit authority under division (D) of this section, to satisfy either of the following by the metric evaluation date applicable to the project: 4974
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- (i) The megaproject operator makes at least one billion dollars, as adjusted under division (V) (1) of this section, in fixed-asset investments in the project. 4978
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(ii) The megaproject operator creates at least seventy-five million dollars, as adjusted under division (V) (1) of this section, in Ohio employee payroll at the project. 4981
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(d) The megaproject operator agrees, in an agreement with the tax credit authority under division (D) of this section, that if the project satisfies division (A) (11) (c) (ii) of this section, then, on and after the metric evaluation date and until the end of the last year for which the megaproject qualifies for the credit authorized under this section, the megaproject operator will maintain at least the amount in Ohio employee payroll at the project required under that division for each year in that period. 4984
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(12) "Megaproject operator" means a taxpayer that, separately or collectively with other taxpayers, undertakes and operates a megaproject. Such a taxpayer becomes a megaproject operator effective the first day of the calendar year in which the taxpayer and the tax credit authority enter into an agreement under division (D) of this section with respect to the megaproject. More than one taxpayer may be designated by the tax credit authority as a megaproject operator for the same megaproject. 4993
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(13) "Megaproject supplier" means a supplier in this state that meets either or both of the following requirements: 5002
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(a) The supplier sells tangible personal property directly to a megaproject operator of a megaproject that satisfies the criteria described in division (A) (11) (a) (ii) of this section for use at a megaproject site, provided that such property was subject to substantial manufacturing, assembly, or processing in this state at a facility owned or operated by the supplier; 5004
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(b) The supplier sells tangible personal property directly 5010
to a megaproject operator for use at a megaproject site, 5011
provided that the supplier agrees, in an agreement with the tax 5012
credit authority under division (D) of this section, to meet all 5013
of the following requirements: 5014

(i) By the metric evaluation date applicable to the 5015
supplier, makes at least one hundred million dollars, as 5016
adjusted under division (V) (2) of this section, in fixed-asset 5017
investments in this state; 5018

(ii) By the metric evaluation date applicable to the 5019
supplier, creates at least ten million dollars, as adjusted 5020
under division (V) (2) of this section, in Ohio employee payroll; 5021

(iii) On and after the metric evaluation date applicable 5022
to the supplier, until the end of the last year for which the 5023
supplier qualifies for the credit authorized under this section, 5024
maintains at least the amount in Ohio employee payroll required 5025
under division (A) (13) (b) (ii) of this section for each year in 5026
that period. 5027

(B) The tax credit authority may make grants under this 5028
section to foster job creation in this state. Such a grant shall 5029
take the form of a refundable credit allowed against the tax 5030
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, 5031
or 5747.02 or levied under Chapter 5751. of the Revised Code. 5032
The credit shall be claimed for the taxable years or tax periods 5033
specified in the taxpayer's agreement with the tax credit 5034
authority under division (D) of this section. With respect to 5035
taxes imposed under section 5726.02, 5733.06, or 5747.02 or 5036
Chapter 5751. of the Revised Code, the credit shall be claimed 5037
in the order required under section 5726.98, 5733.98, 5747.98, 5038
or 5751.98 of the Revised Code. The amount of the credit 5039

available for a taxable year or for a calendar year that 5040
includes a tax period equals the excess payroll for that year 5041
multiplied by the percentage specified in the agreement with the 5042
tax credit authority. 5043

(C) (1) A taxpayer or potential taxpayer who proposes a 5044
project to create new jobs in this state may apply to the tax 5045
credit authority to enter into an agreement for a tax credit 5046
under this section. 5047

An application shall not propose to include both home- 5048
based employees and employees who are not home-based employees 5049
in the computation of Ohio employee payroll for the purposes of 5050
the same tax credit agreement, except that a qualifying work- 5051
from-home employee shall not be considered to be a home-based 5052
employee unless so designated by the applicant. If a taxpayer or 5053
potential taxpayer employs both home-based employees and 5054
employees who are not home-based employees in a project, the 5055
taxpayer shall submit separate applications for separate tax 5056
credit agreements for the project, one of which shall include 5057
home-based employees in the computation of Ohio employee payroll 5058
and one of which shall include all other employees in the 5059
computation of Ohio employee payroll. 5060

The director of development shall prescribe the form of 5061
the application. After receipt of an application, the authority 5062
may enter into an agreement with the taxpayer for a credit under 5063
this section if it determines all of the following: 5064

(a) The taxpayer's project will increase payroll; 5065

(b) The taxpayer's project is economically sound and will 5066
benefit the people of this state by increasing opportunities for 5067
employment and strengthening the economy of this state; 5068

(c) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the project.

(2) (a) A taxpayer that chooses to begin the project prior to receiving the determination of the authority may, upon submitting the taxpayer's application to the authority, request that the chief investment officer of the nonprofit corporation formed under section 187.01 of the Revised Code and the director review the taxpayer's application and recommend to the authority that the taxpayer's application be considered. As soon as possible after receiving such a request, the chief investment officer and the director shall review the taxpayer's application and, if they determine that the application warrants consideration by the authority, make that recommendation to the authority not later than six months after the application is received by the authority.

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

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

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

(2) (a) The term of the tax credit, which, except as provided in division (D) (2) (b) or (C) of this section, shall not

exceed fifteen years, and the first taxable year, or first 5098
calendar year that includes a tax period, for which the credit 5099
may be claimed; 5100

(b) If the tax credit is computed on the basis of home- 5101
based employees, the term of the credit shall expire on or 5102
before the last day of the taxable or calendar year ending 5103
before the beginning of the seventh year after September 6, 5104
2012, the effective date of H.B. 327 of the 129th general 5105
assembly. 5106

(c) If the taxpayer is a megaproject operator or a 5107
megaproject supplier that meets the requirements described in 5108
division (A) (13) (b) of this section, the term of the tax credit 5109
shall not exceed thirty years. 5110

(3) A requirement that the taxpayer shall maintain 5111
operations at the project location for at least the greater of 5112
seven years or the term of the credit plus three years; 5113

(4) The percentage, as determined by the tax credit 5114
authority, of excess payroll that will be allowed as the amount 5115
of the credit for each taxable year or for each calendar year 5116
that includes a tax period; 5117

(5) The pay increase factor to be applied to the 5118
taxpayer's baseline payroll; 5119

(6) A requirement that the taxpayer annually shall report 5120
to the director of development full-time equivalent employees, 5121
payroll, Ohio employee payroll, investment, the provision of 5122
health care benefits and tuition reimbursement if required in 5123
the agreement, and other information the director needs to 5124
perform the director's duties under this section; 5125

(7) A requirement that the director of development 5126

annually review the information reported under division (D) (6) 5127
of this section and verify compliance with the agreement; if the 5128
taxpayer is in compliance, a requirement that the director issue 5129
a certificate to the taxpayer stating that the information has 5130
been verified and identifying the amount of the credit that may 5131
be claimed for the taxable or calendar year. If the taxpayer is 5132
a megaproject supplier, the director shall issue such a 5133
certificate to the megaproject supplier and to any megaproject 5134
operator (a) to which the megaproject supplier directly sells 5135
tangible personal property and (b) that is authorized to claim 5136
the credit pursuant to division (D) (10) of this section. 5137

(8) A provision providing that the taxpayer may not 5138
relocate a substantial number of employment positions from 5139
elsewhere in this state to the project location unless the 5140
director of development determines that the legislative 5141
authority of the county, township, or municipal corporation from 5142
which the employment positions would be relocated has been 5143
notified by the taxpayer of the relocation. 5144

For purposes of this section, the movement of an 5145
employment position from one political subdivision to another 5146
political subdivision shall be considered a relocation of an 5147
employment position unless the employment position in the first 5148
political subdivision is replaced. The movement of a qualifying 5149
work-from-home employee to a different residence located in this 5150
state or to the project location shall not be considered a 5151
relocation of an employment position. 5152

(9) If the tax credit is computed on the basis of home- 5153
based employees, that the tax credit may not be claimed by the 5154
taxpayer until the taxable year or tax period in which the 5155
taxpayer employs at least two hundred employees more than the 5156

number of employees the taxpayer employed on June 30, 2011; 5157

(10) If the taxpayer is a megaproject supplier, the 5158
percentage of the annual tax credit certified under division (D) 5159
(7) of this section, up to one hundred per cent, that may be 5160
claimed by each megaproject operator to which the megaproject 5161
supplier directly sells tangible personal property, rather than 5162
by that megaproject supplier, on the condition that the 5163
megaproject operator continues to qualify as a megaproject 5164
operator; 5165

(11) If the taxpayer is a megaproject operator or 5166
megaproject supplier, a requirement that the taxpayer meet and 5167
maintain compliance with all thresholds and requirements to 5168
which the taxpayer agreed, pursuant to division (A) (11) or (13) 5169
of this section, respectively, as a condition of the operator's 5170
project qualifying as a megaproject or the supplier qualifying 5171
as a megaproject supplier until the end of the last year for 5172
which the taxpayer qualifies for the credit authorized under 5173
this section. In each year that a megaproject operator or 5174
megaproject supplier is subject to an agreement with the tax 5175
credit authority under this section and meets the requirements 5176
of this division, the director of development shall issue a 5177
certificate to the megaproject operator or megaproject supplier 5178
stating that the megaproject operator or megaproject supplier 5179
continues to meet those requirements. 5180

(12) If the taxpayer is a megaproject operator, a 5181
requirement that the megaproject operator submit, in a form 5182
acceptable to the director of development, an economic impact 5183
report with respect to each megaproject for which the 5184
megaproject operator is designated, summarizing all of the 5185
following for the reporting year: 5186

(a) The aggregate amount of purchases made by the megaproject operator for such megaproject from megaproject suppliers; 5187
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(b) The aggregate amount of purchases made by the megaproject operator for such megaproject from suppliers other than megaproject suppliers; 5190
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(c) A summary of the construction activity for any facilities at the site of the megaproject in that year; 5193
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(d) The aggregate amount expended by the megaproject operator on research and development at the site of the megaproject in that year; 5195
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(e) The number of employees working at the site of the megaproject and the counties in which those employees reside; 5198
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(f) A summary of the supply chain activity in support of the megaproject, including a list of the twenty-five suppliers with a physical presence in Ohio from which the megaproject operator made the most purchases in that year. 5200
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The economic impact report shall be due on or before the first day of July of each year, beginning in the year specified in the agreement with the tax credit authority. The information required in the report shall be certified as true and correct by an officer of the megaproject operator. If there is more than one megaproject operator designated for a single megaproject, all of the megaproject operators designated for the megaproject may jointly submit a single report. Any information contained in the report is a public record for purposes of section 149.43 of the Revised Code and shall be published on the department of development's web site. 5204
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(E) (1) If a taxpayer fails to meet or comply with any 5215

condition or requirement set forth in a tax credit agreement, 5216
the tax credit authority may amend the agreement to reduce the 5217
percentage or term of the tax credit. The reduction of the 5218
percentage or term may take effect in the current taxable or 5219
calendar year. 5220

(2) If the tax credit authority determines that a taxpayer 5221
that is a megaproject operator of a megaproject described in 5222
division (A) (11) (a) (ii) of this section is not fully compliant 5223
with the requirements of the agreement, the authority may impose 5224
a recoupment payment on the taxpayer in accordance with the 5225
following: 5226

(a) If, on the metric evaluation date, the taxpayer fails 5227
to substantially meet the capital investment, full-time 5228
equivalent employee, or payroll requirements included in the 5229
agreement, an amount determined at the discretion of the 5230
authority, not to exceed the sum of the following for all years 5231
prior to the metric evaluation date: (i) the amount of taxes 5232
that would have been imposed under Chapters 5739. and 5741. of 5233
the Revised Code in the absence of the agreement, and (ii) the 5234
amount of taxes that would have been imposed under Chapter 5751. 5235
of the Revised Code on receipts realized from sales to the 5236
taxpayer in the absence of the agreement; 5237

(b) If the taxpayer fails to substantially maintain the 5238
capital investment, full-time equivalent employee, or payroll 5239
requirements included in the agreement in any year after the 5240
metric evaluation date, an amount determined at the discretion 5241
of the authority, not to exceed the sum of the following for the 5242
calendar year in which taxpayer failed to meet the requirements: 5243
(i) the amount of taxes that would have been imposed under 5244
Chapters 5739. and 5741. of the Revised Code in the absence of 5245

the agreement, and (ii) the amount of taxes that would have been 5246
imposed under Chapter 5751. of the Revised Code on receipts 5247
realized from sales to the taxpayer in the absence of the 5248
agreement. 5249

(3) The tax credit authority may, subject to any 5250
requirements of the tax credit agreement, take into 5251
consideration the taxpayer's prior performance and any market 5252
conditions impacting the taxpayer when determining the amount of 5253
the recoupment payment described in division (E)(2) of this 5254
section. 5255

(F) Projects that consist solely of point-of-final- 5256
purchase retail facilities are not eligible for a tax credit 5257
under this section. If a project consists of both point-of- 5258
final-purchase retail facilities and nonretail facilities, only 5259
the portion of the project consisting of the nonretail 5260
facilities is eligible for a tax credit and only the excess 5261
payroll from the nonretail facilities shall be considered when 5262
computing the amount of the tax credit. If a warehouse facility 5263
is part of a point-of-final-purchase retail facility and 5264
supplies only that facility, the warehouse facility is not 5265
eligible for a tax credit. Catalog distribution centers are not 5266
considered point-of-final-purchase retail facilities for the 5267
purposes of this division, and are eligible for tax credits 5268
under this section. 5269

(G) Financial statements and other information submitted 5270
to the department of development or the tax credit authority by 5271
an applicant or recipient of a tax credit under this section, 5272
and any information taken for any purpose from such statements 5273
or information, are not public records subject to section 149.43 5274
of the Revised Code. However, the chairperson of the authority 5275

may make use of the statements and other information for 5276
purposes of issuing public reports or in connection with court 5277
proceedings concerning tax credit agreements under this section. 5278
Upon the request of the tax commissioner or, if the applicant or 5279
recipient is an insurance company, upon the request of the 5280
superintendent of insurance, the chairperson of the authority 5281
shall provide to the commissioner or superintendent any 5282
statement or information submitted by an applicant or recipient 5283
of a tax credit in connection with the credit. The commissioner 5284
or superintendent shall preserve the confidentiality of the 5285
statement or information. 5286

(H) A taxpayer claiming a credit under this section shall 5287
submit to the tax commissioner or, if the taxpayer is an 5288
insurance company, to the superintendent of insurance, a copy of 5289
the director of development's certificate of verification under 5290
division (D)(7) of this section with the taxpayer's tax report 5291
or return for the taxable year or for the calendar year that 5292
includes the tax period. Failure to submit a copy of the 5293
certificate with the report or return does not invalidate a 5294
claim for a credit if the taxpayer submits a copy of the 5295
certificate to the commissioner or superintendent within the 5296
time prescribed by section 5703.0510 of the Revised Code or 5297
within thirty days after the commissioner or superintendent 5298
requests it. 5299

(I) The director of development, after consultation with 5300
the tax commissioner and the superintendent of insurance and in 5301
accordance with Chapter 119. of the Revised Code, shall adopt 5302
rules ~~necessary to implement this section, including rules that~~ 5303
establish a procedure to be followed by the tax credit authority 5304
and the department of development in the event the authority 5305
considers a taxpayer's application for which it receives a 5306

recommendation under division (C) (2) (a) of this section but does 5307
not approve it. The director, in consultation with the 5308
commissioner and superintendent, may adopt rules ~~may provide~~ 5309
providing for recipients of tax credits under this section to be 5310
charged fees to cover administrative costs of the tax credit 5311
program. ~~For the purposes of these rules, a qualifying work-~~ 5312
~~from-home employee shall be considered to be an employee-~~ 5313
~~employed at the applicant's project location.~~ The fees collected 5314
shall be credited to the tax incentives operating fund created 5315
in section 122.174 of the Revised Code. At the time the director 5316
gives public notice under division (A) of section 119.03 of the 5317
Revised Code of the adoption of the rules, the director shall 5318
submit copies of the proposed rules to the chairpersons of the 5319
standing committees on economic development in the senate and 5320
the house of representatives. 5321

(J) For the purposes of this section, a taxpayer may 5322
include a partnership, a corporation that has made an election 5323
under subchapter S of chapter one of subtitle A of the Internal 5324
Revenue Code, or any other business entity through which income 5325
flows as a distributive share to its owners. A partnership, S- 5326
corporation, or other such business entity may elect to pass the 5327
credit received under this section through to the persons to 5328
whom the income or profit of the partnership, S-corporation, or 5329
other entity is distributed. The election shall be made on the 5330
annual report required under division (D) (6) of this section. 5331
The election applies to and is irrevocable for the credit for 5332
which the report is submitted. If the election is made, the 5333
credit shall be apportioned among those persons in the same 5334
proportions as those in which the income or profit is 5335
distributed. 5336

(K) (1) If the director of development determines that a 5337

taxpayer who has received a credit under this section is not 5338
complying with the requirements of the agreement, the director 5339
shall notify the tax credit authority of the noncompliance. 5340
After receiving such a notice, and after giving the taxpayer an 5341
opportunity to explain the noncompliance, the tax credit 5342
authority may require the taxpayer to refund to this state a 5343
portion of the credit in accordance with the following: 5344

(a) If the taxpayer fails to comply with the requirement 5345
under division (D) (3) of this section, an amount determined in 5346
accordance with the following: 5347

(i) If the taxpayer maintained operations at the project 5348
location for a period less than or equal to the term of the 5349
credit, an amount not exceeding one hundred per cent of the sum 5350
of any credits allowed and received under this section; 5351

(ii) If the taxpayer maintained operations at the project 5352
location for a period longer than the term of the credit, but 5353
less than the greater of seven years or the term of the credit 5354
plus three years, an amount not exceeding seventy-five per cent 5355
of the sum of any credits allowed and received under this 5356
section. 5357

(b) If, on the metric evaluation date, the taxpayer fails 5358
to substantially meet the job creation, payroll, or investment 5359
requirements included in the agreement, an amount determined at 5360
the discretion of the authority; 5361

(c) If the taxpayer fails to substantially maintain the 5362
number of new full-time equivalent employees or amount of 5363
payroll required under the agreement at any time during the term 5364
of the agreement after the metric evaluation date, an amount 5365
determined at the discretion of the authority. 5366

(2) If a taxpayer files for bankruptcy and fails as 5367
described in division (K) (1) (a), (b), or (c) of this section, 5368
the director may immediately commence an action to recoup an 5369
amount not exceeding one hundred per cent of the sum of any 5370
credits received by the taxpayer under this section. 5371

(3) In determining the portion of the tax credit to be 5372
refunded to this state, the tax credit authority shall consider 5373
the effect of market conditions on the taxpayer's project and 5374
whether the taxpayer continues to maintain other operations in 5375
this state. After making the determination, the authority shall 5376
certify the amount to be refunded to the tax commissioner or 5377
superintendent of insurance, as appropriate. If the amount is 5378
certified to the commissioner, the commissioner shall make an 5379
assessment for that amount against the taxpayer under Chapter 5380
5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the 5381
amount is certified to the superintendent, the superintendent 5382
shall make an assessment for that amount against the taxpayer 5383
under Chapter 5725. or 5729. of the Revised Code. The time 5384
limitations on assessments under those chapters do not apply to 5385
an assessment under this division, but the commissioner or 5386
superintendent, as appropriate, shall make the assessment within 5387
one year after the date the authority certifies to the 5388
commissioner or superintendent the amount to be refunded. Within 5389
ninety days after certifying the amount to be refunded, if 5390
circumstances have changed, the authority may adjust the amount 5391
to be refunded and certify the adjusted amount to the 5392
commissioner or superintendent. The authority may only adjust 5393
the amount to be refunded one time and only if the amount 5394
initially certified by the authority has not been repaid, in 5395
whole or in part, by the taxpayer or certified to the attorney 5396
general for collection under section 131.02 of the Revised Code. 5397

(L) On or before the first day of August each year, the 5398
director of development shall submit a report to the governor, 5399
the president of the senate, and the speaker of the house of 5400
representatives on the tax credit program under this section. 5401
The report shall include information on the number of agreements 5402
that were entered into under this section during the preceding 5403
calendar year, a description of the project that is the subject 5404
of each such agreement, and an update on the status of projects 5405
under agreements entered into before the preceding calendar 5406
year. 5407

(M) There is hereby created the tax credit authority, 5408
which consists of the director of development and four other 5409
members appointed as follows: the governor, the president of the 5410
senate, and the speaker of the house of representatives each 5411
shall appoint one member who shall be a specialist in economic 5412
development; the governor also shall appoint a member who is a 5413
specialist in taxation. Terms of office shall be for four years. 5414
Each member shall serve on the authority until the end of the 5415
term for which the member was appointed. Vacancies shall be 5416
filled in the same manner provided for original appointments. 5417
Any member appointed to fill a vacancy occurring prior to the 5418
expiration of the term for which the member's predecessor was 5419
appointed shall hold office for the remainder of that term. 5420
Members may be reappointed to the authority. Members of the 5421
authority shall receive their necessary and actual expenses 5422
while engaged in the business of the authority. The director of 5423
development shall serve as chairperson of the authority, and the 5424
members annually shall elect a vice-chairperson from among 5425
themselves. Three members of the authority constitute a quorum 5426
to transact and vote on the business of the authority. The 5427
majority vote of the membership of the authority is necessary to 5428

approve any such business, including the election of the vice- 5429
chairperson. 5430

The director of development may appoint a professional 5431
employee of the department of development to serve as the 5432
director's substitute at a meeting of the authority. The 5433
director shall make the appointment in writing. In the absence 5434
of the director from a meeting of the authority, the appointed 5435
substitute shall serve as chairperson. In the absence of both 5436
the director and the director's substitute from a meeting, the 5437
vice-chairperson shall serve as chairperson. 5438

(N) For purposes of the credits granted by this section 5439
against the taxes imposed under sections 5725.18 and 5729.03 of 5440
the Revised Code, "taxable year" means the period covered by the 5441
taxpayer's annual statement to the superintendent of insurance. 5442

(O) On or before the first day of March of each of the 5443
five calendar years beginning with 2014, each taxpayer subject 5444
to an agreement with the tax credit authority under this section 5445
on the basis of home-based employees shall report the number of 5446
home-based employees and other employees employed by the 5447
taxpayer in this state to the department of development. 5448

(P) On or before the first day of January of 2019, the 5449
director of development shall submit a report to the governor, 5450
the president of the senate, and the speaker of the house of 5451
representatives on the effect of agreements entered into under 5452
this section in which the taxpayer included home-based employees 5453
in the computation of income tax revenue, as that term was 5454
defined in this section prior to the amendment of this section 5455
by H.B. 64 of the 131st general assembly. The report shall 5456
include information on the number of such agreements that were 5457
entered into in the preceding six years, a description of the 5458

projects that were the subjects of such agreements, and an 5459
analysis of nationwide home-based employment trends, including 5460
the number of home-based jobs created from July 1, 2011, through 5461
June 30, 2017, and a description of any home-based employment 5462
tax incentives provided by other states during that time. 5463

(Q) The director of development may require any agreement 5464
entered into under this section for a tax credit computed on the 5465
basis of home-based employees to contain a provision that the 5466
taxpayer makes available health care benefits and tuition 5467
reimbursement to all employees. 5468

(R) Original agreements approved by the tax credit 5469
authority under this section in 2014 or 2015 before September 5470
29, 2015, may be revised at the request of the taxpayer to 5471
conform with the amendments to this section and sections 5472
5733.0610, 5736.50, 5747.058, and 5751.50 of the Revised Code by 5473
H.B. 64 of the 131st general assembly, upon mutual agreement of 5474
the taxpayer and the department of development, and approval by 5475
the tax credit authority. 5476

(S) (1) As used in division (S) of this section: 5477

(a) "Eligible agreement" means an agreement approved by 5478
the tax credit authority under this section on or before 5479
December 31, 2013. 5480

(b) "Income tax revenue" has the same meaning as under 5481
this section as it existed before September 29, 2015, the 5482
effective date of the amendment of this section by H.B. 64 of 5483
the 131st general assembly. 5484

(2) In calendar year 2016 and thereafter, the tax credit 5485
authority shall annually determine a withholding adjustment 5486
factor to be used in the computation of income tax revenue for 5487

eligible agreements. The withholding adjustment factor shall be 5488
a numerical percentage that equals the percentage that employer 5489
income tax withholding rates have been increased or decreased as 5490
a result of changes in the income tax rates prescribed by 5491
section 5747.02 of the Revised Code by amendment of that section 5492
taking effect on or after June 29, 2013. 5493

(3) Except as provided in division (S)(4) of this section, 5494
for reporting periods ending in 2015 and thereafter for 5495
taxpayers subject to eligible agreements, the tax credit 5496
authority shall adjust the income tax revenue reported on the 5497
taxpayer's annual report by multiplying the withholding 5498
adjustment factor by the taxpayer's income tax revenue and doing 5499
one of the following: 5500

(a) If the income tax rates prescribed by section 5747.02 5501
of the Revised Code have decreased by amendment of that section 5502
taking effect on or after June 29, 2013, add the product to the 5503
taxpayer's income tax revenue. 5504

(b) If the income tax rates prescribed by section 5747.02 5505
of the Revised Code have increased by amendment of that section 5506
taking effect on or after June 29, 2013, subtract the product 5507
from the taxpayer's income tax revenue. 5508

(4) Division (S)(3) of this section shall not apply unless 5509
all of the following apply for the reporting period with respect 5510
to the eligible agreement: 5511

(a) The taxpayer has achieved one hundred per cent of the 5512
new employment commitment identified in the agreement. 5513

(b) If applicable, the taxpayer has achieved one hundred 5514
per cent of the new payroll commitment identified in the 5515
agreement. 5516

(c) If applicable, the taxpayer has achieved one hundred 5517
per cent of the investment commitment identified in the 5518
agreement. 5519

(5) Failure by a taxpayer to have achieved any of the 5520
applicable commitments described in divisions (S) (4) (a) to (c) 5521
of this section in a reporting period does not disqualify the 5522
taxpayer for the adjustment under division (S) of this section 5523
for an ensuing reporting period. 5524

(T) For reporting periods ending in calendar year 2020 or 5525
thereafter, any taxpayer may include qualifying work-from-home 5526
employees in its report required under division (D) (6) of this 5527
section, and the compensation of such employees shall qualify as 5528
Ohio employee payroll under division (A) (3) (a) of this section, 5529
even if the taxpayer's application to the tax credit authority 5530
to enter into an agreement for a tax credit under this section 5531
was approved before September 29, 2017, the effective date of 5532
the amendment of this section by H.B. 49 of the 132nd general 5533
assembly. 5534

(U) The director of development shall notify the tax 5535
commissioner if the director determines that a megaproject 5536
operator or megaproject supplier is not in compliance with the 5537
agreement pursuant to a review conducted under division (D) (11) 5538
of this section. 5539

(V) Beginning in 2025 and in each fifth calendar year 5540
thereafter, the tax commissioner shall adjust the following 5541
amounts in September of that year: 5542

(1) The fixed-asset investment threshold described in 5543
division (A) (11) (c) (i) of this section and the Ohio employee 5544
payroll threshold described in division (A) (11) (c) (ii) of this 5545

section by completing the following calculations: 5546

(a) Determine the percentage increase in the gross 5547
domestic product deflator determined by the bureau of economic 5548
analysis of the United States department of commerce from the 5549
first day of January of the fifth preceding calendar year to the 5550
last day of December of the preceding calendar year; 5551

(b) Multiply that percentage increase by the fixed-asset 5552
investment threshold and the Ohio employee payroll threshold for 5553
the current year; 5554

(c) Add the resulting products to the corresponding fixed- 5555
asset investment threshold and Ohio employee payroll threshold 5556
for the current year; 5557

(d) Round the resulting fixed-asset investment sum to the 5558
nearest multiple of ten million dollars and the Ohio employee 5559
payroll sum to the nearest multiple of one million dollars. 5560

(2) The fixed-asset investment threshold described in 5561
division (A) (13) (b) (i) of this section and the Ohio employee 5562
payroll threshold described in division (A) (13) (b) (ii) of this 5563
section by completing the calculations described in divisions 5564
(V) (1) (a) to (c) of this section and rounding the resulting 5565
fixed-asset investment sum to the nearest multiple of one 5566
million dollars and the Ohio employee payroll sum to the nearest 5567
multiple of one hundred thousand dollars. 5568

The commissioner shall certify the amount of the 5569
adjustments under divisions (V) (1) and (2) of this section to 5570
the director of development and to the tax credit authority not 5571
later than the first day of December of the year the 5572
commissioner computes the adjustment. Each certified amount 5573
applies to the ensuing calendar year and each calendar year 5574

thereafter until the tax commissioner makes a new adjustment. 5575
The tax commissioner shall not calculate a new adjustment in any 5576
year in which the resulting amount from the adjustment would be 5577
less than the corresponding amount for the current year. 5578

Sec. 122.171. (A) As used in this section: 5579

(1) "Capital investment project" means a plan of 5580
investment at a project site for the acquisition, construction, 5581
renovation, or repair of buildings, machinery, or equipment, or 5582
for capitalized costs of basic research and new product 5583
development determined in accordance with generally accepted 5584
accounting principles, but does not include any of the 5585
following: 5586

(a) Payments made for the acquisition of personal property 5587
through operating leases; 5588

(b) Project costs paid before January 1, 2002; 5589

(c) Payments made to a related member as defined in 5590
section 5733.042 of the Revised Code or to a consolidated 5591
elected taxpayer or a combined taxpayer as defined in section 5592
5751.01 of the Revised Code. 5593

(2) "Eligible business" means a taxpayer and its related 5594
members with Ohio operations that had a capital investment 5595
project reviewed and approved by the tax credit authority as 5596
provided in divisions (C), (D), and (E) of this section and that 5597
satisfies either of the following requirements: 5598

(a) If engaged at the project site primarily in 5599
significant corporate administrative functions, as defined by 5600
the director of development by rule, the taxpayer meets both of 5601
the following criteria: 5602

(i) The taxpayer either is located in a foreign trade zone, employs at least five hundred full-time equivalent employees, or has an annual Ohio employee payroll of at least thirty-five million dollars at the time the tax credit authority grants the tax credit under this section;

(ii) The taxpayer makes or causes to be made payments for the capital investment project of at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted.

(b) If engaged at the project site primarily as a manufacturer, the taxpayer makes or causes to be made payments for the capital investment project at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted, in an amount that in the aggregate equals or exceeds the lesser of the following:

(i) Fifty million dollars;

(ii) Five per cent of the net book value of all tangible personal property used at the project site as of the last day of the three-year period in which the capital investment payments are made.

(3) "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by two thousand eighty. "Full-time equivalent employees" shall exclude hours that are counted for a credit under section 122.17 of the

Revised Code.	5632
(4) "Ohio employee payroll" has the same meaning as in section 122.17 of the Revised Code.	5633 5634
(5) "Manufacturer" has the same meaning as in section 5739.011 of the Revised Code.	5635 5636
(6) "Project site" means an integrated complex of facilities in this state, as specified by the tax credit authority under this section, within a fifteen-mile radius where a taxpayer is primarily operating as an eligible business.	5637 5638 5639 5640
(7) "Related member" has the same meaning as in section 5733.042 of the Revised Code as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly, September 29, 1997.	5641 5642 5643 5644
(8) "Taxable year" includes, in the case of a domestic or foreign insurance company, the calendar year ending on the thirty-first day of December preceding the day the superintendent of insurance is required to certify to the treasurer of state under section 5725.20 or 5729.05 of the Revised Code the amount of taxes due from insurance companies.	5645 5646 5647 5648 5649 5650
(9) "Foreign trade zone" means a general purpose foreign trade zone or a special purpose subzone for which, pursuant to 19 U.S.C. 81a, as amended, a permit for foreign trade zone status has been granted and remains active, including special purpose subzones for which a permit has been granted and remains active.	5651 5652 5653 5654 5655 5656
(B) The tax credit authority created under section 122.17 of the Revised Code may grant a nonrefundable tax credit to an eligible business under this section for the purpose of fostering job retention in this state. Upon application by an	5657 5658 5659 5660

eligible business and upon consideration of the determination of 5661
the director of budget and management, tax commissioner, and the 5662
superintendent of insurance in the case of an insurance company, 5663
the recommendation and determination of the director of 5664
development under division (C) (1) of this section, and a review 5665
of the criteria described in division (C) (2) of this section, 5666
the tax credit authority may grant the credit against the tax 5667
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, 5668
5747.02, or 5751.02 of the Revised Code. 5669

The credit authorized in this section may be granted for a 5670
period up to fifteen taxable years or, in the case of the tax 5671
levied by section 5736.02 or 5751.02 of the Revised Code, for a 5672
period of up to fifteen calendar years. The credit amount for a 5673
taxable year or a calendar year that includes the tax period for 5674
which a credit may be claimed equals the Ohio employee payroll 5675
for that year multiplied by the percentage specified in the 5676
agreement with the tax credit authority. The credit shall be 5677
claimed in the order required under section 5725.98, 5726.98, 5678
5729.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. In 5679
determining the percentage and term of the credit, the tax 5680
credit authority shall consider both the number of full-time 5681
equivalent employees and the value of the capital investment 5682
project. The credit amount may not be based on the Ohio employee 5683
payroll for a calendar year before the calendar year in which 5684
the tax credit authority specifies the tax credit is to begin, 5685
and the credit shall be claimed only for the taxable years or 5686
tax periods specified in the eligible business' agreement with 5687
the tax credit authority. In no event shall the credit be 5688
claimed for a taxable year or tax period terminating before the 5689
date specified in the agreement. 5690

If a credit allowed under this section for a taxable year 5691

or tax period exceeds the taxpayer's tax liability for that year 5692
or period, the excess may be carried forward for the three 5693
succeeding taxable or calendar years, but the amount of any 5694
excess credit allowed in any taxable year or tax period shall be 5695
deducted from the balance carried forward to the succeeding year 5696
or period. 5697

(C) (1) A taxpayer that proposes a capital investment 5698
project to retain jobs in this state may apply to the tax credit 5699
authority to enter into an agreement for a tax credit under this 5700
section. The director of development shall prescribe the form of 5701
the application. After receipt of an application, the authority 5702
shall forward copies of the application to the director of 5703
budget and management, the tax commissioner, and the 5704
superintendent of insurance in the case of an insurance company, 5705
each of whom shall review the application to determine the 5706
economic impact the proposed project would have on the state and 5707
the affected political subdivisions and shall submit a summary 5708
of their determinations to the authority. The authority shall 5709
also forward a copy of the application to the director of 5710
development, who shall review the application to determine the 5711
economic impact the proposed project would have on the state and 5712
the affected political subdivisions and shall submit a summary 5713
of the director's determinations and recommendations to the 5714
authority. 5715

(2) The director of development, in reviewing applications 5716
and making recommendations to the tax credit authority, and the 5717
authority, in selecting taxpayers with which to enter into an 5718
agreement under division (D) of this section, shall give 5719
priority to applications that meet one or more of the following 5720
criteria, with greater priority given to applications that meet 5721
more of the criteria: (a) Within the preceding five years, the 5722

applicant has not received a credit under this section or 5723
section 122.17 of the Revised Code for a project at the same 5724
project site as that proposed in the application. 5725

(b) The applicant is not currently receiving a credit 5726
under this section or section 122.17 of the Revised Code. 5727

(c) The applicant has operated at the project site for at 5728
least the preceding ten years. 5729

(d) The project involves a significant upgrade of the 5730
project site, rather than only routine maintenance of existing 5731
facilities, such as an increase in capacity of a facility, new 5732
product development, or technology upgrades or other facility 5733
modernization. 5734

(e) The applicant intends to use machinery, equipment, and 5735
materials supplied by Ohio businesses in the project when 5736
possible. 5737

(D) Upon review and consideration of the determinations, 5738
recommendations, and criteria described in division (C) of this 5739
section, the tax credit authority may enter into an agreement 5740
with the taxpayer for a credit under this section if the 5741
authority determines all of the following: 5742

(1) The taxpayer's capital investment project will result 5743
in the retention of employment in this state. 5744

(2) The taxpayer is economically sound and has the ability 5745
to complete the proposed capital investment project. 5746

(3) The taxpayer intends to and has the ability to 5747
maintain operations at the project site for at least the greater 5748
of (a) the term of the credit plus three years, or (b) seven 5749
years. 5750

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

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

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

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

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

(4) (a) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, a requirement that the taxpayer either retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit, maintain an annual Ohio employee payroll of at least thirty-five million dollars for the entire term of the credit, or remain located in a foreign trade zone for the entire term of the credit;

(b) If the taxpayer is engaged at the project site primarily as a manufacturer, a requirement that the taxpayer maintain at least the number of full-time equivalent employees

specified in the agreement pursuant to division (E) (1) of this 5780
section at the project site and within this state for the entire 5781
term of the credit. 5782

(5) A requirement that the taxpayer annually report to the 5783
director of development full-time equivalent employees, Ohio 5784
employee payroll, capital investment, and other information the 5785
director needs to perform the director's duties under this 5786
section. 5787

(6) A requirement that the director of development 5788
annually review the annual reports of the taxpayer to verify the 5789
information reported under division (E) (5) of this section and 5790
compliance with the agreement. Upon verification, the director 5791
shall issue a certificate to the taxpayer stating that the 5792
information has been verified and identifying the amount of the 5793
credit for the taxable year or calendar year that includes the 5794
tax period. In determining the number of full-time equivalent 5795
employees, no position shall be counted that is filled by an 5796
employee who is included in the calculation of a tax credit 5797
under section 122.17 of the Revised Code. 5798

(7) A provision providing that the taxpayer may not 5799
relocate a substantial number of employment positions from 5800
elsewhere in this state to the project site unless the director 5801
of development determines that the taxpayer notified the 5802
legislative authority of the county, township, or municipal 5803
corporation from which the employment positions would be 5804
relocated. 5805

For purposes of this section, the movement of an 5806
employment position from one political subdivision to another 5807
political subdivision shall be considered a relocation of an 5808
employment position unless the movement is confined to the 5809

project site. The transfer of an employment position from one 5810
political subdivision to another political subdivision shall not 5811
be considered a relocation of an employment position if the 5812
employment position in the first political subdivision is 5813
replaced by another employment position. 5814

(8) A waiver by the taxpayer of any limitations periods 5815
relating to assessments or adjustments resulting from the 5816
taxpayer's failure to comply with the agreement. 5817

(F) If a taxpayer fails to meet or comply with any 5818
condition or requirement set forth in a tax credit agreement, 5819
the tax credit authority may amend the agreement to reduce the 5820
percentage or term of the credit. The reduction of the 5821
percentage or term may take effect in the current taxable or 5822
calendar year. 5823

(G) Financial statements and other information submitted 5824
to the department of development or the tax credit authority by 5825
an applicant for or recipient of a tax credit under this 5826
section, and any information taken for any purpose from such 5827
statements or information, are not public records subject to 5828
section 149.43 of the Revised Code. However, the chairperson of 5829
the authority may make use of the statements and other 5830
information for purposes of issuing public reports or in 5831
connection with court proceedings concerning tax credit 5832
agreements under this section. Upon the request of the tax 5833
commissioner, or the superintendent of insurance in the case of 5834
an insurance company, the chairperson of the authority shall 5835
provide to the commissioner or superintendent any statement or 5836
other information submitted by an applicant for or recipient of 5837
a tax credit in connection with the credit. The commissioner or 5838
superintendent shall preserve the confidentiality of the 5839

statement or other information. 5840

(H) A taxpayer claiming a tax credit under this section 5841
shall submit to the tax commissioner or, in the case of an 5842
insurance company, to the superintendent of insurance, a copy of 5843
the director of development's certificate of verification under 5844
division (E) (6) of this section with the taxpayer's tax report 5845
or return for the taxable year or for the calendar year that 5846
includes the tax period. Failure to submit a copy of the 5847
certificate with the report or return does not invalidate a 5848
claim for a credit if the taxpayer submits a copy of the 5849
certificate to the commissioner or superintendent within the 5850
time prescribed by section 5703.0510 of the Revised Code or 5851
within thirty days after the commissioner or superintendent 5852
requests it. 5853

(I) For the purposes of this section, a taxpayer may 5854
include a partnership, a corporation that has made an election 5855
under subchapter S of chapter one of subtitle A of the Internal 5856
Revenue Code, or any other business entity through which income 5857
flows as a distributive share to its owners. A partnership, S- 5858
corporation, or other such business entity may elect to pass the 5859
credit received under this section through to the persons to 5860
whom the income or profit of the partnership, S-corporation, or 5861
other entity is distributed. The election shall be made on the 5862
annual report required under division (E) (5) of this section. 5863
The election applies to and is irrevocable for the credit for 5864
which the report is submitted. If the election is made, the 5865
credit shall be apportioned among those persons in the same 5866
proportions as those in which the income or profit is 5867
distributed. 5868

(J) (1) If the director of development determines that a 5869

taxpayer that received a certificate under division (E) (6) of 5870
this section is not complying with the requirements of the 5871
agreement, the director shall notify the tax credit authority of 5872
the noncompliance. After receiving such a notice, and after 5873
giving the taxpayer an opportunity to explain the noncompliance, 5874
the authority may terminate the agreement and require the 5875
taxpayer, or any related member or members that claimed the tax 5876
credit under division (N) of this section, to refund to the 5877
state all or a portion of the credit claimed in previous years, 5878
as follows: 5879

(a) If the taxpayer fails to comply with the requirement 5880
under division (E) (3) of this section, an amount determined in 5881
accordance with the following: 5882

(i) If the taxpayer maintained operations at the project 5883
site for less than or equal to the term of the credit, an amount 5884
not to exceed one hundred per cent of the sum of any tax credits 5885
allowed and received under this section. 5886

(ii) If the taxpayer maintained operations at the project 5887
site longer than the term of the credit, but less than the 5888
greater of seven years or the term of the credit plus three 5889
years, the amount required to be refunded shall not exceed 5890
seventy-five per cent of the sum of any tax credits allowed and 5891
received under this section. 5892

(b) If the taxpayer fails to substantially, satisfy the 5893
employment, payroll, or location requirements required under the 5894
agreement, as prescribed under division (E) (4) (a) or (b), as 5895
applicable to the taxpayer, at any time during the term of the 5896
agreement or during the post-term reporting period, an amount 5897
determined at the discretion of the authority. 5898

(2) If a taxpayer files for bankruptcy and fails as 5899
described in division (J) (1) (a) or (b) of this section, the 5900
director may immediately commence an action to recoup an amount 5901
not exceeding one hundred per cent of the sum of any credits 5902
received by the taxpayer under this section. 5903

(3) In determining the portion of the credit to be 5904
refunded to this state, the authority shall consider the effect 5905
of market conditions on the taxpayer's project and whether the 5906
taxpayer continues to maintain other operations in this state. 5907
After making the determination, the authority shall certify the 5908
amount to be refunded to the tax commissioner or the 5909
superintendent of insurance. If the taxpayer, or any related 5910
member or members who claimed the tax credit under division (N) 5911
of this section, is not an insurance company, the commissioner 5912
shall make an assessment for that amount against the taxpayer 5913
under Chapter 5726., 5733., 5736., 5747., or 5751. of the 5914
Revised Code. If the taxpayer, or any related member or members 5915
that claimed the tax credit under division (N) of this section, 5916
is an insurance company, the superintendent of insurance shall 5917
make an assessment under section 5725.222 or 5729.102 of the 5918
Revised Code. The time limitations on assessments under those 5919
chapters and sections do not apply to an assessment under this 5920
division, but the commissioner or superintendent shall make the 5921
assessment within one year after the date the authority 5922
certifies to the commissioner or superintendent the amount to be 5923
refunded. Within ninety days after certifying the amount to be 5924
refunded, if circumstances have changed, the authority may 5925
adjust the amount to be refunded and certify the adjusted amount 5926
to the commissioner or superintendent. The authority may only 5927
adjust the amount to be refunded one time and only if the amount 5928
initially certified by the authority has not been repaid, in 5929

whole or in part, by the taxpayer or certified to the attorney 5930
general for collection under section 131.02 of the Revised Code. 5931

(K) The director of development, after consultation with 5932
the tax commissioner and the superintendent of insurance and in 5933
accordance with Chapter 119. of the Revised Code, shall adopt 5934
~~rules necessary to implement this section. The rules may provide~~ 5935
providing for recipients of tax credits under this section to be 5936
charged fees to cover administrative costs of the tax credit 5937
program. The fees collected shall be credited to the tax 5938
incentives operating fund created in section 122.174 of the 5939
Revised Code. At the time the director gives public notice under 5940
division (A) of section 119.03 of the Revised Code of the 5941
adoption of the rules, the director shall submit copies of the 5942
proposed rules to the chairpersons of the standing committees on 5943
economic development in the senate and the house of 5944
representatives. 5945

(L) On or before the first day of August of each year, the 5946
director of development shall submit a report to the governor, 5947
the president of the senate, and the speaker of the house of 5948
representatives on the tax credit program under this section. 5949
The report shall include information on the number of agreements 5950
that were entered into under this section during the preceding 5951
calendar year, a description of the project that is the subject 5952
of each such agreement, and an update on the status of projects 5953
under agreements entered into before the preceding calendar 5954
year. 5955

(M) The aggregate amount of nonrefundable tax credits 5956
issued under this section during any calendar year for capital 5957
investment projects reviewed and approved by the tax credit 5958
authority may not exceed the following amounts: 5959

(1) For 2010, thirteen million dollars; 5960

(2) For 2011 through 2023, the amount of the limit for the 5961
preceding calendar year plus thirteen million dollars; 5962

(3) For 2024 and each year thereafter, one hundred ninety- 5963
five million dollars. 5964

The limitations in division (M) of this section do not 5965
apply to credits for capital investment projects approved by the 5966
tax credit authority before July 1, 2009. 5967

(N) This division applies only to an eligible business 5968
that is part of an affiliated group that includes a diversified 5969
savings and loan holding company or a grandfathered unitary 5970
savings and loan holding company, as those terms are defined in 5971
section 5726.01 of the Revised Code. Notwithstanding any 5972
contrary provision of the agreement between such an eligible 5973
business and the tax credit authority, any credit granted under 5974
this section against the tax imposed by section 5725.18, 5975
5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code to the 5976
eligible business, at the election of the eligible business and 5977
without any action by the tax credit authority, may be shared 5978
with any member or members of the affiliated group that includes 5979
the eligible business, which member or members may claim the 5980
credit against the taxes imposed by section 5725.18, 5726.02, 5981
5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code. 5982
Credits shall be claimed by the eligible business in sequential 5983
order, as applicable, first claiming the credits to the fullest 5984
extent possible against the tax that the certificate holder is 5985
subject to, then against the tax imposed by, sequentially, 5986
section 5729.03, 5725.18, 5747.02, 5751.02, and lastly 5726.02 5987
of the Revised Code. The credits may be allocated among the 5988
members of the affiliated group in such manner as the eligible 5989

business elects, but subject to the sequential order required 5990
under this division. This division applies to credits granted 5991
before, on, or after March 27, 2013, the effective date of H.B. 5992
510 of the 129th general assembly. Credits granted before that 5993
effective date that are shared and allocated under this division 5994
may be claimed in those calendar years in which the remaining 5995
taxable years specified in the agreement end. 5996

As used in this division, "affiliated group" means a group 5997
of two or more persons with fifty per cent or greater of the 5998
value of each person's ownership interests owned or controlled 5999
directly, indirectly, or constructively through related 6000
interests by common owners during all or any portion of the 6001
taxable year, and the common owners. "Affiliated group" 6002
includes, but is not limited to, any person eligible to be 6003
included in a consolidated elected taxpayer group under section 6004
5751.011 of the Revised Code or a combined taxpayer group under 6005
section 5751.012 of the Revised Code. 6006

(O) (1) As used in division (O) of this section: 6007

(a) "Eligible agreement" means an agreement approved by 6008
the tax credit authority under this section on or before 6009
December 31, 2013. 6010

(b) "Reporting period" means a period corresponding to the 6011
annual report required under division (E) (5) of this section. 6012

(c) "Income tax revenue" has the same meaning as under 6013
division (S) of section 122.17 of the Revised Code. 6014

(2) In calendar year 2016 and thereafter, the tax credit 6015
authority shall annually determine a withholding adjustment 6016
factor to be used in the computation of income tax revenue for 6017
eligible agreements. The withholding adjustment factor shall be 6018

a numerical percentage that equals the percentage that employer
income tax withholding rates have been increased or decreased as
a result of changes in the income tax rates prescribed by
section 5747.02 of the Revised Code by amendment of that section
taking effect on or after June 29, 2013.

(3) Except as provided in division (0)(4) of this section,
for reporting periods ending in 2015 and thereafter for
taxpayers subject to eligible agreements, the tax credit
authority shall adjust the income tax revenue reported on the
taxpayer's annual report by multiplying the withholding
adjustment factor by the taxpayer's income tax revenue and doing
one of the following:

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

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

(4) Division (0)(3) of this section shall not apply unless
all of the following apply with respect to the eligible
agreement:

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

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

(c) If applicable, the taxpayer has achieved one hundred 6048
per cent of the investment commitment identified in the 6049
agreement. 6050

(5) Failure by a taxpayer to have achieved any of the 6051
applicable commitments described in divisions (O) (4) (a) to (c) 6052
of this section in a reporting period does not disqualify the 6053
taxpayer for the adjustment under division (O) of this section 6054
for an ensuing reporting period. 6055

Sec. 122.175. (A) As used in this section: 6056

(1) "Capital investment project" means a plan of 6057
investment at a project site for the acquisition, construction, 6058
renovation, expansion, replacement, or repair of a computer data 6059
center or of computer data center equipment, but does not 6060
include any of the following: 6061

(a) Project costs paid before a date determined by the tax 6062
credit authority for each capital investment project; 6063

(b) Payments made to a related member as defined in 6064
section 5733.042 of the Revised Code or to a consolidated 6065
elected taxpayer or a combined taxpayer as defined in section 6066
5751.01 of the Revised Code. 6067

(2) "Computer data center" means a facility used or to be 6068
used primarily to house computer data center equipment used or 6069
to be used in conducting one or more computer data center 6070
businesses, as determined by the tax credit authority. 6071

(3) "Computer data center business" means, as may be 6072
further determined by the tax credit authority, a business that 6073
provides electronic information services as defined in division 6074
(Y) (1) (c) of section 5739.01 of the Revised Code, or that leases 6075
a facility to one or more such businesses. "Computer data center 6076

business" does not include providing electronic publishing as 6077
defined in that section. 6078

(4) "Computer data center equipment" means tangible 6079
personal property used or to be used for any of the following: 6080

(a) To conduct a computer data center business, including 6081
equipment cooling systems to manage the performance of computer 6082
data center equipment; 6083

(b) To generate, transform, transmit, distribute, or 6084
manage electricity necessary to operate the tangible personal 6085
property used or to be used in conducting a computer data center 6086
business; 6087

(c) As building and construction materials sold to 6088
construction contractors for incorporation into a computer data 6089
center. 6090

(5) "Eligible computer data center" means a computer data 6091
center that satisfies all of the following requirements: 6092

(a) One or more taxpayers operating a computer data center 6093
business at the project site will, in the aggregate, make 6094
payments for a capital investment project of at least one 6095
hundred million dollars at the project site during one of the 6096
following cumulative periods: 6097

(i) For projects beginning in 2013, six consecutive 6098
calendar years; 6099

(ii) For projects beginning in 2014, four consecutive 6100
calendar years; 6101

(iii) For projects beginning in or after 2015, three 6102
consecutive calendar years. 6103

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

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

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

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

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

(C) A taxpayer that proposes a capital improvement project for an eligible computer data center in this state may apply to the tax credit authority to enter into an agreement under this section authorizing a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment purchased by the applicant or any other taxpayer that operates a computer data center business

at the project site and used or to be used at the eligible 6133
computer data center. The director of development shall 6134
prescribe the form of the application. After receipt of an 6135
application, the authority shall forward copies of the 6136
application to the tax commissioner, who shall review the 6137
application to determine the economic impact that the proposed 6138
eligible computer data center would have on the state and any 6139
affected political subdivisions and submit to the authority a 6140
summary of their determinations. The authority shall also 6141
forward a copy of the application to the director of development 6142
who shall review the application to determine the economic 6143
impact that the proposed eligible computer data center would 6144
have on the state and the affected political subdivisions and 6145
shall submit a summary of their determinations and 6146
recommendations to the authority. 6147

(D) Upon review and consideration of such determinations 6148
and recommendations, the tax credit authority may enter into an 6149
agreement with the applicant and any other taxpayer that 6150
operates a computer data center business at the project site for 6151
a complete or partial exemption from the taxes imposed under 6152
Chapters 5739. and 5741. of the Revised Code on computer data 6153
center equipment used or to be used at an eligible computer data 6154
center if the authority determines all of the following: 6155

(1) The capital investment project for the eligible 6156
computer data center will increase payroll and the amount of 6157
income taxes to be withheld from employee compensation pursuant 6158
to section 5747.06 of the Revised Code. 6159

(2) The applicant is economically sound and has the 6160
ability to complete or effect the completion of the proposed 6161
capital investment project. 6162

(3) The applicant intends to and has the ability to 6163
maintain operations at the project site for the term of the 6164
agreement. 6165

(4) Receiving the exemption is a major factor in the 6166
applicant's decision to begin, continue with, or complete the 6167
capital investment project. 6168

(E) An agreement entered into under this section shall 6169
include all of the following: 6170

(1) A detailed description of the capital investment 6171
project that is the subject of the agreement, including the 6172
amount of the investment, the period over which the investment 6173
has been or is being made, the annual compensation to be paid by 6174
each taxpayer subject to the agreement to its employees at the 6175
project site, and the anticipated amount of income taxes to be 6176
withheld from employee compensation pursuant to section 5747.06 6177
of the Revised Code. 6178

(2) The percentage of the exemption from the taxes imposed 6179
under Chapters 5739. and 5741. of the Revised Code for the 6180
computer data center equipment used or to be used at the 6181
eligible computer data center, the length of time the computer 6182
data center equipment will be exempted, and the first date on 6183
which the exemption applies. 6184

(3) A requirement that the computer data center remain an 6185
eligible computer data center during the term of the agreement 6186
and that the applicant maintain operations at the eligible 6187
computer data center during that term. An applicant does not 6188
violate the requirement described in division (E)(3) of this 6189
section if the applicant ceases operations at the eligible 6190
computer data center during the term of the agreement but 6191

resumes those operations within eighteen months after the date 6192
of cessation. The agreement shall provide that, in such a case, 6193
the applicant and any other taxpayer that operates a computer 6194
data center business at the project site shall not claim the tax 6195
exemption authorized in the agreement for any purchase of 6196
computer data center equipment made during the period in which 6197
the applicant did not maintain operations at the eligible 6198
computer data center. 6199

(4) A requirement that, for each year of the term of the 6200
agreement beginning on or after the first day of the twenty- 6201
fifth month after the date the agreement was entered into, one 6202
or more taxpayers operating a computer data center business at 6203
the project site will, in the aggregate, pay annual compensation 6204
that is subject to the withholding obligation imposed under 6205
section 5747.06 of the Revised Code of at least one million five 6206
hundred thousand dollars to employees at the eligible computer 6207
data center. 6208

(5) A requirement that each taxpayer subject to the 6209
agreement annually report to the director of development 6210
employment, tax withholding, capital investment, and other 6211
information required by the director to perform the director's 6212
duties under this section. 6213

(6) A requirement that the director of development 6214
annually review the annual reports of each taxpayer subject to 6215
the agreement to verify the information reported under division 6216
(E) (5) of this section and compliance with the agreement. Upon 6217
verification, the director shall issue a certificate to each 6218
such taxpayer stating that the information has been verified and 6219
that the taxpayer remains eligible for the exemption specified 6220
in the agreement. 6221

(7) A provision providing that the taxpayers subject to 6222
the agreement may not relocate a substantial number of 6223
employment positions from elsewhere in this state to the project 6224
site unless the director of development determines that the 6225
appropriate taxpayer notified the legislative authority of the 6226
county, township, or municipal corporation from which the 6227
employment positions would be relocated. For purposes of this 6228
paragraph, the movement of an employment position from one 6229
political subdivision to another political subdivision shall be 6230
considered a relocation of an employment position unless the 6231
movement is confined to the project site. The transfer of an 6232
employment position from one political subdivision to another 6233
political subdivision shall not be considered a relocation of an 6234
employment position if the employment position in the first 6235
political subdivision is replaced by another employment 6236
position. 6237

(8) A waiver by each taxpayer subject to the agreement of 6238
any limitations periods relating to assessments or adjustments 6239
resulting from the taxpayer's failure to comply with the 6240
agreement. 6241

(F) The term of an agreement under this section shall be 6242
determined by the tax credit authority, and the amount of the 6243
exemption shall not exceed one hundred per cent of such taxes 6244
that would otherwise be owed in respect to the exempted computer 6245
data center equipment. 6246

(G) If any taxpayer subject to an agreement under this 6247
section fails to meet or comply with any condition or 6248
requirement set forth in the agreement, the tax credit authority 6249
may amend the agreement to reduce the percentage of the 6250
exemption or term during which the exemption applies to the 6251

computer data center equipment used or to be used by the 6252
noncompliant taxpayer at an eligible computer data center. The 6253
reduction of the percentage or term may take effect in the 6254
current calendar year. 6255

(H) Financial statements and other information submitted 6256
to the department of development or the tax credit authority by 6257
an applicant for or recipient of an exemption under this 6258
section, and any information taken for any purpose from such 6259
statements or information, are not public records subject to 6260
section 149.43 of the Revised Code. However, the chairperson of 6261
the authority may make use of the statements and other 6262
information for purposes of issuing public reports or in 6263
connection with court proceedings concerning tax exemption 6264
agreements under this section. Upon the request of the tax 6265
commissioner, the chairperson of the authority shall provide to 6266
the tax commissioner any statement or other information 6267
submitted by an applicant for or recipient of an exemption under 6268
this section. The tax commissioner shall preserve the 6269
confidentiality of the statement or other information. 6270

(I) The tax commissioner shall issue a direct payment 6271
permit under section 5739.031 of the Revised Code to each 6272
taxpayer subject to an agreement under this section. Such direct 6273
payment permit shall authorize the taxpayer to pay any sales and 6274
use taxes due on purchases of computer data center equipment 6275
used or to be used in an eligible computer data center and to 6276
pay any sales and use taxes due on purchases of tangible 6277
personal property or taxable services other than computer data 6278
center equipment used or to be used in an eligible computer data 6279
center directly to the tax commissioner. Each such taxpayer 6280
shall pay pursuant to such direct payment permit all sales tax 6281
levied on such purchases under sections 5739.02, 5739.021, 6282

5739.023, and 5739.026 of the Revised Code and all use tax 6283
levied on such purchases under sections 5741.02, 5741.021, 6284
5741.022, and 5741.023 of the Revised Code, consistent with the 6285
terms of the agreement entered into under this section. 6286

During the term of an agreement under this section each 6287
taxpayer subject to the agreement shall submit to the tax 6288
commissioner a return that shows the amount of computer data 6289
center equipment purchased for use at the eligible computer data 6290
center, the amount of tangible personal property and taxable 6291
services other than computer data center equipment purchased for 6292
use at the eligible computer data center, the amount of tax 6293
under Chapter 5739. or 5741. of the Revised Code that would be 6294
due in the absence of the agreement under this section, the 6295
exemption percentage for computer data center equipment 6296
specified in the agreement, and the amount of tax due under 6297
Chapter 5739. or 5741. of the Revised Code as a result of the 6298
agreement under this section. Each such taxpayer shall pay the 6299
tax shown on the return to be due in the manner and at the times 6300
as may be further prescribed by the tax commissioner. Each such 6301
taxpayer shall include a copy of the director of development's 6302
certificate of verification issued under division (E) (6) of this 6303
section. Failure to submit a copy of the certificate with the 6304
return does not invalidate the claim for exemption if the 6305
taxpayer submits a copy of the certificate to the tax 6306
commissioner within the time prescribed by section 5703.0510 of 6307
the Revised Code. 6308

(J) If the director of development determines that one or 6309
more taxpayers received an exemption from taxes due on the 6310
purchase of computer data center equipment purchased for use at 6311
a computer data center that no longer complies with the 6312
requirement under division (E) (3) of this section, the director 6313

shall notify the tax credit authority and, if applicable, the taxpayer that applied to enter the agreement for the exemption under division (C) of this section of the noncompliance. After receiving such a notice, and after giving each taxpayer subject to the agreement an opportunity to explain the noncompliance, the authority may terminate the agreement and require each such taxpayer to pay to the state all or a portion of the taxes that would have been owed in regards to the exempt equipment in previous years, ~~all as determined under rules adopted pursuant to division (K) of this section.~~ In determining the portion of the taxes that would have been owed on the previously exempted equipment to be paid to this state by a taxpayer, the authority shall consider the effect of market conditions on the eligible computer data center, whether the taxpayer continues to maintain other operations in this state, and, with respect to agreements involving multiple taxpayers, the taxpayer's level of responsibility for the noncompliance. After making the determination, the authority shall certify to the tax commissioner the amount to be paid by each taxpayer subject to the agreement. The tax commissioner shall make an assessment for that amount against each such taxpayer under Chapter 5739. or 5741. of the Revised Code. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the tax commissioner shall make the assessment within one year after the date the authority certifies to the tax commissioner the amount to be paid by the taxpayer.

(K) The director of development, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules ~~necessary to implement this section. The rules may provide providing~~ for recipients of tax exemptions under this section to be charged fees to cover

administrative costs incurred in the administration of this 6345
section. The fees collected shall be credited to the tax 6346
incentives operating fund created in section 122.174 of the 6347
Revised Code. At the time the director gives public notice under 6348
division (A) of section 119.03 of the Revised Code of the 6349
adoption of the rules, the director shall submit copies of the 6350
proposed rules to the chairpersons of the standing committees on 6351
economic development in the senate and the house of 6352
representatives. 6353

(L) On or before the first day of August of each year, the 6354
director of development shall submit a report to the governor, 6355
the president of the senate, and the speaker of the house of 6356
representatives on the tax exemption authorized under this 6357
section. The report shall include information on the number of 6358
agreements that were entered into under this section during the 6359
preceding calendar year, a description of the eligible computer 6360
data center that is the subject of each such agreement, and an 6361
update on the status of eligible computer data centers under 6362
agreements entered into before the preceding calendar year. 6363

(M) A taxpayer may be made a party to an existing 6364
agreement entered into under this section by the tax credit 6365
authority and another taxpayer or group of taxpayers. In such a 6366
case, the taxpayer shall be entitled to all benefits and bound 6367
by all obligations contained in the agreement and all 6368
requirements described in this section. When an agreement 6369
includes multiple taxpayers, each taxpayer shall be entitled to 6370
a direct payment permit as authorized in division (I) of this 6371
section. 6372

Sec. 122.177. (A) As used in this section: 6373

(1) "Business" means a sole proprietorship, a corporation 6374

for profit, or a pass-through entity as defined in section 6375
5733.04 of the Revised Code. 6376

(2) "Career exploration internship" means a paid 6377
employment relationship between a student intern and a business 6378
in which the student intern acquires education, instruction, and 6379
experience relevant to the student intern's career aspirations. 6380

(3) "Student intern" means an individual who, at the time 6381
the business applies for a grant under division (B) of this 6382
section, meets both of the following criteria: 6383

(a) The individual is entitled to attend school in this 6384
state. 6385

(b) The individual is either between sixteen and eighteen 6386
years of age or is enrolled in grade eleven or twelve. 6387

(B) There is hereby created in the development services 6388
agency the career exploration internship program to award grants 6389
to businesses that employ a student intern in a career 6390
exploration internship. To qualify for a grant under the 6391
program, the career exploration internship shall be at least 6392
twenty weeks in duration and include at least two hundred hours 6393
of paid work and instruction in this state. To obtain a grant, 6394
the business shall apply to the development services agency 6395
before the starting date of the career exploration internship. 6396
The application shall include all of the following: 6397

(1) A brief description of the career exploration 6398
internship; 6399

(2) A signed statement by the student intern briefly 6400
describing the student intern's career aspirations and how the 6401
student intern believes this career exploration internship may 6402
help achieve those aspirations; 6403

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

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

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

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

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

reasons for such determination. 6434

(3) The agency's determination is final and may not be 6435
appealed for any reason. A business may submit a new or amended 6436
application under division (B) of this section at any time 6437
before or after receiving notice under division (C) (2) of this 6438
section. 6439

(D) (1) In any calendar year, the development services 6440
agency shall not award grants under this section to any business 6441
that has received grants for three career exploration 6442
internships in that calendar year. The agency shall not award a 6443
grant to a business unless the agency receives a report from the 6444
business within thirty days after the end of the career 6445
exploration internship or thirteen months after the approval of 6446
the application, whichever comes first, that includes all of the 6447
following: 6448

(a) The date the student intern began the internship; 6449

(b) The date the internship ended or a statement that the 6450
student will continue to be employed by the business; 6451

(c) The total number of hours during the internship that 6452
the student intern was employed by the business; 6453

(d) The total wages paid by the business to the student 6454
intern during the internship; 6455

(e) A signed statement by the student intern briefly 6456
describing the duties performed during the internship and the 6457
skills and experiences gained throughout the internship; 6458

(f) Any other information required by the agency. 6459

(2) If the agency receives the report and determines that 6460
it contains all of the information and the statement required by 6461

division (D) (1) of this section and that the career exploration 6462
internship described in the report complies with all the 6463
provisions of this section, the agency shall award a grant to 6464
the business. The amount of the grant shall equal the lesser of 6465
the following: 6466

(a) Fifty per cent of the wages paid by the business to 6467
the student intern for the first twelve months following the 6468
date the application was approved; 6469

(b) Five thousand dollars. 6470

(E) The student intern and the principal, guidance 6471
counselor, or other qualified individual who signed the 6472
statement described in division (B) (3) of this section shall 6473
meet at least once in the thirty days following the end of the 6474
career exploration internship or in the thirteenth month 6475
following the start of the career exploration internship, 6476
whichever comes first. The purpose of the meeting is to discuss 6477
the student intern's experiences during the career exploration 6478
internship, consider the practical applications of these 6479
experiences to the student intern's career aspirations, and to 6480
establish or confirm goals for the student intern. If 6481
practicable, the meeting shall be in person. Otherwise, the 6482
meeting may be conducted over the telephone. 6483

(F) A business that receives a grant under this section 6484
may submit a new application under division (B) of this section 6485
for another career exploration internship with the same student 6486
intern. Such an application does not have to include the 6487
statements otherwise required by divisions (B) (2) and (3) of 6488
this section. 6489

(G) Annually, on the first day of August until August 6490

2017, the development services agency shall compile a report 6491
indicating the number of career exploration internships approved 6492
by the agency under this section, the statements issued by the 6493
student interns under divisions (B) (2) and (D) (1) (e) of this 6494
section, the number of student interns that continued employment 6495
with the business after the termination of the career 6496
exploration internship, and the total amount of grants awarded 6497
under this section. The report shall not disclose any student 6498
interns' personally identifiable information. The agency shall 6499
provide copies of the report to the governor, the speaker and 6500
minority leader of the house of representatives, and the 6501
president and minority leader of the senate. 6502

~~(H) The development services agency may adopt rules 6503
necessary to administer this section in accordance with Chapter 6504
119. of the Revised Code. 6505~~

~~(I) The career exploration internship fund is hereby 6506
created in the state treasury. The fund shall consist of a 6507
portion of the proceeds from the upfront license fees paid for 6508
the casino facilities authorized under Section 6(C) of Article 6509
XV, Ohio Constitution. Money in the fund shall be used by the 6510
development services agency to provide grants under this 6511
section. 6512~~

Sec. 122.179. (A) As used in this section: 6513

"Charitable organization" has the same meaning as in 6514
section 1716.01 of the Revised Code. 6515

"Independent college or university" means a nonprofit 6516
institution of higher education that has a certificate of 6517
authorization under Chapter 1713. of the Revised Code. 6518

"Industry sector partnership" means a workforce 6519

collaborative that organizes key leaders and stakeholders of an industry cluster into a working group that focuses on achieving a shared goal of meeting the industry cluster's human resources needs.

"Ohio technical center" has the same meaning as in section 3333.94 of the Revised Code.

"Sector partnership network" means a regional or statewide workforce collaborative that organizes multiple industry sector partnerships into a working group that focuses on achieving a shared goal of meeting the human resources needs of a region or statewide.

"State board" and "local board" have the same meanings as in section 6301.01 of the Revised Code.

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

(B) A collaboration of multiple employers of an industry cluster may organize and lead an industry sector partnership by convening or acting in partnership with representatives of businesses, employers, or other institutions of an industry cluster, including small- and medium-sized employers where practicable, and a collaboration of multiple industry sector partnerships may convene or act in partnership together as a sector partnership network. An industry sector partnership may include representatives of one or more of the following:

(1) A school district;

(2) A state institution of higher education;

(3) An Ohio technical center;

(4) An independent college or university;

(5) The state or a local government;	6548
(6) A state or local economic or workforce development agency;	6549 6550
(7) A state board or local board;	6551
(8) The department of job and family services;	6552
(9) A business, trade, or industry association;	6553
(10) A charitable organization;	6554
(11) An economic development organization;	6555
(12) A nonprofit or community-based organization or intermediary;	6556 6557
(13) The Ohio state university extension division established under section 3335.16 of the Revised Code or the central state university extension program;	6558 6559 6560
(14) Any other organization that the industry sector partnership considers necessary to further the shared goal of meeting the industry cluster's human resources needs.	6561 6562 6563
(C) The director of development services, in consultation with the governor's office of workforce transformation, shall develop a grant program to support industry sector partnerships and sector partnership networks. An industry sector partnership or sector partnership network may use a grant awarded under this section to do any of the following:	6564 6565 6566 6567 6568 6569
(1) Hire employees to coordinate industry sector partnership or sector partnership network activities;	6570 6571
(2) Develop curricula or other educational resources to support the industry sector partnership or sector partnership network;	6572 6573 6574

(3) Market the industry sector partnership or sector partnership network and opportunities the industry sector partnership or sector partnership network creates for workforce development activities;— 6575
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~~(4) Any other activity the director has approved in rules adopted under division (E) of this section.~~ 6579
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(D) The director shall do both of the following: 6581

(1) Establish a system for evaluating and scoring grant applications, which prioritizes collaborative community-based solutions, including sector partnership networks; 6582
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(2) Award a grant to an industry sector partnership or a sector partnership network that submits a complete application for funding describing the activities in division (C) of this section the partnership or network will use the funds to support and meets the scoring criteria established under division (D) (1) of this section. 6585
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~~(E) The director may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the grant program.~~ 6591
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Sec. 122.1710. (A) As used in this section: 6594

(1) "Low-income individual" has the same meaning as "low-income person" in section 5101.311 of the Revised Code. 6595
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(2) "Microcredential" has the same meaning as in section 122.178 of the Revised Code. 6597
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(3) "OhioMeansJobs web site" has the same meaning as in section 6301.01 of the Revised Code. 6599
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(4) "Partially unemployed" and "totally unemployed" have 6601

the same meanings as in section 4141.01 of the Revised Code. 6602

(5) "Training provider" means all of the following: 6603

(a) A state institution of higher education as defined in 6604
section 3345.011 of the Revised Code; 6605

(b) An Ohio technical center as defined in section 3333.94 6606
of the Revised Code; 6607

(c) A private business or institution that offers training 6608
to allow an individual to earn one or more microcredentials. 6609

(6) "Fiscal year" means the fiscal year of this state as 6610
specified in section 9.34 of the Revised Code. 6611

(B) There is hereby created the individual microcredential 6612
assistance program to reimburse training providers for training 6613
costs for individuals to earn a microcredential. The department 6614
of development, in consultation with the governor's office of 6615
workforce transformation, shall administer the program. The 6616
director shall administer the program so that the total 6617
reimbursement to each training provider approved to participate 6618
in the program occurs at least once per fiscal year. 6619

(C) A training provider seeking to participate in the 6620
program shall submit an application to the director of 6621
development at the beginning or before the beginning of a fiscal 6622
year, but not later than the date established by the director. 6623
The training provider shall include in the application all of 6624
the following information: 6625

(1) The number of microcredentials the training provider 6626
will seek a reimbursement for and the names of the 6627
microcredentials; 6628

(2) The cost of the training for each microcredential; 6629

- (3) The total amount of the reimbursement the training provider will seek; 6630
6631
- (4) The training provider's plan to provide opportunities for individuals who are low income, partially unemployed, or totally unemployed to participate in a training program and receive a microcredential; 6632
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- (5) Any other information the director requires. 6636
- (D) (1) The director shall consider the following factors in determining whether to approve an application submitted under division (C) of this section: 6637
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- (a) The duration of the training program; 6640
- (b) The cost of the training; 6641
- (c) Whether approving an application will promote regional diversity in apportioning reimbursements uniformly across the state; 6642
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- (d) The training provider's commitment to providing opportunities for individuals who are low income, partially unemployed, or totally unemployed to participate in a training program and receive a microcredential. 6645
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- (2) In determining regional diversity under division (D) (1) (c) of this section, the director shall use the regions established under division (G) of section 122.178 of the Revised Code. 6649
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- (3) The director shall not approve an application submitted under this section if either of the following apply: 6653
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- (a) The microcredentials identified in the application are not included in the list the chancellor of higher education 6655
6656

establishes under section 122.178 of the Revised Code. 6657

(b) The training provider has violated Chapter 4111. of 6658
the Revised Code within the four fiscal years immediately 6659
preceding the date of application. 6660

(4) The director shall notify a training provider in 6661
writing of the director's decision to approve or deny the 6662
training provider's application to participate in the program. 6663

(E) A participating training provider shall not charge an 6664
individual participating in a training program to earn a 6665
microcredential for which the training provider is seeking a 6666
reimbursement for either of the following: 6667

(1) Any costs associated with the individual's 6668
participation in the training program; 6669

(2) Any costs to the training provider resulting from an 6670
individual not completing the training program. 6671

(F) (1) Each participating training provider seeking 6672
reimbursement for training costs for one or more 6673
microcredentials earned by one or more individuals in a training 6674
program shall submit an application to the director after the 6675
individual or individuals have earned a microcredential. The 6676
training provider shall submit the reimbursement application 6677
during the fiscal year in which the training provider applied 6678
under division (C) of this section, but not later than the date 6679
established by the director. The training provider shall include 6680
in the reimbursement application all of the following 6681
information: 6682

(a) The actual cost for the training provider to provide 6683
each individual with the training; 6684

(b) Evidence that each individual earned a microcredential; 6685
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(c) Any demographic information of each individual that the individual provides to the training provider, including race and gender. 6687
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6689

(2) The amount of the reimbursement shall be not more than three thousand dollars for each microcredential an individual receives. A participating training provider may not receive a reimbursement for any additional individual who earns a microcredential beyond the number of microcredentials included in the application under division (C) of this section. A participating training provider may receive a total reimbursement of five hundred thousand dollars in a fiscal year. However, each participating training provider that is a state institution of higher education may receive a total reimbursement or advance payment amount under section 122.1713 of the Revised Code of one million dollars in a fiscal year. 6690
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(3) A training provider may request that an individual participating in the training provider's program provide demographic information to the training provider, including race and gender. An individual is not required to provide that information. 6702
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(G) The director shall do all of the following regarding the operation of the program: 6707
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(1) Create an application to participate in the program and an application for reimbursement; 6709
6710

(2) Create applications to participate in and seek advance payments under the platinum provider programs established under sections 122.1712 and 122.1713 of the Revised Code; 6711
6712
6713

(3) Create and distribute a survey to each individual who 6714
successfully earned a microcredential because of a reimbursement 6715
to a training provider under this section inquiring as to the 6716
individual's occupation and wages at the time of completing the 6717
survey. 6718

(H) The director shall include on the internet web site 6719
maintained by the department, and the governor's office of 6720
workforce transformation shall include on the office's internet 6721
web site and the OhioMeansJobs web site, all of the content 6722
created under division (G) of this section. 6723

(I) The director may adopt rules in accordance with 6724
Chapter 119. of the Revised Code ~~as the director considers~~ 6725
~~necessary to implement this section and sections 122.1712 and~~ 6726
~~122.1713 of the Revised Code, including~~ establishing priority 6727
guidelines for approving applications under division (D) of this 6728
section. 6729

(J) Any personal information of an individual the director 6730
receives in connection with the individual microcredential 6731
assistance program created under this section is not a public 6732
record for purposes of section 149.43 of the Revised Code. 6733
However, the director may use the information as necessary to 6734
complete the reports required under section 122.1711 of the 6735
Revised Code. 6736

Sec. 122.18. (A) As used in this section: 6737

(1) "Facility" means all real property and interests in 6738
real property owned by either of the following: 6739

(a) A landlord and leased to a tenant pursuant to a 6740
project that is the subject of an agreement under this section; 6741

(b) The United States or any department, agency, or 6742

instrumentality of the United States. 6743

(2) "Full-time employee" has the same meaning as under 6744
section 122.17 of the Revised Code. 6745

(3) "Landlord" means a county or municipal corporation, or 6746
a corporate entity that is an instrumentality of a county or 6747
municipal corporation and that is not subject to the tax imposed 6748
by section 5733.06 or 5747.02 of the Revised Code. 6749

(4) "New employee" means a full-time employee first 6750
employed by, or under or pursuant to a contract with, the tenant 6751
in the project that is the subject of the agreement after a 6752
landlord enters into an agreement with the tax credit authority 6753
under this section. 6754

(5) "New income tax revenue" means the total amount 6755
withheld under section 5747.06 of the Revised Code by the tenant 6756
or tenants at a facility during a year from the compensation of 6757
new employees for the tax levied under Chapter 5747. of the 6758
Revised Code. 6759

(6) "Retained income tax revenue" means the total amount 6760
withheld under section 5747.06 of the Revised Code from 6761
employees retained at an existing facility recommended for 6762
closure to the base realignment and closure commission in the 6763
United States department of defense. 6764

(7) "Tenant" means the United States, any department, 6765
agency, or instrumentality of the United States, or any person 6766
under contract with the United States or any department, agency, 6767
or instrumentality of the United States. 6768

(B) The tax credit authority may enter into an agreement 6769
with a landlord under which an annual payment equal to the new 6770
income tax revenue or retained income tax revenue, as 6771

applicable, or the amount called for under division (D) (3) or 6772
(4) of this section shall be made to the landlord from moneys of 6773
this state that were not raised by taxation, and shall be 6774
credited by the landlord to the rental owing from the tenant to 6775
the landlord for a facility. 6776

(C) A landlord that proposes a project to create new jobs 6777
in this state or retain jobs in this state at an existing 6778
facility recommended for closure or realignment to the base 6779
realignment and closure commission in the United States 6780
department of defense may apply to the tax credit authority to 6781
enter into an agreement for annual payments under this section. 6782
The director of development shall prescribe the form of the 6783
application. After receipt of an application, the authority may 6784
enter into an agreement with the landlord for annual payments 6785
under this section if it determines all of the following: 6786

(1) The project will create new jobs in this state or 6787
retain jobs at a facility recommended for closure or realignment 6788
to the base realignment and closure commission in the United 6789
States department of defense. 6790

(2) The project is economically sound and will benefit the 6791
people of this state by increasing opportunities for employment 6792
and strengthening the economy of this state. 6793

(3) Receiving the annual payments will be a major factor 6794
in the decision of the landlord and tenant to go forward with 6795
the project. 6796

(D) An agreement with a landlord for annual payments shall 6797
include all of the following: 6798

(1) A description of the project that is the subject of 6799
the agreement; 6800

- (2) The term of the agreement, which shall not exceed 6801
twenty years; 6802
- (3) Based on the estimated new income tax revenue or 6803
retained income tax revenue, as applicable, to be derived from 6804
the facility at the time the agreement is entered into, 6805
provision for a guaranteed payment to the landlord commencing 6806
with the issuance by the landlord of any bonds or other forms of 6807
financing for the construction of the facility and continuing 6808
for the term approved by the authority; 6809
- (4) Provision for offsets to this state of the annual 6810
payment in years in which such annual payment is greater than 6811
the guaranteed payment of amounts previously paid by this state 6812
to the landlord in excess of the new income tax revenue or 6813
retained income tax revenue, as applicable, by reason of the 6814
guaranteed payment; 6815
- (5) A specific method for determining how many new 6816
employees are employed during a year; 6817
- (6) A requirement that the landlord annually shall obtain 6818
from the tenant and report to the director of development the 6819
number of new employees and the new income tax revenue withheld 6820
in connection with the new employees, or the number of retained 6821
employees and the retained income tax revenue withheld in 6822
connection with the retained employees, as applicable, and any 6823
other information the director needs to perform the director's 6824
duties under this section; 6825
- (7) A requirement that the director of development 6826
annually shall verify the amounts reported under division (D) (6) 6827
of this section, and after doing so shall issue a certificate to 6828
the landlord stating that the amounts have been verified. 6829

~~(E) The director of development, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section.~~ 6830
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Sec. 122.25. (A) In administering the program established under section 122.24 of the Revised Code, the director of development shall do all of the following: 6833
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(1) Designate, within three months after the publication of each decennial census by the United States census bureau, the entities that constitute the eligible areas in this state as defined in section 122.23 of the Revised Code; 6836
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(2) Inform local governments and others in the state of the availability of the program and financial assistance established under sections 122.23 to 122.27 of the Revised Code; 6840
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6842

(3) Report to the governor, president of the senate, speaker of the house of representatives, and minority leaders of the senate and the house of representatives by the first day of August of each year on the activities carried out under the program during the preceding calendar year. The report shall include the number of loans made that year and the amount and recipient of each loan. 6843
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(4) Work in conjunction with conventional lending institutions, local revolving loan funds, private investors, and other private and public financing sources to provide loans or loan guarantees to eligible applicants; 6850
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(5) Establish fees, charges, interest rates, payment schedules, local match requirements, and other terms and conditions for loans and loan guarantees provided under the program; 6854
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(6) Require each applicant to demonstrate the suitability 6858

of any site for the assistance sought; that the site has been 6859
surveyed, that the site has adequate or available utilities, and 6860
that there are no zoning restrictions, environmental 6861
regulations, or other matters impairing the use of the site for 6862
the purpose intended; 6863

(7) Require each applicant to provide a marketing plan and 6864
management strategy for the project; 6865

(8) Adopt rules establishing all of the following: 6866

(a) Forms and procedures by which eligible applicants may 6867
apply for assistance; 6868

(b) Criteria for reviewing, evaluating, and ranking 6869
applications, and for approving applications that best serve the 6870
goals of the program; 6871

(c) Reporting requirements and monitoring procedures; 6872

(d) Guidelines regarding situations in which industrial 6873
parks would be considered to compete against one another for the 6874
purposes of division (B) (2) of section 122.27 of the Revised 6875
Code;— 6876

~~(e) Any other rules necessary to implement and administer 6877
the program. 6878~~

(B) The director may adopt rules establishing requirements 6879
governing the use of any industrial park site receiving 6880
assistance under section 122.24 of the Revised Code, such that a 6881
certain portion of the site must be used for manufacturing, 6882
distribution, high technology, research and development, or 6883
other businesses wherein a majority of the product or service 6884
produced is exported out of the state. 6885

(C) As a condition of receiving assistance under section 6886

122.24 of the Revised Code, and except as provided in division 6887
(D) of this section, an applicant shall agree, for a period of 6888
five years, not to permit the use of a site that is developed or 6889
improved with such assistance to cause the relocation of jobs to 6890
that site from elsewhere in the state. 6891

(D) A site developed or improved with assistance under 6892
section 122.24 of the Revised Code may be the site of jobs 6893
relocated from elsewhere in the state if the director does all 6894
of the following: 6895

(1) Makes a written determination that the site from which 6896
the jobs would be relocated is inadequate to meet market or 6897
industry conditions, expansion plans, consolidation plans, or 6898
other business considerations affecting the relocating employer; 6899

(2) Provides a copy of the determination required by 6900
division (D)(1) of this section to the members of the general 6901
assembly whose legislative districts include the site from which 6902
the jobs would be relocated; 6903

(3) Determines that the governing body of the area from 6904
which the jobs would be relocated has been notified in writing 6905
by the relocating company of the possible relocation. 6906

(E) The director shall obtain the approval of the 6907
controlling board for any loan or loan guarantee provided under 6908
sections 122.23 to 122.27 of the Revised Code. 6909

Sec. 122.291. (A) The Ohio river commission may do all of 6910
the following, subject to available funding through 6911
appropriations made directly by the general assembly or the 6912
controlling board to the commission: 6913

(1) Employ an executive director who shall have 6914
appropriate experience as determined by the commission, and a 6915

secretary-treasurer and other employees that the commission 6916
considers appropriate. The commission may fix the compensation 6917
of the employees. 6918

(2) Adopt and, from time to time, ratify, amend, and 6919
repeal bylaws necessary and proper for the regulation of its 6920
affairs and the conduct of its business ~~and rules to implement~~ 6921
~~and make effective its powers and duties;~~ 6922

(3) Receive, promote, support, and consider 6923
recommendations, from public or private planning organizations, 6924
and develop a master plan for Ohio river infrastructure and 6925
transportation projects; 6926

(4) Coordinate with port authorities, private port 6927
operators, metropolitan planning organizations, regional 6928
transportation planning organizations, local development 6929
districts, Ohio river service entities, utility service 6930
providers, and agricultural, tourism, and recreational 6931
interests, regarding Ohio river infrastructure and 6932
transportation; 6933

(5) In conjunction with applicable state agencies, 6934
coordinate with state agencies, local governments and 6935
communities, other states, and the federal government regarding 6936
Ohio river issues; 6937

(6) Collect, track, and maintain key statistics and data 6938
regarding commerce on the Ohio river and make an annual report 6939
to the general assembly; 6940

(7) Ensure the monitoring of federal, state, and local 6941
policies, programs, and priorities pertaining to the development 6942
and operation of marine cargo terminals and travel and tourism 6943
on the Ohio river; 6944

(8) Prioritize policies, programs, and issues identified 6945
in the Ohio maritime strategy prepared by the department of 6946
transportation and in the department's "Economic Impact of the 6947
Ohio River Maritime Activity" study, as those or similar 6948
documents or reports are published and updated from time to time 6949
by the department; 6950

(9) Evaluate policies, programs, programs of research, and 6951
priorities to offset the continued decline in coal production 6952
and consumption within the Ohio river basin and promote 6953
prosperity in the Appalachian region of this state; 6954

(10) Administer development funds and seek, support, and 6955
assist the Ohio river industry in the utilization of available 6956
grants, loans, and other finance mechanisms in support of Ohio 6957
river projects; 6958

(11) Represent the interests of this state in regional, 6959
national, and international forums pertaining to economic 6960
development, marine cargo terminals, and travel and tourism on 6961
the Ohio river and its tributaries; 6962

(12) Coordinate, for dissemination and publication, 6963
information regarding the commission and its related activities 6964
in connection with the Ohioriver; 6965

(13) Raise funds through direct solicitation or other 6966
fundraising events alone, or with other groups, and accept 6967
gifts, grants, and bequests from individuals, corporations, 6968
foundations, governmental agencies, and public and private 6969
organizations and institutions. The funds, gifts, grants, or 6970
bequests received pursuant to this section shall be deposited to 6971
the Ohio river commission fund created in section 122.292 of the 6972
Revised Code. 6973

(B) The commission, or the department of development, on 6974
behalf of the commission, may apply for and receive from the 6975
United States government grants in accordance with any federal 6976
law or program, for the benefit of Ohio river infrastructure, 6977
transportation, or recreation and tourism. 6978

Sec. 122.38. (A) As used in this section: 6979

(1) "Small business enterprise" means any person with a 6980
principal place of business or research in the state, who meets 6981
the definition of a "small business concern" as defined in 13 6982
C.F.R. 121.7 (a), as amended. 6983

(2) "Eligible educational institution" means any 6984
educational institution that disseminates information, conducts 6985
educational or technical seminars and meetings, or provides 6986
other services of value or interest to small business 6987
enterprises. 6988

(3) "Eligible organization" means any organization, 6989
representing the interest of small business enterprises or areas 6990
of technological research, that disseminates information, 6991
conducts educational or technical seminars and meetings, or 6992
provides other services of value or interest to small business 6993
enterprises. 6994

(B) There is hereby created in the department of 6995
development the small business innovation research grant program 6996
for the purpose of providing educational, technical, and 6997
financial assistance to: 6998

(1) Any small business enterprise engaging in or intending 6999
to engage in technological research that the director of 7000
development determines to be innovative and in the broad and 7001
long-term interest of the economy of the state; 7002

(2) Any eligible educational institution;	7003
(3) Any eligible organization.	7004
(C) The director may provide educational, technical, and financial assistance to small business enterprises, eligible educational institutions, and eligible organizations. Any assistance shall be in the form and conditioned upon terms the director considers appropriate.	7005 7006 7007 7008 7009
(D) The director shall:	7010
(1) Establish the procedures by which small business enterprises, eligible educational institutions, and eligible organizations may apply for assistance under this section;	7011 7012 7013
(2) Collect, prepare, and disseminate information, describing the types of assistance offered under the program and describing relevant federal programs and services to small business enterprises, eligible educational institutions, and eligible organizations as the director considers appropriate;	7014 7015 7016 7017 7018
(3) Adopt rules for the administration of this section, in accordance with Chapter 119. of the Revised Code.	7019 7020
Sec. 122.4020. (A) An application for a program grant under the Ohio residential broadband expansion grant program shall include, at a minimum, the following information for an eligible project:	7021 7022 7023 7024
(1) The location and description of the project, including:	7025 7026
(a) The residential addresses in the unserved or tier one areas where tier two broadband service will be available following completion of the project;	7027 7028 7029

(b) A notarized letter of intent that the broadband provider will provide access to tier two broadband service to all of the residential addresses listed in the project;

(c) A notarized letter of intent by the broadband provider that none of the funds provided by the program grant will be used to extend or deploy facilities to any residential addresses other than those in the unserved or tier one areas that are part of the project.

(2) The amount of the broadband funding gap and the amount of state funds requested;

(3) The amount of any financial or in-kind contributions to be used towards the broadband funding gap and identification of the contribution sources, which may include, but are not limited to, any combination of the following:

(a) Funds that the broadband provider is willing to contribute to the broadband funding gap;

(b) Funds received or approved under any other federal or state government grant or loan program;

(c) General revenue funds of a municipal corporation, township, or county comprising the area of the eligible project;

(d) Other discretionary funds of the municipal corporation, township, or county comprising the area of the eligible project;

(e) Any alternate payment terms that the broadband provider and any legislative authority in which the project is located have negotiated and agreed to pursuant to section 122.4025 of the Revised Code;

(f) Contributions or grants from individuals,

organizations, or companies;	7058
(g) Property tax assessments made by the municipal corporation under Chapter 727. of the Revised Code, township under section 505.881 of the Revised Code, or county under section 303.251 of the Revised Code.	7059 7060 7061 7062
(4) The source and amount of any financial or in-kind contributions received or approved for any part of the overall eligible project cost, but not applied to the broadband funding gap;	7063 7064 7065 7066
(5) A description of, or documentation demonstrating, the broadband provider's managerial and technical expertise and experience with broadband service projects;	7067 7068 7069
(6) Whether the broadband provider plans to use wired, wireless, or satellite technology to complete the project;	7070 7071
(7) A description of the scalability of the project;	7072
(8) The megabit-per-second broadband download and upload speeds planned for the project;	7073 7074
(9) A description of the broadband provider's customer service capabilities, including any locally based call centers or customer service offices;	7075 7076 7077
(10) A copy of the broadband provider's general customer service policies, including any policy to credit customers for service outages or the provider's failure to keep scheduled appointments for service;	7078 7079 7080 7081
(11) The length of time that the broadband provider has been operating in the state;	7082 7083
(12) Proof that the broadband provider has the financial	7084

stability to complete the project; 7085

(13) A projected construction timetable, including the 7086
anticipated date of the provision of tier two broadband service 7087
access within the project; 7088

(14) A description of anticipated or preliminary 7089
government authorizations, permits, and other approvals required 7090
in connection with the project, and an estimated timetable for 7091
the acquisition of such approvals; 7092

(15) A notification from the broadband provider informing 7093
the department of development of any information contained in 7094
the application, or within related documents submitted with it, 7095
that the provider considers proprietary or a trade secret; 7096

(16) A notarized statement that the broadband provider 7097
accepts the condition that noncompliance with Ohio residential 7098
broadband expansion grant program requirements may require the 7099
provider to refund all or part of any program grant the provider 7100
receives; 7101

(17) A brief description of any arrangements, including 7102
any subleases of infrastructure or joint ownership arrangements 7103
that the broadband provider that submitted the application has 7104
entered into, or plans to enter into, with another broadband 7105
provider, an electric cooperative, or an electric distribution 7106
utility, to enable the offering of tier two broadband service 7107
under the project; 7108

(18) Other relevant information that the department 7109
determines is necessary ~~and prescribes by rule;~~ 7110

(19) Any other information the broadband provider 7111
considers necessary. 7112

(B) To meet the requirement to provide proof of financial responsibility in the application, the broadband provider may submit publicly available financial statements with its application.

Sec. 122.4077. (A) The department of development services~~agency shall~~ may adopt the following rules for the Ohio residential broadband expansion grant program. ~~The rules shall establish an application form and application procedures for the program and procedures for periodic program grant disbursements.~~

~~(B) The rules may include the following:~~

(1) Requirements for a program application in addition to the requirements described in section 122.4020 of the Revised Code;

(2) Procedures for and circumstances under which partial funding of applications is permitted;

(3) Procedures for broadband expansion program authority meetings, extension periods for applications and application challenges, hearings, and opportunities for public comment;

(4) An application form and application procedures for the program;

(5) Procedures for periodic program grant disbursements.

~~(C) The agency may adopt rules and procedures to implement sections 122.4051, 122.4053, and 122.4055 of the Revised Code.~~

~~(D)~~ (B) Rules adopted under this section are not subject to section 121.95 of the Revised Code.

~~(E)~~ (C) The ~~agency~~ department and the authority are not subject to division (F) of section 121.95 of the Revised Code

regarding the development and adoption of rules pursuant to this section. 7140
7141

Sec. 122.631. (A) As used in sections 122.631 to 122.633 of the Revised Code: 7142
7143

(1) "Qualified nonprofit developer" means a nonprofit corporation, as defined in section 1702.01 of the Revised Code, that is all of the following: 7144
7145
7146

(a) Incorporated in this state; 7147

(b) Engaged in community development activities primarily within an identified geographic area of operation in this state; 7148
7149

(c) Has as its primary purpose the improvement of the physical, economic, or social environment by addressing critical problems in that geographic area of operation including housing. 7150
7151
7152

(2) "Electing subdivision," "county land reutilization corporation," and "land reutilization program" have the same meanings as in section 5722.01 of the Revised Code. 7153
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(3) "Manufactured home" has the same meaning as in section 3781.06 of the Revised Code, and "mobile home" has the same meaning as in section 4501.01 of the Revised Code. 7156
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7158

(4) "Qualifying residential property" means a single unit of single-family residential property that has at least eight hundred square feet of habitable space and is either a stand-alone unit or in a multi-unit property containing not more than ten single-family residential units. "Qualifying residential property" excludes mobile homes but includes both of the following: 7159
7160
7161
7162
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7165

(a) A manufactured home; 7166

(b) A single unit in a multi-unit property that has other 7167
nonresidential units or uses. Such nonresidential units or uses 7168
are not qualifying residential property. 7169

(5) "Qualifying median income" means one hundred twenty 7170
per cent of median income for the county where qualifying 7171
residential property is located, as determined by the director 7172
of development pursuant to section 174.04 of the Revised Code. 7173

(6) "Qualifying financial literacy counseling" means a 7174
homeownership course with a curriculum that includes basic home 7175
maintenance training and financial literacy. 7176

(7) "Qualifying counseling provider" means an individual, 7177
business, nonprofit organization, or political subdivision, 7178
including an agency or instrumentality thereof, that is 7179
licensed, certified, or authorized to provide homeownership 7180
counseling and financial literacy as one of its primary 7181
functions, including housing counselors certified by the United 7182
States department of housing and urban development or the Ohio 7183
housing financing agency. 7184

(B) There is created in the department of development the 7185
welcome home Ohio (WHO) program to administer the grants 7186
authorized by this section and section 122.632 of the Revised 7187
Code and the tax credits authorized by section 122.633 of the 7188
Revised Code. The department shall create and maintain a list of 7189
qualifying residential property to which the deed restriction 7190
described in division (D) (4) of this section, division (B) (4) of 7191
section 122.632, or division (C) (4) of section 122.633 of the 7192
Revised Code applies. That list is not a public record for 7193
purposes of section 149.43 of the Revised Code. 7194

(C) An electing subdivision, a county land reutilization 7195

corporation, or a qualified nonprofit developer may apply to the 7196
director of development for a grant from the welcome home Ohio 7197
fund, which is created in the state treasury, to pay or defer 7198
the cost of purchasing qualifying residential property for 7199
incorporation into the electing subdivision's or county land 7200
reutilization corporation's land reutilization program or the 7201
qualified nonprofit developer's housing program. Up to two 7202
thousand dollars of each grant may be used to fund the 7203
qualifying financial literacy counseling required under division 7204
(D) (6) of this section. To the extent that funding is available 7205
in that fund, the director may award grants to electing 7206
subdivisions, county land reutilization corporations, and 7207
qualified nonprofit developers that make such an application and 7208
agree to comply with division (D) of this section, with a 7209
maximum grant of one hundred thousand dollars per qualifying 7210
residential property. 7211

(D) The director of development shall require all 7212
applicants for a grant authorized by division (C) of this 7213
section to agree, as part of the application, to all of the 7214
following: 7215

(1) That grant funds shall only be used to pay the cost of 7216
purchasing qualifying residential property; 7217

(2) That qualifying residential property on which grant 7218
funds are spent shall be held until sold to an individual or 7219
individuals who, inclusively: 7220

(a) Have annual income that is not more than the 7221
qualifying median income; 7222

(b) Demonstrate the financial means to purchase the 7223
qualifying residential property; 7224

(c) Agree to maintain ownership of the qualifying residential property, occupy it as a primary residence, and not to rent any portion of the property to another individual for use as a dwelling, for at least three years following the date of purchase;

(d) Agree not to sell the qualifying residential property, within fifteen years after the date of the sale, to any purchaser other than the electing subdivision, county land reutilization corporation, or qualified nonprofit developer or an individual or individuals who have annual income that is not more than the qualifying median income;

(e) Agree to pay a penalty to the director of development for violation of the agreement required by division (D) (2) (c) of this section that equals the amount of the grant attributable to the property, less one-third of that amount multiplied by the number of full years the individual or individuals owned the property;

(f) Agree that the director of development is a third-party beneficiary of the purchase agreement;

(g) Agree to participate in the applicant's qualifying financial literacy program;

(h) Agree to annually certify to the director of development, during the period described by division (D) (2) (c) of this section, that the individual or individuals own and occupy the qualifying residential property, and that no part of the property is being rented to another individual for use as a dwelling.

(3) That qualifying residential property on which grant funds are spent shall be sold for not more than two hundred

twenty thousand dollars per property. 7254

(4) That qualifying residential property on which grant 7255
funds are spent shall not be sold without a deed restriction 7256
prohibiting the sale of the property to a person that is not the 7257
electing subdivision, county land reutilization corporation, or 7258
qualified nonprofit developer or an individual or individuals 7259
who have annual income that is not more than the qualifying 7260
median income for fifteen years after the date of the property's 7261
first transfer from the applicant following the use of grant 7262
funds. The deed restriction is a covenant running with the land 7263
and is fully binding on subsequent purchasers of the property 7264
until it expires on the fifteenth anniversary of the property's 7265
first transfer from the applicant following the use of grant 7266
funds. The electing subdivision, county land reutilization 7267
corporation, or qualified nonprofit developer may include in the 7268
deed restriction a right of first refusal to repurchase the 7269
property for the purpose of ensuring that the property is 7270
ultimately sold to an individual or individuals who have annual 7271
income that is not more than the qualifying median income. 7272

(5) That the applicant shall repay all grant funds not 7273
expended to purchase qualifying residential property or to fund 7274
the qualifying financial literacy counseling required by 7275
division (D)(6) of this section and all grant funds expended to 7276
purchase qualifying residential property that is not sold to an 7277
individual or individuals who meet the requirements described in 7278
division (D)(2) of this section or that is sold without the deed 7279
restriction described in division (D)(4) of this section. 7280

(6) That the applicant shall provide qualifying financial 7281
literacy counseling, over a minimum of six months, delivered by 7282
a qualifying counseling provider, to each purchaser of 7283

qualifying residential property on which grant funds are spent. 7284
An applicant may provide information regarding its qualifying 7285
financial literacy program to the director of development for 7286
review as part of the application or prior to application. 7287
Qualifying financial literacy counseling provided by the 7288
applicant to the same purchaser, in accordance with division (B) 7289
(6) of section 122.632 of the Revised Code or division (C) (5) of 7290
section 122.633 of the Revised Code, satisfies the requirements 7291
of division (D) (6) of this section. 7292

(7) That the applicant shall report to the department of 7293
development the date when the qualifying residential property 7294
that is the subject of the application is sold by the applicant. 7295

(E) The director of development has authority and standing 7296
to sue for the enforcement of a deed restriction described in 7297
division (D) (4) of this section. 7298

(F) An electing subdivision, a county land reutilization 7299
corporation, or a qualified nonprofit developer may apply for, 7300
and the director of development may award both a grant under 7301
this section for the purchase of qualifying residential 7302
property, and either a grant under section 122.632 of the 7303
Revised Code, or a tax credit under section 122.633 of the 7304
Revised Code, to rehabilitate or construct the same qualifying 7305
residential property. 7306

(G) (1) The director may adopt rules in accordance with 7307
Chapter 119. ~~Of of the Revised Code as necessary to administer~~ 7308
~~the grant program. Such rules may include relating to any of the~~ 7309
following: 7310

(a) Application forms, deadlines, and procedures; 7311

(b) Criteria for evaluating and prioritizing applications; 7312

(c) Guidelines for promoting an even geographic 7313
distribution of grants throughout the state; 7314

(d) Guidelines to determine the value of qualifying 7315
residential property located in a building with other uses and 7316
the total value of that building. 7317

(2) Any grants repaid under this section shall be credited 7318
to the welcome home Ohio fund. 7319

(3) An electing subdivision, a county land reutilization 7320
corporation, or a qualified nonprofit developer shall use all 7321
profits derived from the sale of qualifying residential property 7322
on which grant funds are spent, including profits derived from 7323
the resale of such property to a subsequent purchaser, for the 7324
electing subdivision's or county land reutilization 7325
corporation's land reutilization program or the qualified 7326
nonprofit developer's housing program. 7327

Sec. 122.632. (A) An electing subdivision, a county land 7328
reutilization corporation, or a qualified nonprofit developer 7329
may apply to the director of development for a grant from the 7330
welcome home Ohio fund created in section 122.631 of the Revised 7331
Code to pay or defer the cost to rehabilitate or construct 7332
qualifying residential property held by the electing 7333
subdivision's or county land reutilization corporation's land 7334
reutilization program or the qualified nonprofit developer's 7335
housing program. To the extent that funding is available, in 7336
that fund the director may award grants to electing 7337
subdivisions, county land reutilization corporations, and 7338
qualified nonprofit developers that make such an application and 7339
agree to comply with division (B) of this section, with a 7340
maximum grant of one hundred thousand dollars per qualifying 7341
residential property. 7342

(B) The director of development shall require all 7343
applicants for a grant authorized by division (A) of this 7344
section to agree, as part of the application, to all of the 7345
following: 7346

(1) That grant funds shall be used to pay the cost of 7347
rehabilitation or construction of qualifying residential 7348
property and all work will be completed according to all 7349
applicable construction and design standards. Up to two thousand 7350
dollars of each grant may be used to fund the qualifying 7351
financial literacy counseling required under division (B) (6) of 7352
this section. If grant funds are spent to construct or 7353
rehabilitate a qualifying residential property described in 7354
division (A) (4) (b) of section 122.631 of the Revised Code, then 7355
no portion of the funds shall be spent to construct or 7356
rehabilitate portions of the building that are for 7357
nonresidential uses, except for common areas used by the 7358
occupants of the residential units and improvements that serve 7359
both the residential units and the other portions of the 7360
building. 7361

(2) That qualifying residential property on which grant 7362
funds are spent shall be held until sold to an individual or 7363
individuals who, inclusively: 7364

(a) Have annual income that is not more than the 7365
qualifying median income; 7366

(b) Demonstrate the financial means to purchase the 7367
qualifying residential property; 7368

(c) Agree to maintain ownership of the qualifying 7369
residential property, occupy it as a primary residence, and not 7370
to rent any portion of the property to another individual for 7371

use as a dwelling, for at least three years following the date 7372
of purchase; 7373

(d) Agree not to sell the qualifying residential property, 7374
within fifteen years after the date of the sale, to any 7375
purchaser other than the electing subdivision, county land 7376
reutilization corporation, or qualified nonprofit developer or 7377
an individual or individuals who have annual income that is not 7378
more than the qualifying median income; 7379

(e) Agree to pay a penalty to the director of development 7380
for violation of the agreement required by division (B) (2) (c) of 7381
this section that equals the amount of the grant attributable to 7382
the property, less one-third of that amount multiplied by the 7383
number of full years the individual or individuals owned the 7384
property. 7385

(f) Agree that the director of development is a third- 7386
party beneficiary of the purchase agreement; 7387

(g) Agree to participate in the applicant's qualifying 7388
financial literacy program; 7389

(h) Agree to annually certify to the director of 7390
development, during the period described by division (B) (2) (c) 7391
of this section, that the individual or individuals own and 7392
occupy the qualifying residential property, and that no part of 7393
the property is being rented to another individual for use as a 7394
dwelling. 7395

(3) That qualifying residential property on which grant 7396
funds are spent shall be sold for not more than two hundred 7397
twenty thousand dollars per property. 7398

(4) That qualifying residential property on which grant 7399
funds are spent shall not be sold without a deed restriction 7400

prohibiting the sale of the property to a person that is not the 7401
electing subdivision, county land reutilization corporation, or 7402
qualified nonprofit developer or an individual or individuals 7403
who have annual income that is not more than the median income 7404
for fifteen years after the date of the property's first 7405
transfer from the applicant following the use of grant funds. 7406
The deed restriction is a covenant running with the land and is 7407
fully binding on subsequent purchasers of the property until it 7408
expires on the fifteenth anniversary of the property's first 7409
transfer from the applicant following the use of grant funds. 7410
The electing subdivision, county land reutilization corporation, 7411
or qualified nonprofit developer may include in the deed 7412
restriction a right of first refusal to repurchase the property 7413
for the purpose of ensuring that the property is ultimately sold 7414
to an individual or individuals who have annual income that is 7415
not more than the qualifying median income. 7416

(5) That the applicant shall repay all grant funds 7417
expended on any expenses other than the construction or 7418
rehabilitation of qualifying residential property or financial 7419
literacy counseling required under division (B)(6) of this 7420
section, or on qualifying residential property that is not sold 7421
to an individual or individuals who meet the requirements 7422
described in division (B)(2) of this section or that is sold 7423
without the deed restriction described in division (B)(4) of 7424
this section; 7425

(6) That the applicant shall provide financial qualifying 7426
literacy counseling, over a minimum of six months, delivered by 7427
the qualifying counseling provider, to each purchaser of 7428
qualifying residential property on which grant funds are spent. 7429
An applicant may provide information regarding its qualifying 7430
financial literacy program to the director of development for 7431

review as part of the application or prior to application; 7432

(7) That the applicant shall report to the department of 7433
development the date when the qualifying residential property 7434
that is the subject of the application is sold by the applicant. 7435

(8) That, if grant funds are received, the qualifying 7436
residential property that is the subject of the application 7437
shall not be the subject of an application for a tax credit 7438
under section 122.633 of the Revised Code. 7439

(C) The director of development is granted authority and 7440
standing to sue for the enforcement of a deed restriction 7441
described in division (B) (4) of this section. 7442

(D) (1) The director may adopt rules in accordance with 7443
Chapter 119. of the Revised Code ~~as necessary to administer the~~ 7444
~~grant program. Such rules may include~~ relating to any of the 7445
following: 7446

(a) Application forms, deadlines, and procedures; 7447

(b) Criteria for evaluating and prioritizing applications; 7448

(c) Guidelines for promoting an even geographic 7449
distribution of grants throughout the state; 7450

(d) Guidelines to determine the value of qualifying 7451
residential property located in a building with other uses and 7452
the total value of that building. 7453

(2) Any grants repaid under this section shall be credited 7454
to the welcome home Ohio fund. 7455

(3) An electing subdivision, a county land reutilization 7456
corporation, or a qualified nonprofit developer shall use all 7457
profits derived from the sale of qualifying residential property 7458

on which grant funds are spent, including profits derived from 7459
the resale of such property to a subsequent purchaser, for the 7460
electing subdivision's or county land reutilization 7461
corporation's land reutilization program or the qualified 7462
nonprofit developer's housing program. 7463

Sec. 122.633. (A) As used in this section, "eligible 7464
developer" means any of the following: 7465

(1) A nonprofit corporation, as defined in section 1702.01 7466
of the Revised Code, based in this state with a primary activity 7467
of the development ~~and~~ and preservation of affordable housing; 7468

(2) A limited partnership or domestic limited partnership, 7469
as defined in section 1782.01 of the Revised Code, in which a 7470
general partner is a nonprofit corporation based in this state, 7471
a primary activity of which is the development and preservation 7472
of affordable housing; 7473

(3) A limited liability company, as defined in section 7474
1706.01 of the Revised Code, in which the manager is a nonprofit 7475
corporation based in this state, a primary activity of which is 7476
the development and preservation of affordable housing; 7477

(4) A community improvement corporation, as defined in 7478
section 1724.01 of the Revised Code, or a community urban 7479
redevelopment corporation, as defined in section 1728.01 of the 7480
Revised Code. 7481

(B) An electing subdivision or eligible developer that 7482
rehabilitates or constructs a unit of qualifying residential 7483
property and sells the property to an individual or individuals 7484
for the individual's or individuals' occupancy may apply to the 7485
director of development for a nonrefundable credit against the 7486
tax levied under section 5726.02 or 5747.02 of the Revised Code, 7487

provided the rehabilitation or construction and the sale comply 7488
with division (C) of this section. The credit application shall 7489
be made on forms prescribed by the director. The credit shall 7490
equal ninety thousand dollars or ninety per cent of the cost to 7491
rehabilitate or construct the property, whichever is less. 7492

(C) An application for a credit authorized by division (B) 7493
of this section shall certify all of the following: 7494

(1) That the rehabilitation or construction of qualifying 7495
residential property that is the subject of the application was 7496
completed according to all applicable construction and design 7497
standards; 7498

(2) That each qualifying residential property that is the 7499
subject of the application was sold to an individual or 7500
individuals who have annual income that is not more than the 7501
qualifying median income, demonstrated the financial means to 7502
purchase the qualifying residential property, and agreed to all 7503
of the following in the purchase agreement: 7504

(a) To maintain ownership of the qualifying residential 7505
property, occupy it as a primary residence, and not to rent any 7506
portion of the property to another individual for use as a 7507
dwelling, for at least three years following the date of 7508
purchase; 7509

(b) Not to sell the qualifying residential property to a 7510
purchaser other than the electing subdivision, the eligible 7511
developer, or an individual or individuals who have annual 7512
income that is no more than the qualifying median income for at 7513
least fifteen years after the date of purchase; 7514

(c) To pay a penalty to the director of development for 7515
violation of the agreement required by division (C) (2) (a) of 7516

this section that equals the total amount of the tax credit 7517
authorized by this section and attributable to the qualifying 7518
residential property purchased by the individual, reduced by 7519
one-third of that amount for each full year the individual or 7520
individuals owned the property; 7521

(d) That the director of development is a third-party 7522
beneficiary of the purchase agreement; 7523

(e) To participate in the applicant's qualifying financial 7524
literacy program; 7525

(f) Agree to annually certify to the director of 7526
development, during the period described by division (C) (2) (a) 7527
of this section, that the individual or individuals own and 7528
occupy the qualifying residential property, and that no part of 7529
the property is being rented to another individual for use as a 7530
dwelling. 7531

(3) That the qualifying residential property that is the 7532
subject of the application was sold for not more than two 7533
hundred twenty thousand dollars; 7534

(4) That the purchaser of the qualifying residential 7535
property that is the subject of the application was transferred 7536
with a deed restriction prohibiting the sale of the property to 7537
a person other than the electing subdivision, the eligible 7538
developer, or an individual or individuals who have annual 7539
income that is not more than the qualifying median income for at 7540
least fifteen years after the date of transfer. The deed 7541
restriction is a covenant running with the land and is fully 7542
binding on subsequent purchasers of the property until it 7543
expires on the fifteenth anniversary of the property's first 7544
transfer from the applicant under this section. The electing 7545

subdivision or eligible developer may include in the deed 7546
restriction a right of first refusal to repurchase the property 7547
for the purposes of ensuring that the property is ultimately 7548
sold to an individual or individuals who have annual income that 7549
is not more than the qualifying median income. 7550

(5) That the applicant provides a minimum of six months of 7551
qualifying financial literacy counseling, delivered by a 7552
qualifying counseling provider, to each purchaser of qualifying 7553
residential property that is the subject of the application. An 7554
applicant may provide information regarding its qualifying 7555
financial literacy program to the director of development for 7556
review as part of the application or prior to application. 7557

(6) That the applicant shall report to the department of 7558
development the date when the qualifying residential property 7559
that is the subject of the application is sold by the applicant. 7560

(7) That the qualifying residential property that is the 7561
subject of the application was not rehabilitated or constructed 7562
using grant funds received under section 122.632 of the Revised 7563
Code. 7564

(D) The director of development is granted authority and 7565
standing to sue for the enforcement of a deed restriction 7566
described in division (C) (4) of this section. 7567

(E) (1) Subject to division (E) (2) of this section, if the 7568
director determines that the applicant qualifies for a credit 7569
under this section, the director shall issue a tax credit 7570
certificate to the applicant identified with a unique number and 7571
listing the amount of the credit that is eligible to be 7572
transferred or claimed pursuant to division (E) (3) or (F) of 7573
this section. 7574

(2) The total amount of tax credits issued by the director 7575
under this section after ~~the effective date of this amendment~~ 7576
September 30, 2025, shall not exceed twenty million dollars, and 7577
no tax credits shall be issued after June 30, 2027. 7578

(3) A person granted a certificate pursuant to division 7579
(E) (1) of this section may claim the credit against the tax 7580
levied under section 5726.02 of the Revised Code or against the 7581
person's aggregate tax liability under section 5747.02 of the 7582
Revised Code for the taxable year in which the certificate is 7583
issued. The taxpayer shall claim the credit in the order 7584
prescribed by section 5726.98 or 5747.98 of the Revised Code, as 7585
applicable. Any unused amount may be carried forward for the 7586
following five taxable years. If the person is a pass-through 7587
entity, any taxpayer that is a direct or indirect investor in 7588
the pass-through entity on the last day of the entity's taxable 7589
year may claim the taxpayer's proportionate or distributive 7590
share of the credit against the taxpayer's aggregate amount of 7591
tax levied under section 5747.02 of the Revised Code. 7592

A taxpayer claiming a credit under this section shall 7593
submit a copy of the certificate with the taxpayer's return or 7594
report. 7595

(F) A person granted a certificate pursuant to division 7596
(E) (1) of this section may transfer the right to claim all or 7597
part of the credit reflected on the certificate to another 7598
person. 7599

To effectuate the transfer, the transferor shall notify 7600
the tax commissioner, in writing, that the transferor is 7601
transferring the right to claim all or part of the remaining 7602
credit stated on the certificate. The transferor shall identify 7603
in that notification the certificate's number, the name and the 7604

tax identification number of the transferee, the amount of the 7605
remaining credit transferred to the transferee, and, if 7606
applicable, the amount of remaining credit retained by the 7607
transferor. 7608

The transferee may claim the amount of the credit received 7609
under this division against the tax levied under section 5726.02 7610
of the Revised Code or against the person's aggregate tax 7611
liability under section 5747.02 of the Revised Code for the 7612
taxable year in the same manner and for the same taxable years 7613
as it may be claimed by a person under division (E) (3) of this 7614
section. 7615

Any person to which a credit has been transferred under 7616
this division may transfer the right to claim all or part of the 7617
transferred credit amount to any other person, in the same 7618
manner prescribed by this division for the initial transfer, 7619
including that any such transfer be reported by the transferor 7620
to the tax commissioner as described in this division. 7621

Transferring a credit under this division does not extend 7622
the taxable years for which the credit may be claimed or number 7623
of years for which the unclaimed credit amount may be carried 7624
forward. 7625

(G) The director may adopt rules in accordance with 7626
Chapter 119. of the Revised Code ~~as necessary to administer the~~ 7627
~~tax credits authorized by this section. Such rules may include~~ 7628
relating to the following: 7629

- (1) Application forms, deadlines, and procedures; 7630
- (2) Criteria for evaluating and prioritizing applications; 7631
- (3) Guidelines for promoting an even geographic 7632
distribution of credits throughout the state. 7633

Sec. 122.6511. (A) As used in this section and section 7634
122.6512 of the Revised Code: 7635

(1) "Brownfield" means an abandoned, idled, or under-used 7636
industrial, commercial, or institutional property where 7637
expansion or redevelopment is complicated by known or potential 7638
releases of hazardous substances or petroleum. 7639

(2) "Lead entity" means a county, township, municipal 7640
corporation, port authority, conservancy district, park district 7641
or other similar park authority, county land reutilization 7642
corporation, or organization for profit. 7643

(3) "Remediation" means any action to contain, remove, or 7644
dispose of hazardous substances or petroleum at a brownfield. 7645
"Remediation" includes the acquisition of a brownfield, 7646
demolition performed at a brownfield, and the installation or 7647
upgrade of the minimum amount of infrastructure that is 7648
necessary to make a brownfield operational for economic 7649
development activity. "Remediation" also includes demolition and 7650
infrastructure development costs. 7651

(4) "County land reutilization corporation" has the same 7652
meaning as in section 1724.01 of the Revised Code. 7653

(5) "Demolition and infrastructure development costs" 7654
means demolition costs and costs associated with constructing, 7655
upgrading, or extending infrastructure necessary to make a 7656
brownfield operational. 7657

(6) "Priority investment area eligible project" means some 7658
or all of the following activities necessary or conducive for 7659
generating, transporting, storing, or transmitting electricity 7660
at the site of a brownfield or former coal mine located in a 7661
priority investment area designated under section 122.161 of the 7662

Revised Code:	7663
(a) Environmental or cultural resource site assessments;	7664
(b) The monitoring, remediation, cleanup, or containment of land to remove any condition or substance regulated by state or federal environmental laws or regulations, including hazardous substances, hazardous wastes, solid wastes, or petroleum;	7665 7666 7667 7668 7669
(c) The demolition and removal of existing structures, grading, or other site work necessary to make a site or certain real property that includes a brownfield or former coal mine usable for economic development;	7670 7671 7672 7673
(d) The development of a remediation and reuse plan;	7674
(e) The development or operation of a site for energy generation or battery storage.	7675 7676
(B) (1) There is hereby created the brownfield remediation program to award grants for priority investment area eligible projects and the remediation of brownfield sites throughout Ohio. The program shall be administered by the director of development pursuant to this section and rules adopted pursuant to division (B) (2) of this section.	7677 7678 7679 7680 7681 7682
(2) The director shall adopt rules, under Chapter 119. of the Revised Code, for the administration of the program. The rules shall include provisions for determining project and project sponsor eligibility, program administration, and any other provisions the director finds necessary.	7683 7684 7685 7686 7687
(3) The director shall not award a grant exceeding ten million dollars to a priority investment area eligible project. Grants for such projects may not be used for the construction or	7688 7689 7690

operation of electric generating infrastructure. 7691

(C) (1) There is hereby created in the state treasury the 7692
brownfield remediation fund. The fund shall consist of moneys 7693
appropriated to it by the general assembly. 7694

The director shall reserve funds from each appropriation 7695
to the fund to each county in the state. The amount reserved 7696
shall be one million dollars per county, or, if an appropriation 7697
is less than eighty-eight million dollars, a proportionate 7698
amount to each county. Amounts reserved pursuant to this section 7699
are reserved for one calendar year from the date of the 7700
appropriation. After one calendar year, the funds shall be 7701
available pursuant to division (D) of this section. 7702

(2) A lead entity may submit a grant application for the 7703
use of funds reserved under division (C) (1) of this section to 7704
the director. 7705

(D) Funds from an appropriation not reserved under 7706
division (C) (1) of this section shall be available for grants to 7707
projects located anywhere in the state, and grants from those 7708
funds shall be awarded on a case by case basis. In making the 7709
award determination, the director shall evaluate the economic 7710
merit of the project to the county, surrounding counties, and 7711
state. The director also shall ensure that projects awarded are 7712
in different regions of the state. 7713

(E) The amendments to this section by ~~this act~~ H.B. 96 of 7714
the 136th general assembly apply to new projects that are 7715
applied for and awarded funding by the director of development 7716
on and after ~~the effective date of this amendment~~ September 30, 7717
2025. Projects that are applied for or were applied for under 7718
this section prior to July 1, 2025, shall be governed by this 7719

section as it existed prior to July 1, 2025. 7720

Sec. 122.6512. (A) (1) There is hereby created the building 7721
demolition and site revitalization program to award grants for 7722
the demolition of commercial and residential buildings and 7723
revitalization of surrounding properties on sites that are not 7724
brownfields. The program shall be administered by the director 7725
of development pursuant to this section and rules adopted 7726
pursuant to division (A) (2) of this section. 7727

(2) The director shall adopt rules, ~~under Chapter 119. of~~ 7728
~~the Revised Code, for the administration of the program. The~~ 7729
~~rules shall include provisions for determining project and~~ 7730
~~project sponsor eligibility, program administration, and any~~ 7731
~~other provisions the director finds necessary.~~ 7732

(3) The director shall ensure that the program is 7733
operational and accepting proposals for grants not later than 7734
ninety days after September 30, 2021. 7735

(4) To streamline funding through the program, each county 7736
shall have one lead entity designated in accordance with the 7737
following: 7738

(a) If the county has a population of less than one 7739
hundred thousand according to the most recent federal decennial 7740
census, the director shall select the lead entity from a list of 7741
recommendations made by the board of county commissioners of the 7742
county. The board shall submit a lead entity letter of intent 7743
and any other documentation required by the director in order 7744
for the director to select a lead entity for that county. 7745

(b) If the county has a population of one hundred thousand 7746
or more according to the most recent federal decennial census 7747
and the county does not have a county land reutilization 7748

corporation, the director shall select the lead entity from a 7749
list of recommendations made by the board of county 7750
commissioners of the county. The board shall submit a lead 7751
entity letter of intent and any other documentation required by 7752
the director in order for the director to select a lead entity 7753
for that county. 7754

(c) If the county has a population of one hundred thousand 7755
or more according to the most recent federal decennial census 7756
and the county has a county land reutilization corporation, the 7757
county land reutilization corporation is the lead entity for 7758
that county. 7759

(5) The lead entity of each county shall submit all grant 7760
applications for that county. The lead entity shall submit with 7761
a grant application any agreements executed between the lead 7762
entity with other recipients that will receive grant money 7763
through the lead entity, if applicable. Such recipients may 7764
include local governments, nonprofit organizations, community 7765
development corporations, regional planning commissions, county 7766
land reutilization corporations, and community action agencies. 7767

(B) (1) There is hereby created in the state treasury the 7768
building demolition and site revitalization fund. The fund shall 7769
consist of moneys appropriated to it by the general assembly. 7770

(2) The director shall reserve funds from each 7771
appropriation to the fund to each county in the state. The 7772
amount reserved shall be five hundred thousand dollars per 7773
county, or, if an appropriation is less than forty-four million 7774
dollars, a proportionate amount to each county. Amounts reserved 7775
pursuant to this section are reserved for one calendar year from 7776
the date of the appropriation. After one calendar year, the 7777
funds shall be available pursuant to division (B) (3) of this 7778

section. 7779

(3) Funds from an appropriation not reserved under 7780
division (B) (2) of this section shall be available for grants to 7781
projects located anywhere in the state. Grants awarded pursuant 7782
to this division shall be limited to seventy-five per cent of a 7783
project's total cost. 7784

Sec. 122.74. (A) (1) The director of development shall do 7785
all of the following: 7786

(a) Receive applications for assistance under sections 7787
122.71 to 122.83 and 122.87 to 122.89 of the Revised Code and 7788
applications from surety companies for bond guarantees under 7789
section 122.90 of the Revised Code, and, after processing but 7790
subject to division (A) (2) of this section, forward them to the 7791
minority development financing advisory board together with 7792
necessary supporting information; 7793

(b) Receive the recommendations of the board and make a 7794
final determination whether to approve the application for 7795
assistance; 7796

(c) Receive recommendations from a regional economic 7797
development entity for loans made under section 122.76 of the 7798
Revised Code and make a final determination, notwithstanding 7799
divisions (A) (1) and (2) of this section, whether to approve the 7800
proposed loan; 7801

(d) Transmit the director's determinations to approve 7802
assistance to the controlling board unless such assistance falls 7803
under section 122.90 of the Revised Code and has been previously 7804
approved by the controlling board, together with any information 7805
the controlling board requires for its review and decision as to 7806
whether to approve the assistance. 7807

(2) The director is not required to submit any 7808
determination, data, terms, or any other application materials 7809
or information to the minority development financing advisory 7810
board when provision of the assistance has been recommended to 7811
the director by a regional economic development entity or when 7812
an application for a surety company for bond guarantees under 7813
section 122.90 of the Revised Code has been previously approved 7814
by the controlling board. 7815

(B) The director may do all of the following: 7816

(1) Fix the rate of interest and charges to be made upon 7817
or with respect to moneys loaned or guaranteed by the director 7818
and the terms upon which mortgages and lease rentals may be 7819
guaranteed and the rates of charges to be made for them and make 7820
provisions for the operation of the funds established by the 7821
director in accordance with this section and sections 122.80, 7822
122.88, and 122.90 of the Revised Code; 7823

(2) Loan and guarantee moneys from the fund established in 7824
accordance with section 122.80 of the Revised Code pursuant to 7825
and in compliance with sections 122.71 to 122.83 and 122.87 to 7826
122.90 of the Revised Code. 7827

(3) Acquire in the name of the director any property of 7828
any kind or character in accordance with sections 122.71 to 7829
122.83 and 122.87 to 122.90 of the Revised Code, by purchase, 7830
purchase at foreclosure, or exchange on such terms and in such 7831
manner as the director considers proper; 7832

(4) Make and enter into all contracts and agreements 7833
necessary or incidental to the performance of the director's 7834
duties and the exercise of the director's powers under sections 7835
122.71 to 122.83 and 122.87 to 122.90 of the Revised Code; 7836

(5) Maintain, protect, repair, improve, and insure any 7837
property that the director has acquired and dispose of it by 7838
sale, exchange, or lease for the consideration and on the terms 7839
and in the manner as the director considers proper, but the 7840
director shall not operate any such property as a business 7841
except as the lessor of it; 7842

(6) (a) When the cost of any contract for the maintenance, 7843
protection, repair, or improvement of any property held by the 7844
director, other than compensation for personal services, 7845
involves an expenditure of more than fifty thousand dollars, the 7846
director shall make a written contract with the lowest 7847
responsive and responsible bidder in accordance with section 7848
9.312 of the Revised Code after advertisement for not less than 7849
two consecutive weeks in a newspaper of general circulation in 7850
the county where such contract, or some substantial part of it, 7851
is to be performed, and in such other publications as the 7852
director determines, which notice shall state the general 7853
character of the work and the general character of the materials 7854
to be furnished, the place where plans and specifications 7855
therefor may be examined, and the time and place of receiving 7856
bids. 7857

(b) Each bid for a contract for the construction, 7858
demolition, alteration, repair, or reconstruction of an 7859
improvement shall contain the full name of every person 7860
interested in it and meet the requirements of section 153.54 of 7861
the Revised Code. 7862

(c) Each bid for a contract, except as provided in 7863
division (B) (6) (b) of this section, shall contain the full name 7864
of every person interested in it and shall be accompanied by 7865
bond or certified check on a solvent bank, in such amount as the 7866

director considers sufficient, that if the bid is accepted a 7867
contract will be entered into and the performance of the 7868
proposal secured. 7869

(d) The director may reject any and all bids. 7870

(e) A bond with good and sufficient surety, approved by 7871
the director, shall be required of every contractor awarded a 7872
contract except as provided in division (B) (6) (b) of this 7873
section, in an amount equal to at least fifty per cent of the 7874
contract price, conditioned upon faithful performance of the 7875
contract. 7876

(7) Employ or contract with financial consultants, 7877
appraisers, consulting engineers, superintendents, managers, 7878
construction and accounting experts, attorneys, and other 7879
employees and agents as are necessary in the director's judgment 7880
and fix their compensation; 7881

(8) Receive and accept grants, gifts, and contributions of 7882
money, property, labor, and other things of value to be held, 7883
used, and applied only for the purpose for which the grants, 7884
gifts, and contributions are made, from individuals, private and 7885
public corporations, from the United States or any agency 7886
thereof, from the state or any agency thereof, and from any 7887
political subdivision of the state, and may agree to repay any 7888
contribution of money or to return any property contributed or 7889
the value thereof at such times, in amounts, and on terms and 7890
conditions, excluding the payment of interest, as the director 7891
determines at the time the contribution is made, and may 7892
evidence the obligations by notes, bonds, or other written 7893
instruments; 7894

(9) Establish with the treasurer of state the funds 7895

provided in sections 122.80 and 122.88 of the Revised Code in 7896
addition to such funds as the director determines are necessary 7897
or proper; 7898

~~(10) Adopt rules under Chapter 119. of the Revised Code 7899
necessary to implement sections 122.71 to 122.83 and 122.87 to 7900
122.90 of the Revised Code. 7901~~

~~(11) Do all acts and things necessary or proper to carry 7902
out the powers expressly granted and the duties imposed in 7903
sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised 7904
Code. 7905~~

(C) (1) All expenses and obligations incurred by the 7906
director in carrying out the director's powers and in exercising 7907
the director's duties under sections 122.71 to 122.83 and 122.87 7908
to 122.90 of the Revised Code shall be payable solely from 7909
revenues or other receipts or income of the director, from 7910
grants, gifts, and contributions, or funds established in 7911
accordance with such sections. Such sections do not authorize 7912
the director to incur indebtedness or to impose liability on the 7913
state or any political subdivision of the state. 7914

(2) Financial statements and other data submitted to the 7915
director by any corporation, partnership, or person in 7916
connection with financial assistance provided under sections 7917
122.71 to 122.83 and 122.87 to 122.90 of the Revised Code, or 7918
any information taken from such statements or data for any 7919
purpose, shall not be open to public inspection. 7920

Sec. 122.851. (A) As used in this section: 7921

(1) "Venture capital operating company" has the same 7922
meaning as in 29 C.F.R. 2510.3-101. 7923

(2) "Ohio venture capital operating company" means a 7924

venture capital operating company certified by the director of 7925
development as having met the requirements prescribed by 7926
division (B) of this section. A venture capital operating 7927
company is an Ohio venture capital operating company only for so 7928
long as the certification is valid. 7929

(3) "Ohio business" means a business that, in either the 7930
calendar year in which a capital gain from the business is 7931
recognized by the Ohio venture capital operating company or its 7932
direct or indirect investors or the calendar year in which the 7933
Ohio venture capital operating company distributes an equity 7934
interest or security in the business, has its headquarters in 7935
this state and employs more than one-half of the total number of 7936
its full-time equivalent employees in this state. For the 7937
purpose of this section, an employee is employed in this state 7938
if the business is required to withhold income tax under section 7939
5747.06 of the Revised Code for fifty per cent or more of the 7940
compensation paid to the employee in either the calendar year in 7941
which the Ohio venture capital operating company or its direct 7942
or indirect investors recognize a capital gain from the business 7943
or the calendar year in which the Ohio venture capital operating 7944
company distributes an equity interest or security in the 7945
business, as applicable. 7946

(4) "Qualifying interest" means a direct or indirect 7947
ownership interest acquired through an investment of cash or 7948
cash equivalent made in, or the provision of services to, a 7949
venture capital operating company during the period for which it 7950
was certified as an Ohio venture capital operating company. 7951

(B) (1) A venture capital operating company may apply to 7952
the director of development for certification as an Ohio venture 7953
capital operating company if it manages, or has capital 7954

commitments of, at least fifty million dollars in active assets 7955
and at least two-thirds of its managing and general partners are 7956
residents of Ohio under division (I) of section 5747.01 of the 7957
Revised Code. The director, in consultation with the tax 7958
commissioner, shall prescribe the form and manner of the 7959
application and the information or documentation required to be 7960
submitted with the application. 7961

(2) The director shall review and make a determination 7962
with respect to each application submitted under this division 7963
within sixty days of receipt. The director shall grant 7964
certification to any applicant that meets the criteria 7965
prescribed by this division. The director shall decline 7966
certification of any applicant that does not meet such criteria. 7967
The director shall notify the applicant and the tax commissioner 7968
of the director's determination in writing. 7969

(C) (1) Certification as an Ohio venture capital operating 7970
company is valid for as long as the company continues to qualify 7971
as a venture capital operating company and meets the criteria 7972
prescribed by division (B) (1) of this section. 7973

(2) A company that no longer qualifies as a venture 7974
capital operating company or no longer meets the criteria 7975
prescribed by division (B) (1) of this section shall notify the 7976
director within thirty days of the date the company ceases to 7977
qualify. 7978

(3) Upon receiving such a notification or upon otherwise 7979
discovering that an Ohio venture capital operating company no 7980
longer qualifies for certification, the director shall issue a 7981
written notice of revocation to the venture capital operating 7982
company and the tax commissioner. The notice shall state the 7983
effective date of the revocation, which shall be the date the 7984

company ceased to qualify for certification as an Ohio venture capital operating company. 7985
7986

(4) An Ohio venture capital operating company receiving 7987
such a notice may contest the director's decision to revoke its 7988
certification or the effective date of that revocation by 7989
submitting additional information or documentation to the 7990
director and requesting reconsideration in writing within thirty 7991
days of the notice of revocation based on that information or 7992
documentation. The director shall review and evaluate any such 7993
requests within thirty days of receipt. The director shall 7994
notify the company and tax commissioner in writing of the 7995
director's decision on the request, which shall not be subject 7996
to appeal or further review. 7997

(D) (1) On or after the first day of January and on or 7998
before the first day of February of each year, a company that is 7999
certified as an Ohio venture capital operating company shall 8000
provide the following information, on forms prescribed by the 8001
director of development, to the director and the tax 8002
commissioner: 8003

(a) The name, social security or federal employer 8004
identification number, and ownership percentage of each person 8005
with a qualifying interest in the company; 8006

(b) The amount of capital gains generated during the 8007
portion of the previous calendar year during which the company 8008
was certified as an Ohio venture capital operating company; 8009

(c) A description of the company's investments that 8010
generated the capital gains described in division (D) (1) (b) of 8011
this section, including the date of sale and whether the 8012
investment was in an Ohio business; 8013

(d) The amount of, and basis in, any equity interests or securities distributed to each investor, arranged by entity, while the company was certified as an Ohio venture capital operating company and whether the entity is an Ohio business;

(e) Any other information the director, in consultation with the tax commissioner, considers relevant and necessary to administer the deduction allowed under division (A) (35) of section 5747.01 of the Revised Code.

(2) The director shall review the information submitted under division (D) (1) of this section by an Ohio venture capital operating company within sixty days of receipt. If the company generated capital gains that qualify for the deduction allowed under division (A) (35) of section 5747.01 of the Revised Code or distributed equity interests or securities that, when sold, will qualify for the deduction once income is recognized from its disposition, the director shall issue a certificate to the company. The certificate shall include a unique number and the following information:

(a) The total amount of capital gains generated during the portion of the year during which the company was certified as an Ohio venture capital operating company;

(b) The portion of the capital gains attributable to the company's investments in Ohio businesses; and

(c) The total amount of, and basis in, any equity interests or securities distributed during the portion of the year during which the company was certified as an Ohio venture capital operating company;

(d) The portion of the distributed equity interests or securities attributable to the company's investments in Ohio

businesses; 8043

(e) The portion of the amounts described in divisions (D) 8044
(2) (a) and (b) of this section attributable to each individual 8045
with a qualifying interest in the company; 8046

(f) Any other information the director or tax commissioner 8047
considers necessary for the administration of the deduction 8048
allowed under division (A) (35) of section 5747.01 of the Revised 8049
Code. 8050

(E) An Ohio venture capital operating company shall 8051
provide each person with a qualifying interest in the company 8052
with a copy of the certificate issued under division (D) of this 8053
section and any other documentation necessary to compute the 8054
adjustments under division (A) (35) of section 5747.01 of the 8055
Revised Code. A pass-through entity that receives a certificate 8056
issued under this division from an Ohio venture capital 8057
operating company shall provide its investors with a copy of the 8058
certificate and any other documentation necessary to compute the 8059
adjustments under division (A) (35) of section 5747.01 of the 8060
Revised Code. 8061

A taxpayer claiming a deduction under division (A) (35) (a) 8062
of section 5747.01 of the Revised Code shall provide, upon 8063
request of the tax commissioner, a copy of that certificate. The 8064
taxpayer shall retain a copy of the certificate for four years 8065
from the later of the final filing date of the return on which 8066
the deduction was claimed or the date the return on which the 8067
deduction was claimed is filed. 8068

~~(F) The director of development, in consultation with the 8069
tax commissioner, may adopt rules in accordance with Chapter 8070
119. of the Revised Code as are necessary to administer this 8071~~

~~section.~~ 8072

Sec. 122.86. (A) As used in this section and section 8073
5747.81 of the Revised Code: 8074

(1) "Small business enterprise" means a corporation, pass- 8075
through entity, or other person satisfying all of the following: 8076

(a) At the time of a qualifying investment, the enterprise 8077
meets all of the following requirements: 8078

(i) Has no outstanding tax or other liabilities owed to 8079
the state; 8080

(ii) Is in good standing with the secretary of state, if 8081
the enterprise is required to be registered with the secretary; 8082

(iii) Is current with any court-ordered payments; 8083

(iv) Is not engaged in any illegal activity. 8084

(b) At the time of a qualifying investment, the 8085
enterprise's assets according to generally accepted accounting 8086
principles do not exceed fifty million dollars, or its annual 8087
sales do not exceed ten million dollars. When making this 8088
determination, the assets and annual sales of all of the 8089
enterprise's related or affiliated entities shall be included in 8090
the calculation. 8091

(c) At the time of a qualifying investment and for the 8092
two-year period immediately preceding the qualifying investment, 8093
the enterprise employs at least fifty full-time equivalent 8094
employees in this state for whom the enterprise is required to 8095
withhold income tax under section 5747.06 of the Revised Code, 8096
or more than one-half the enterprise's total number of full-time 8097
equivalent employees employed anywhere in the United States are 8098
employed in this state and are subject to that withholding 8099

requirement.	8100
(d) The enterprise, within six months after an eligible investor's qualifying investment is made, incurs cost for one or more of the following:	8101 8102 8103
(i) Tangible personal property, other than motor vehicles operated on public roads and highways, used in business and physically located in this state from the time of its acquisition by the enterprise until the end of the investor's holding period, including the installation of such tangible personal property;	8104 8105 8106 8107 8108 8109
(ii) Motor vehicles operated on public roads and highways if, from the time of acquisition by the enterprise until the end of the investor's holding period, the motor vehicles are purchased in this state, registered in this state under Chapter 4503. of the Revised Code, are used primarily for business purposes, and are necessary for the operation of the enterprise's business;	8110 8111 8112 8113 8114 8115 8116
(iii) Real property located in this state that is used in the business from the time of its acquisition by the enterprise until the end of the holding period;	8117 8118 8119
(iv) Leasehold improvements and construction costs for property located in this state that is used in the business from the time its improvement or construction was completed until the end of the holding period;	8120 8121 8122 8123
(v) Compensation for new employees of the enterprise hired after the date the qualifying investment is made for whom the enterprise is required to withhold income tax under section 5747.06 of the Revised Code.	8124 8125 8126 8127
(2) "Qualifying investment" means an investment of money	8128

made to acquire capital stock or other equity interest in a 8129
small business enterprise. "Qualifying investment" does not 8130
include either of the following: 8131

(a) Any investment of money an eligible investor derives, 8132
directly or indirectly, from a grant or loan from the federal 8133
government or the state or a political subdivision, including 8134
the third frontier program under Chapter 184. of the Revised 8135
Code; 8136

(b) Any investment of money which is the basis of a tax 8137
credit granted under any other section of the Revised Code. 8138

(3) "Eligible investor" means an individual, estate, or 8139
trust subject to the tax imposed by section 5747.02 of the 8140
Revised Code, or a pass-through entity in which such an 8141
individual, estate, or trust holds a direct or indirect 8142
ownership or other equity interest. To qualify as an eligible 8143
investor, the individual, estate, trust, or pass-through entity 8144
shall not owe any outstanding tax or other liability to the 8145
state at the time of a qualifying investment. 8146

(4) "Holding period" means the two-year period beginning 8147
on the day a qualifying investment is made. 8148

(5) "Pass-through entity" has the same meaning as in 8149
section 5733.04 of the Revised Code. 8150

(B) An eligible investor that makes a qualifying 8151
investment in a small business enterprise on or after July 1, 8152
2019, but on or before November 3, 2025, may apply to the 8153
director of development to obtain an allocation for a small 8154
business investment certificate from the director. 8155
Alternatively, a small business enterprise may apply on behalf 8156
of eligible investors to obtain the allocation for those 8157

investors. The application must be submitted to the director 8158
within sixty days after the date of the qualifying investment, 8159
but within the same biennium as the qualifying investment. The 8160
director, in consultation with the tax commissioner, shall 8161
prescribe the form or manner in which an applicant shall apply 8162
for the certificate, devise the form of the certificate, and 8163
prescribe any records or other information an applicant shall 8164
furnish with the application to evidence the qualifying 8165
investment. The applicant shall pay an application fee equal to 8166
the greater of one-tenth of one per cent of the amount of the 8167
intended investment or one hundred dollars. 8168

The director may reserve small business investment 8169
allocations to qualifying applicants in the order in which the 8170
director receives applications. An application is completed when 8171
the director has validated that an eligible investor has made a 8172
qualified investment and receives all required documentation 8173
needed to demonstrate the small business enterprise satisfies 8174
the requirements of division (A) (1) of this section. To qualify 8175
for an allocation, an eligible investor must satisfy both of the 8176
following, subject to the limitation on the amount of qualifying 8177
investments for which allocations may be issued under division 8178
(C) of this section: 8179

(1) The eligible investor makes a qualifying investment on 8180
or after July 1, 2019, but on or before November 3, 2025. 8181

(2) The eligible investor pledges not to sell or otherwise 8182
dispose of the qualifying investment before the conclusion of 8183
the applicable holding period. 8184

(C) (1) The amount of any eligible investor's qualifying 8185
investments for which small business investment allocations may 8186
be issued for a fiscal biennium shall not exceed ten million 8187

dollars. 8188

(2) The director shall not issue a small business 8189
investment allocation to an eligible investor representing an 8190
amount of qualifying investment in excess of the amount of the 8191
investment indicated on the investor's application. 8192

(3) For any fiscal biennium beginning before July 1, 2019, 8193
the director shall not issue small business investment 8194
allocations in a total amount that would cause the tax credits 8195
claimed in that biennium to exceed one hundred million dollars. 8196
For any fiscal biennium beginning on or after July 1, 2019, the 8197
director shall not issue small business investment allocations 8198
in a total amount that would cause the tax credits claimed in 8199
that biennium to exceed fifty million dollars. 8200

(4) The director may issue a small business investment 8201
allocation only if both of the following apply at the time of 8202
issuance: 8203

(a) The small business enterprise meets all the 8204
requirements listed in divisions (A) (1) (a) (i) to (iv) of this 8205
section; 8206

(b) The eligible investor does not owe any outstanding tax 8207
or other liability to the state. 8208

(5) The director shall not issue a small business 8209
investment allocation on the basis of any investment for which 8210
an Ohio opportunity zone investment certificate has been issued 8211
under section 122.84 of the Revised Code. 8212

(D) Before the end of the applicable holding period of a 8213
qualifying investment, each enterprise in which a qualifying 8214
investment was made for which a small business investment 8215
allocation has been issued, upon the request of the director, 8216

shall provide to the director records or other evidence 8217
satisfactory to the director that the enterprise is a small 8218
business enterprise for the purposes of this section. Each 8219
enterprise shall also provide annually to the director records 8220
or evidence regarding the number of jobs created or retained in 8221
the state. The director shall compile and maintain a register of 8222
small business enterprises qualifying under this section and 8223
shall certify the register to the tax commissioner. The director 8224
shall also compile and maintain a record of the number of jobs 8225
created or retained as a result of qualifying investments made 8226
pursuant to this section. 8227

(E) After the conclusion of the applicable holding period 8228
for a qualifying investment, a person to whom a small business 8229
investment allocation has been issued under this section shall 8230
receive a small business investment certification, which 8231
entitles the person to claim a credit as provided under section 8232
5747.81 of the Revised Code. However, no certificate may be 8233
issued if the director finds that any requirement under this 8234
section is not met. 8235

(F) The director, in consultation with the tax 8236
commissioner, may adopt rules ~~for the administration of this~~ 8237
~~section, including rules~~ governing the following: 8238

(1) Documents, records, or other information eligible 8239
investors shall provide to the director; 8240

(2) Any information a small business enterprise shall 8241
provide for the purposes of this section and section 5747.81 of 8242
the Revised Code; 8243

(3) Determination of the number of full-time equivalent 8244
employees of a small business enterprise; 8245

(4) Verification of a small business enterprise's investment;	8246 8247
(5) Circumstances under which small business enterprises or eligible investors may be subverting the purposes of this section and section 5747.81 of the Revised Code.	8248 8249 8250
(G) Application fees paid under division (B) of this section shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code.	8251 8252 8253
Sec. 122.91. (A) As used in this section:	8254
(1) "Qualifying individual" means an individual who holds a valid commercial driver's license or who is eligible to obtain such a license.	8255 8256 8257
(2) "Commercial driver's license" and "commercial motor vehicle" have the same meanings as in section 4506.01 of the Revised Code.	8258 8259 8260
(3) "Training expense" means any cost customarily incurred by an employer to train an employee who is a qualifying individual to obtain a commercial driver's license or to operate a commercial motor vehicle. "Training expense" shall not include such an employee's wages.	8261 8262 8263 8264 8265
(4) "Tax credit-eligible training expense" means any training expense certified under division (B) of this section.	8266 8267
(5) "Director" means the director of development.	8268
(B) (1) For calendar years 2023 through 2026, an employer may apply to the director, on or before the first day of December of each year and on a form prescribed by the director, to certify training expenses that an employer estimates the employer will incur during the following calendar year as tax	8269 8270 8271 8272 8273

credit-eligible training expenses. Within thirty days after 8274
receiving such an application, the director shall certify to 8275
each applicant the amount of the applicant's submitted expenses 8276
the director finds to be tax credit-eligible training expenses. 8277
The director shall not certify more than fifty thousand dollars 8278
of training expenses per year as tax credit-eligible training 8279
expenses for any employer. 8280

(2) The director shall not certify more than three million 8281
dollars in tax credit-eligible training expenses for each 8282
calendar year, increased by the sum of tax credit-eligible 8283
expenses the director was authorized to certify within the limit 8284
described in division (B) (2) of this section for preceding years 8285
that were not the basis of a tax credit certificate issued under 8286
division (C) (2) of this section in the current year or any 8287
preceding year. 8288

(C) (1) An employer that incurs tax credit-eligible 8289
training expenses in a calendar year that were certified for 8290
that year under division (B) of this section may apply to the 8291
director for a nonrefundable credit against the tax imposed by 8292
section 5747.02 of the Revised Code. The credit shall equal one- 8293
half of the tax credit-eligible training expenses actually 8294
incurred by the employer in, and certified for, the preceding 8295
calendar year. The application may be submitted after the first 8296
day and before the twenty-first day of January of the year 8297
following the year for which the director certified the 8298
expenses. The application shall be submitted on a form 8299
prescribed by the director and shall, at a minimum, include an 8300
itemized list of tax credit-eligible training expenses incurred 8301
by the employer for each employee and the identities of those 8302
employees. 8303

(2) If the director approves an application described in 8304
division (C) (1) of this section, the director, within sixty days 8305
after receipt of the application, shall issue a tax credit 8306
certificate to the applicant. The director in consultation with 8307
the tax commissioner shall prescribe the form and manner of 8308
issuing certificates. The director shall assign a unique 8309
identifying number to each tax credit certificate and shall 8310
record the certificate in a register devised and maintained by 8311
the director for that purpose. The certificate shall state the 8312
amount of the tax credit-eligible training expenses on which the 8313
credit is based, the amount of the credit, and the date the 8314
certificate is issued. Upon issuance of a certificate, the 8315
director shall certify to the tax commissioner the name of the 8316
applicant, and the amount of tax credit-eligible training 8317
expenses stated on the certificate, ~~and any other information~~ 8318
~~required by the rules adopted under this section.~~ 8319

(D) (1) An employer that has been issued a tax credit 8320
certificate under division (C) (2) of this section during the 8321
preceding calendar year shall file a form with the director 8322
identifying all employees, the training of which is the basis of 8323
that tax credit, whose employment with the employer was 8324
terminated during the preceding calendar year, the amount of the 8325
tax credit that is attributable to those employees, and any 8326
other information requested by the director. The form shall be 8327
prescribed by the director, and shall be filed on or before the 8328
twenty-first day of January of the year following the issuance 8329
year stated on the certificate. 8330

(2) The director shall annually submit to the general 8331
assembly a report in accordance with division (B) of section 8332
101.68 of the Revised Code that includes the total number of 8333
employees described in division (D) (1) of this section and 8334

reported to the director for the preceding calendar year, the 8335
total amount of tax credits attributable to those employees, and 8336
any other information the director finds pertinent. 8337

(E) The director in consultation with the tax commissioner 8338
shall adopt rules under Chapter 119. of the Revised Code ~~for the~~ 8339
~~administration of this section. Such rules shall set~~ setting 8340
forth any applicable fees, any penalties for noncompliance with 8341
the reporting requirements prescribed in division (D) of this 8342
section, and the types of expenses that qualify as training 8343
expenses for purposes of this section. 8344

Sec. 122.922. (A) As used in this section, "EDGE business 8345
enterprise" means a sole proprietorship, association, 8346
partnership, corporation, limited liability corporation, or 8347
joint venture certified as a participant in the encouraging 8348
diversity, growth, and equity program by the director of 8349
development under this section of the Revised Code. 8350

(B) The director of development shall establish a business 8351
assistance program known as the encouraging diversity, growth, 8352
and equity program and shall adopt rules in accordance with 8353
Chapter 119. of the Revised Code to ~~administer the program that~~ 8354
do all of the following: 8355

(1) Establish procedures by which a sole proprietorship, 8356
association, partnership, corporation, limited liability 8357
corporation, or joint venture may apply for certification as an 8358
EDGE business enterprise; 8359

(2) Except as provided in division (B) (14) of this 8360
section, establish agency procurement goals for contracting with 8361
EDGE business enterprises in the award of contracts under 8362
Chapters 123., 125., and 153. of the Revised Code based on the 8363

availability of eligible program participants by region or 8364
geographic area, as determined by the director, and by standard 8365
industrial code or equivalent code classification. 8366

(a) Goals established under division (B)(2) of this 8367
section shall be based on a percentage level of participation 8368
and a percentage of contractor availability. 8369

(b) Goals established under division (B)(2) of this 8370
section shall be applied at the contract level, relative to an 8371
overall dollar goal for each state agency, in accordance with 8372
the following certification categories: construction, 8373
architecture, and engineering; professional services; goods and 8374
services; and information technology services. 8375

(3) Establish a system of certifying EDGE business 8376
enterprises based on a requirement that the business owner or 8377
owners show both social and economic disadvantage based on the 8378
following, as determined to be sufficient by the director: 8379

(a) Relative wealth of the business seeking certification 8380
as well as the personal wealth of the owner or owners of the 8381
business; 8382

(b) Social disadvantage based on any of the following: 8383

(i) A rebuttable presumption when the business owner or 8384
owners demonstrate membership in a racial minority group or show 8385
personal disadvantage due to color, ethnic origin, gender, 8386
physical disability, long-term residence in an environment 8387
isolated from the mainstream of American society, location in an 8388
area of high unemployment; 8389

(ii) Some other demonstration of personal disadvantage not 8390
common to other small businesses; 8391

(iii) By business location in a qualified census tract.	8392
(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracts.	8393 8394 8395 8396
(4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification;	8397 8398 8399
(5) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the director;	8400 8401 8402 8403
(6) Establish a point system or comparable system to evaluate bid proposals to encourage EDGE business enterprises to participate in the procurement of professional design and information technology services;	8404 8405 8406 8407
(7) Establish a system to track data and analyze each certification category established under division (B) (2) (b) of this section;	8408 8409 8410
(8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals;	8411 8412
(9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program;	8413 8414 8415
(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;	8416 8417 8418
(11) Implement a system of self-reporting by EDGE business	8419

enterprises as well as an on-site inspection process to validate 8420
the qualifications of an EDGE business enterprise; 8421

(12) Establish a waiver mechanism to waive program goals 8422
or participation requirements for those companies that, despite 8423
their best-documented efforts, are unable to contract with 8424
certified EDGE business enterprises; 8425

(13) Establish a process for monitoring overall program 8426
compliance in which equal employment opportunity officers 8427
primarily are responsible for monitoring their respective 8428
agencies; 8429

(14) Establish guidelines for state universities as 8430
defined in section 3345.011 of the Revised Code and the Ohio 8431
facilities construction commission created in section 123.20 of 8432
the Revised Code for awarding contracts pursuant to Chapters 8433
153., 3318., and 3345. of the Revised Code to allow the 8434
universities and commission to establish agency procurement 8435
goals for contracting with EDGE business enterprises. 8436

(C) Business and personal financial information and trade 8437
secrets submitted by encouraging diversity, growth, and equity 8438
program applicants to the director pursuant to this section are 8439
not public records for purposes of section 149.43 of the Revised 8440
Code, unless the director presents the financial information or 8441
trade secrets at a public hearing or public proceeding regarding 8442
the applicant's eligibility to participate in the program. 8443

Sec. 122.924. (A) As used in this section: 8444

"Women-owned business enterprise" means any individual, 8445
partnership, corporation, or joint venture of any kind that is 8446
owned and controlled by women who are United States citizens and 8447
residents of this state or of a reciprocal state. 8448

"Owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if it is a corporation, is owned by women and that such owners have control over the day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership. In order to qualify as a women-owned business, a business shall have been owned by such owners at least one year.

(B) The director of development shall establish a business assistance program known as the women-owned business enterprise program and shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to administer the program~~ that do all of the following:

(1) Establish procedures by which a business enterprise may apply for certification as a women-owned business enterprise;

(2) Establish standards to determine when a women-owned business enterprise no longer qualifies for women-owned business enterprise certification;

(3) Establish a system to make publicly available a list of women-owned business enterprises certified under this section;

(4) Establish a process to mediate complaints and to review women-owned business enterprise certification appeals;

(5) Implement an outreach program to educate potential participants about the women-owned business enterprise program;

(6) Establish a system to assist state agencies in identifying and utilizing women-owned business enterprises in their contracting processes;

(7) Implement a system of self-reporting by women-owned 8478
business enterprises as well as an on-site inspection process to 8479
validate the qualifications of women-owned business enterprises. 8480

(C) Business and personal financial information and trade 8481
secrets submitted by women-owned business enterprise applicants 8482
to the director pursuant to this section are not public records 8483
for purposes of section 149.43 of the Revised Code, unless the 8484
director presents the financial information or trade secrets at 8485
a public hearing or public proceeding regarding the applicant's 8486
eligibility to participate in the program. 8487

(D) The director of development, upon approval of the 8488
attorney general, may enter into a reciprocal agreement with the 8489
appropriate officials of one or more states, when the other 8490
state has a business assistance program or programs 8491
substantially similar to the women-owned business enterprise 8492
program of this state. The agreement shall provide that a 8493
business certified by the other state as a women-owned business 8494
enterprise, which is owned and controlled by a resident or 8495
residents of that other state, shall be considered a women-owned 8496
business enterprise in this state under this section. The 8497
agreement shall provide that a women-owned business enterprise 8498
certified under this section, which is owned and controlled by a 8499
resident or residents of this state, shall be considered 8500
certified in the other state and eligible for programs of that 8501
state that provide an advantage or benefit to such businesses. 8502

(E) (1) Any person who has been certified as a women-owned 8503
business enterprise under this section may present the person's 8504
certification to a political subdivision as evidence that that 8505
person is eligible to participate in any public initiatives or 8506
strategies that the political subdivision has established to 8507

increase the participation, representation, or inclusion of 8508
women in business opportunities, and in any programs the 8509
political subdivision may have that set aside a certain amount 8510
of public contracts to award to women-owned business 8511
enterprises. 8512

(2) When considering this evidence, a political 8513
subdivision shall defer to the department's determination that 8514
the person is a woman, that the person owns and controls the 8515
person's business, and that the person has owned the person's 8516
business for at least one year. 8517

Sec. 122.925. (A) As used in this section: 8518

"Armed forces" means the armed forces of the United 8519
States, including the army, navy, air force, marine corps, space 8520
force, coast guard, or any reserve component of those forces; 8521
the national guard of any state; the commissioned corps of the 8522
United States public health service; the merchant marine service 8523
during wartime; such other service as may be designated by 8524
congress; and the Ohio organized militia when engaged in full- 8525
time national guard duty for a period of more than thirty days. 8526

"State agency" has the meaning defined in section 1.60 of 8527
the Revised Code. 8528

"Veteran" means any person who has completed service in 8529
the armed forces, including the national guard of any state, or 8530
a reserve component of the armed forces, who has been honorably 8531
discharged or discharged under honorable conditions from the 8532
armed forces or who has been transferred to the reserve with 8533
evidence of satisfactory service. 8534

"Veteran-friendly business enterprise" means a sole 8535
proprietorship, association, partnership, corporation, limited 8536

liability company, or joint venture that meets veteran 8537
employment standards established by the director of development 8538
and the director of transportation under this section. 8539

(B) The director of development and the director of 8540
transportation shall establish and maintain the veteran-friendly 8541
business procurement program. The director of development shall 8542
adopt the rules to administer the program described in this 8543
division for all state agencies except the department of 8544
transportation, and the director of transportation shall adopt 8545
the rules to administer the program described in this division 8546
for the department of transportation. The rules shall be adopted 8547
under Chapter 119. of the Revised Code. The rules, as adopted 8548
separately by but with the greatest degree of consistency 8549
possible between the two directors, shall do all of the 8550
following: 8551

(1) Establish criteria, based on the percentage of an 8552
applicant's employees who are veterans, that qualifies an 8553
applicant for certification as a veteran-friendly business 8554
enterprise; 8555

(2) Establish procedures by which a sole proprietorship, 8556
association, partnership, corporation, limited liability 8557
company, or joint venture may apply for certification as a 8558
veteran-friendly business enterprise; 8559

(3) Establish procedures for certifying a sole 8560
proprietorship, association, partnership, corporation, limited 8561
liability company, or joint venture as a veteran-friendly 8562
business enterprise; 8563

(4) Establish standards for determining when a veteran- 8564
friendly business enterprise no longer qualifies for 8565

certification as a veteran-friendly business enterprise; 8566

(5) Establish procedures, to be used by state agencies or 8567
the department of transportation, for the evaluation and ranking 8568
of proposals, which provide preference or bonus points to each 8569
certified veteran-friendly business enterprise that submits a 8570
bid or other proposal for a contract with the state or an agency 8571
of the state other than the department of transportation, or 8572
with the department of transportation, for the rendering of 8573
services, or the supplying of materials, or for the 8574
construction, demolition, alteration, repair, or reconstruction 8575
of any public building, structure, highway, or other 8576
improvement; 8577

(6) Implement an outreach program to educate potential 8578
participants about the veteran-friendly business procurement 8579
program; and 8580

(7) Establish a process for monitoring overall performance 8581
of the veteran-friendly business procurement program. 8582

(C) (1) Any person who has been certified as a veteran- 8583
friendly business enterprise under this section may present the 8584
person's certification to a political subdivision as evidence 8585
that the person is eligible to participate in any public 8586
initiatives or strategies that the political subdivision has 8587
established to reward veteran-friendly businesses or to increase 8588
the participation, representation, or inclusion of veteran- 8589
friendly businesses in business opportunities, and in any 8590
programs the political subdivision may have that set aside a 8591
certain amount of public contracts to award to veteran-friendly 8592
business enterprises. 8593

(2) When considering this evidence, a political 8594

subdivision shall defer to the department's determination that 8595
the person meets the criteria established under division (B) (1) 8596
of this section. 8597

Sec. 122.9511. (A) As used in this section: 8598

(1) "Eligible applicant" means a person or a political 8599
subdivision. 8600

(2) "Eligible project" means a project that, upon 8601
completion, will be a site and facility primarily intended for 8602
commercial, industrial, or manufacturing use. "Eligible 8603
projects" do not include sites and facilities intended primarily 8604
for residential, retail, or government use. 8605

(3) "Person" has the same meaning as in section 5701.01 of 8606
the Revised Code. 8607

(4) "Political subdivision" means a municipal corporation, 8608
township, county, school district, or any other body corporate 8609
and politic responsible for governmental activities in a 8610
geographic area smaller than that of the state. 8611

(5) "SiteOhio certification program" means the program 8612
created under this section. 8613

(B) There is hereby created the SiteOhio certification 8614
program to certify and market eligible projects in the state. 8615
The program shall be administered by the department of 8616
development. 8617

(C) An eligible applicant may apply to the director of 8618
development on forms prescribed by the director for the director 8619
to certify an eligible project. In addition to the application, 8620
the applicant shall submit any additional materials required by 8621
the director. The director shall establish scoring criteria, 8622

scoring instruments, and materials for use by the department of 8623
development in reviewing applications under the SiteOhio 8624
certification program. The content of the scoring criteria, 8625
scoring instruments, and materials shall be at the discretion of 8626
the director and may include, where practicable, evaluation of 8627
certain quality of life indicators and community assets. The 8628
scoring criteria, scoring instruments, and materials shall be 8629
published and made available with the application. 8630

Subject to any limitations imposed under division (E) (2) 8631
of this section, the director shall approve an application and 8632
certify the applicant's eligible project if the applicant meets 8633
all of the scoring criteria established by the director. 8634

(D) After the director of development certifies an 8635
eligible project, the project shall be listed on the 8636
department's web site. The director shall market certified 8637
eligible projects to interested persons. 8638

(E) The director of development ~~shall~~may adopt rules 8639
under Chapter 119. of the Revised Code ~~necessary to implement~~ 8640
~~and operate the SiteOhio certification program. The rules may to~~ 8641
provide for eligible applicants for certification to be charged 8642
fees to cover administrative costs incurred by the department in 8643
the administration of this section. Any fees collected under 8644
this section shall be credited to the SiteOhio administration 8645
fund. The director may do either of the following: 8646

(1) Contract with one or more persons to administer all or 8647
part of the SiteOhio certification program. 8648

(2) Limit the number of eligible projects the director 8649
certifies according to the available resources and capabilities 8650
of the department. 8651

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

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

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

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

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

(5) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses may be granted to any person or entity, shall be for a period not to exceed fifteen years, unless a longer period is authorized by division (A) (5) of this section, and shall be executed for the state by the director of administrative services. The director shall grant leases, easements, or licenses of university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university

land for periods not to exceed forty years for purposes approved 8681
by the respective university's board of trustees pursuant to 8682
section 123.17 of the Revised Code. The director may grant 8683
perpetual easements to public utilities, as defined in section 8684
4905.02 of the Revised Code or described in section 4905.03 of 8685
the Revised Code. 8686

(6) To lease space for the use of a state agency; 8687

(7) To have general supervision and care of the 8688
storerooms, offices, and buildings leased for the use of a state 8689
agency; 8690

(8) To exercise general custodial care of all real 8691
property of the state; 8692

(9) To assign and group together state offices in any city 8693
in the state and to establish, in cooperation with the state 8694
agencies involved, rules governing space requirements for office 8695
or storage use; 8696

(10) To lease for a period not to exceed forty years, 8697
pursuant to a contract providing for the construction thereof 8698
under a lease-purchase plan, buildings, structures, and other 8699
improvements for any public purpose, and, in conjunction 8700
therewith, to grant leases, easements, or licenses for lands 8701
under the control of a state agency for a period not to exceed 8702
forty years. The lease-purchase plan shall provide that at the 8703
end of the lease period, the buildings, structures, and related 8704
improvements, together with the land on which they are situated, 8705
shall become the property of the state without cost. 8706

(a) Whenever any building, structure, or other improvement 8707
is to be so leased by a state agency, the department shall 8708
retain either basic plans, specifications, bills of materials, 8709

and estimates of cost with sufficient detail to afford bidders 8710
all needed information or, alternatively, all of the following 8711
plans, details, bills of materials, and specifications: 8712

(i) Full and accurate plans suitable for the use of 8713
mechanics and other builders in the improvement; 8714

(ii) Details to scale and full sized, so drawn and 8715
represented as to be easily understood; 8716

(iii) Accurate bills showing the exact quantity of 8717
different kinds of material necessary to the construction; 8718

(iv) Definite and complete specifications of the work to 8719
be performed, together with such directions as will enable a 8720
competent mechanic or other builder to carry them out and afford 8721
bidders all needed information; 8722

(v) A full and accurate estimate of each item of expense 8723
and of the aggregate cost thereof. 8724

(b) The department shall give public notice, in such 8725
newspaper, in such form, and with such phraseology as the 8726
director of administrative services prescribes, published once 8727
each week for four consecutive weeks, of the time when and place 8728
where bids will be received for entering into an agreement to 8729
lease to a state agency a building, structure, or other 8730
improvement. The last publication shall be at least eight days 8731
preceding the day for opening the bids. The bids shall contain 8732
the terms upon which the builder would propose to lease the 8733
building, structure, or other improvement to the state agency. 8734
The form of the bid approved by the department shall be used, 8735
and a bid is invalid and shall not be considered unless that 8736
form is used without change, alteration, or addition. Before 8737
submitting bids pursuant to this section, any builder shall 8738

comply with Chapter 153. of the Revised Code. 8739

(c) On the day and at the place named for receiving bids 8740
for entering into lease agreements with a state agency, the 8741
director of administrative services shall open the bids and 8742
shall publicly proceed immediately to tabulate the bids upon 8743
duplicate sheets. No lease agreement shall be entered into until 8744
the bureau of workers' compensation has certified that the 8745
person to be awarded the lease agreement has complied with 8746
Chapter 4123. of the Revised Code, until, if the builder 8747
submitting the lowest and best bid is a foreign corporation, the 8748
secretary of state has certified that the corporation is 8749
authorized to do business in this state, until, if the builder 8750
submitting the lowest and best bid is a person nonresident of 8751
this state, the person has filed with the secretary of state a 8752
power of attorney designating the secretary of state as its 8753
agent for the purpose of accepting service of summons in any 8754
action brought under Chapter 4123. of the Revised Code, and 8755
until the agreement is submitted to the attorney general and the 8756
attorney general's approval is certified thereon. Within thirty 8757
days after the day on which the bids are received, the 8758
department shall investigate the bids received and shall 8759
determine that the bureau and the secretary of state have made 8760
the certifications required by this section of the builder who 8761
has submitted the lowest and best bid. Within ten days of the 8762
completion of the investigation of the bids, the department 8763
shall award the lease agreement to the builder who has submitted 8764
the lowest and best bid and who has been certified by the bureau 8765
and secretary of state as required by this section. If bidding 8766
for the lease agreement has been conducted upon the basis of 8767
basic plans, specifications, bills of materials, and estimates 8768
of costs, upon the award to the builder the department, or the 8769

builder with the approval of the department, shall appoint an 8770
architect or engineer licensed in this state to prepare such 8771
further detailed plans, specifications, and bills of materials 8772
as are required to construct the building, structure, or 8773
improvement. ~~The department shall adopt such rules as are~~ 8774
~~necessary to give effect to this section.~~ The department may 8775
reject any bid. Where there is reason to believe there is 8776
collusion or combination among bidders, the bids of those 8777
concerned therein shall be rejected. 8778

(11) To acquire by purchase, gift, devise, or grant and to 8779
transfer, lease, or otherwise dispose of all real property 8780
required to assist in the development of a conversion facility 8781
as defined in section 5709.30 of the Revised Code as that 8782
section existed before its repeal by Amended Substitute House 8783
Bill 95 of the 125th general assembly; 8784

(12) To lease for a period not to exceed forty years, 8785
notwithstanding any other division of this section, the state- 8786
owned property located at 408-450 East Town Street, Columbus, 8787
Ohio, formerly the state school for the deaf, to a developer in 8788
accordance with this section. "Developer," as used in this 8789
section, has the same meaning as in section 123.77 of the 8790
Revised Code. 8791

Such a lease shall be for the purpose of development of 8792
the land for use by senior citizens by constructing, altering, 8793
renovating, repairing, expanding, and improving the site as it 8794
existed on June 25, 1982. A developer desiring to lease the land 8795
shall prepare for submission to the department a plan for 8796
development. Plans shall include provisions for roads, sewers, 8797
water lines, waste disposal, water supply, and similar matters 8798
to meet the requirements of state and local laws. The plans 8799

shall also include provision for protection of the property by 8800
insurance or otherwise, and plans for financing the development, 8801
and shall set forth details of the developer's financial 8802
responsibility. 8803

The department may employ, as employees or consultants, 8804
persons needed to assist in reviewing the development plans. 8805
Those persons may include attorneys, financial experts, 8806
engineers, and other necessary experts. The department shall 8807
review the development plans and may enter into a lease if it 8808
finds all of the following: 8809

(a) The best interests of the state will be promoted by 8810
entering into a lease with the developer; 8811

(b) The development plans are satisfactory; 8812

(c) The developer has established the developer's 8813
financial responsibility and satisfactory plans for financing 8814
the development. 8815

The lease shall contain a provision that construction or 8816
renovation of the buildings, roads, structures, and other 8817
necessary facilities shall begin within one year after the date 8818
of the lease and shall proceed according to a schedule agreed to 8819
between the department and the developer or the lease will be 8820
terminated. The lease shall contain such conditions and 8821
stipulations as the director considers necessary to preserve the 8822
best interest of the state. Moneys received by the state 8823
pursuant to this lease shall be paid into the general revenue 8824
fund. The lease shall provide that at the end of the lease 8825
period the buildings, structures, and related improvements shall 8826
become the property of the state without cost. 8827

(13) To manage the use of space owned and controlled by 8828

the department by doing all of the following: 8829

(a) Biennially implementing, by state agency location, a 8830
census of agency employees assigned space; 8831

(b) Periodically in the discretion of the director of 8832
administrative services: 8833

(i) Requiring each state agency to categorize the use of 8834
space allotted to the agency between office space, common areas, 8835
storage space, and other uses, and to report its findings to the 8836
department; 8837

(ii) Creating and updating a master space utilization plan 8838
for all space allotted to state agencies. The plan shall 8839
incorporate space utilization metrics. 8840

(iii) Conducting a cost-benefit analysis to determine the 8841
effectiveness of state-owned buildings; 8842

(iv) Assessing the alternatives associated with 8843
consolidating the commercial leases for buildings located in 8844
Columbus. 8845

(c) Commissioning a comprehensive space utilization and 8846
capacity study in order to determine the feasibility of 8847
consolidating existing commercially leased space used by state 8848
agencies into a new state-owned facility. 8849

(14) To adopt rules to ensure that energy efficiency and 8850
conservation is considered in the purchase of products and 8851
equipment, except motor vehicles, by any state agency, 8852
department, division, bureau, office, unit, board, commission, 8853
authority, quasi-governmental entity, or institution. The 8854
department may require minimum energy efficiency standards for 8855
purchased products and equipment based on federal testing and 8856

labeling if available or on standards developed by the 8857
department. When possible, the rules shall apply to the 8858
competitive selection of energy consuming systems, components, 8859
and equipment under Chapter 125. of the Revised Code. 8860

(15) To ensure energy efficient and energy conserving 8861
purchasing practices by doing all of the following: 8862

(a) Identifying available energy efficiency and 8863
conservation opportunities; 8864

(b) Providing for interchange of information among 8865
purchasing agencies; 8866

(c) Identifying laws, policies, rules, and procedures that 8867
should be modified; 8868

(d) Monitoring experience with and the cost-effectiveness 8869
of this state's purchase and use of motor vehicles and of major 8870
energy-consuming systems, components, equipment, and products 8871
having a significant impact on energy consumption by the 8872
government; 8873

(e) Providing technical assistance and training to state 8874
employees involved in the purchasing process; 8875

(f) Working with the department of development to make 8876
recommendations regarding planning and implementation of 8877
purchasing policies and procedures that are supportive of energy 8878
efficiency and conservation. 8879

(16) To require all state agencies, departments, 8880
divisions, bureaus, offices, units, commissions, boards, 8881
authorities, quasi-governmental entities, institutions, and 8882
state institutions of higher education to implement procedures 8883
to ensure that all of the passenger automobiles they acquire in 8884

each fiscal year, except for those passenger automobiles 8885
acquired for use in law enforcement or emergency rescue work, 8886
achieve a fleet average fuel economy of not less than the fleet 8887
average fuel economy for that fiscal year as the department 8888
shall prescribe by rule. The department shall adopt the rule 8889
prior to the beginning of the fiscal year, in accordance with 8890
the average fuel economy standards established by federal law 8891
for passenger automobiles manufactured during the model year 8892
that begins during the fiscal year. 8893

Each state agency, department, division, bureau, office, 8894
unit, commission, board, authority, quasi-governmental entity, 8895
institution, and state institution of higher education shall 8896
determine its fleet average fuel economy by dividing the total 8897
number of passenger vehicles acquired during the fiscal year, 8898
except for those passenger vehicles acquired for use in law 8899
enforcement or emergency rescue work, by a sum of terms, each of 8900
which is a fraction created by dividing the number of passenger 8901
vehicles of a given make, model, and year, except for passenger 8902
vehicles acquired for use in law enforcement or emergency rescue 8903
work, acquired during the fiscal year by the fuel economy 8904
measured by the administrator of the United States environmental 8905
protection agency, for the given make, model, and year of 8906
vehicle, that constitutes an average fuel economy for combined 8907
city and highway driving. 8908

As used in division (A)(16) of this section, "acquired" 8909
means leased for a period of sixty continuous days or more, or 8910
purchased. 8911

(17) To correct legal descriptions or title defects, or 8912
release fractional interests in real property, as necessary to 8913
cure title clouds reflected in public records, including those 8914

resulting from boundary disputes, ingress or egress issues, 8915
title transfers precipitated through retirement of bond 8916
requirements, and the retention of fractional interests in real 8917
estate otherwise disposed of in previous title transfers. 8918

(18) (a) To, with controlling board approval, sell state- 8919
owned real property that is not held for the benefit of an 8920
institution of higher education and is appraised at not more 8921
than one hundred thousand dollars by an independent third-party 8922
appraiser. 8923

(b) To sell state-owned real property that is held for the 8924
benefit of an institution of higher education, provided all of 8925
the following are true: 8926

(i) The board of trustees of the institution of higher 8927
education, or, in the case of a university branch district, any 8928
other managing authority, adopts a resolution approving the 8929
sale; 8930

(ii) The real property is appraised at not more than ten 8931
million dollars by an independent third-party appraiser; 8932

(iii) The controlling board approves the sale. 8933

Notwithstanding any provision of law to the contrary, net 8934
proceeds from any disposition of real property made pursuant to 8935
division (A) (18) of this section shall, at the direction of the 8936
director of budget and management, be credited to a fund or 8937
funds in the state treasury, or to accounts held by an 8938
institution of higher education for purposes to be determined by 8939
the institution. 8940

As used in division (A) (18) of this section, "institution 8941
of higher education" has the same meaning as in section 3345.12 8942
of the Revised Code. 8943

(B) This section and section 125.02 of the Revised Code 8944
shall not interfere with any of the following: 8945

(1) The power of the adjutant general to purchase military 8946
supplies, or with the custody of the adjutant general of 8947
property leased, purchased, or constructed by the state and used 8948
for military purposes, or with the functions of the adjutant 8949
general as director of state armories; 8950

(2) The power of the director of transportation in 8951
acquiring rights-of-way for the state highway system, or the 8952
leasing of lands for division or resident district offices, or 8953
the leasing of lands or buildings required in the maintenance 8954
operations of the department of transportation, or the purchase 8955
of real property for garage sites or division or resident 8956
district offices, or in preparing plans and specifications for 8957
and constructing such buildings as the director may require in 8958
the administration of the department; 8959

(3) The power of the director of public safety and the 8960
registrar of motor vehicles to purchase or lease real property 8961
and buildings to be used solely as locations to which a deputy 8962
registrar is assigned pursuant to division (B) of section 8963
4507.011 of the Revised Code and from which the deputy registrar 8964
is to conduct the deputy registrar's business, the power of the 8965
director of public safety to purchase or lease real property and 8966
buildings to be used as locations for division or district 8967
offices as required in the maintenance of operations of the 8968
department of public safety, and the power of the superintendent 8969
of the state highway patrol in the purchase or leasing of real 8970
property and buildings needed by the patrol, to negotiate the 8971
sale of real property owned by the patrol, to rent or lease real 8972
property owned or leased by the patrol, and to make or cause to 8973

be made repairs to all property owned or under the control of 8974
the patrol; 8975

(4) The power of the division of liquor control in the 8976
leasing or purchasing of retail outlets and warehouse facilities 8977
for the use of the division; 8978

(5) The power of the director of development to enter into 8979
leases of real property, buildings, and office space to be used 8980
solely as locations for the state's foreign offices to carry out 8981
the purposes of section 122.05 of the Revised Code; 8982

(6) The power of the director of environmental protection 8983
to enter into environmental covenants, to grant and accept 8984
easements, or to sell property pursuant to division (G) of 8985
section 3745.01 of the Revised Code; 8986

(7) The power of the department of public safety under 8987
section 5502.01 of the Revised Code to direct security measures 8988
and operations for the Vern Riffe center and the James A. Rhodes 8989
state office tower. The department of administrative services 8990
shall implement all security measures and operations at the Vern 8991
Riffe center and the James A. Rhodes state office tower as 8992
directed by the department of public safety. 8993

(C) Purchases for, and the custody and repair of, 8994
buildings under the management and control of the capitol square 8995
review and advisory board, the opportunities for Ohioans with 8996
disabilities agency, the bureau of workers' compensation, or the 8997
departments of public safety, job and family services, mental 8998
health and addiction services, developmental disabilities, and 8999
rehabilitation and correction; buildings of educational and 9000
benevolent institutions under the management and control of 9001
boards of trustees; and purchases or leases for, and the custody 9002

and repair of, office space used for the purposes of any agency 9003
of the legislative branch of state government are not subject to 9004
the control and jurisdiction of the department of administrative 9005
services. 9006

An agency of the legislative branch of state government 9007
that uses office space in a building under the management and 9008
control of the department of administrative services may 9009
exercise the agency's authority to improve the agency's office 9010
space as authorized under this division only if, upon review, 9011
the department of administrative services concludes the proposed 9012
improvements do not adversely impact the structural integrity of 9013
the building. 9014

If an agency of the legislative branch of state 9015
government, except the capitol square review and advisory board, 9016
so requests, the agency and the director of administrative 9017
services may enter into a contract under which the department of 9018
administrative services agrees to perform any services requested 9019
by the agency that the department is authorized under this 9020
section to perform. In performing such services, the department 9021
shall not use competitive selection. As used in this division, 9022
"competitive selection" has the meaning defined in section 9023
125.01 of the Revised Code and includes any other type of 9024
competitive process for the selection of persons producing or 9025
dealing in the services to be provided. 9026

(D) Any instrument by which real property is acquired 9027
pursuant to this section shall identify the agency of the state 9028
that has the use and benefit of the real property as specified 9029
in section 5301.012 of the Revised Code. 9030

Sec. 123.04. The director of administrative services shall 9031
have supervision of the public works of the state ~~and shall make~~ 9032

~~such rules and regulations for the maintenance and operation of~~ 9033
~~the public works as are necessary.~~ 9034

Sec. 123.08. The director of administrative services shall 9035
appoint such forepersons, patrol officers, lock tenders, 9036
inspectors, engineers, and all other employees as are necessary 9037
for the maintenance and operation of the public works. They 9038
shall be assigned to duty under the supervision of the director, 9039
~~under rules and regulations prescribed by the director.~~ Any such 9040
employee, when deemed necessary by the director, shall give 9041
proper bond to the state, conditioned for the faithful 9042
performance of the employee's duties. Such bonds may, in the 9043
discretion of the director, be individual, schedule, or blanket 9044
bonds. 9045

Sec. 123.201. (A) There is hereby created in the state 9046
treasury the Ohio facilities construction commission fund, 9047
consisting of transfers of moneys authorized by the general 9048
assembly and revenues received by the Ohio facilities 9049
construction commission under section 123.21 of the Revised 9050
Code. Investment earnings on moneys in the fund shall be 9051
credited to the fund. Moneys in the fund may be used by the 9052
commission, in performing its duties under this chapter, to pay 9053
personnel and other administrative expenses, to pay the cost of 9054
preparing building design specifications, to pay the cost of 9055
providing project management services, and for other purposes 9056
determined by the commission to be necessary to fulfill its 9057
duties under this chapter. 9058

(B) (1) There is hereby created in the state treasury the 9059
cultural and sports facilities building fund, consisting of 9060
proceeds of obligations authorized to pay costs of Ohio cultural 9061
facilities and Ohio sports facilities for which appropriations 9062

are made by the general assembly. All investment earnings of the 9063
fund shall be credited to the fund. 9064

(2) Upon the request of the executive director of the Ohio 9065
facilities construction commission and subject to applicable tax 9066
law limitations, the director of budget and management may 9067
transfer to the Ohio cultural facilities administration fund 9068
moneys credited to the cultural and sports facilities building 9069
fund to pay the costs of administering projects funded through 9070
the cultural and sports facilities building fund. 9071

(C) There is hereby created in the state treasury the Ohio 9072
cultural facilities administration fund, consisting of transfers 9073
of money authorized by the general assembly and revenues 9074
received by the commission under division ~~(A) (9)~~ (A) (8) of 9075
section 123.21 of the Revised Code. Moneys in the fund may be 9076
used by the Ohio facilities construction commission in 9077
administering projects funded through the cultural and sports 9078
facilities building fund pursuant to sections 123.28 and 123.281 9079
of the Revised Code. All investment earnings of that fund shall 9080
be credited to it and shall be allocated among any accounts 9081
created in the fund in the manner determined by the commission. 9082

(D) (1) There is hereby created in the state treasury the 9083
capital donations fund, which shall be administered by the Ohio 9084
facilities construction commission. The fund consists of gifts, 9085
grants, devises, bequests, and other financial contributions 9086
made to the commission for the construction or improvement of 9087
cultural and sports facilities and shall be used in accordance 9088
with the specific purposes for which the gifts, grants, devises, 9089
bequests, or other financial contributions are made. All 9090
investment earnings of the fund shall be credited to the fund. 9091
Chapters 123., 125., 127., and 153. and section 3517.13 of the 9092

Revised Code do not apply to contract obligations paid from the 9093
fund, notwithstanding anything to the contrary in those chapters 9094
or that section. 9095

(2) Not later than one month following the end of each 9096
quarter of the fiscal year, the commission shall allocate the 9097
amounts credited to the fund from investment earnings during 9098
that preceding quarter of the fiscal year among the specific 9099
projects for which they are to be used. 9100

(3) If the amounts credited to the fund for a particular 9101
project exceed what is required to complete that project, the 9102
commission may refund any of those excess amounts, including 9103
unexpended investment earnings attributable to those amounts, to 9104
the entity from which they were received. 9105

Sec. 123.21. (A) The Ohio facilities construction 9106
commission may perform any act and ensure the performance of any 9107
function necessary or appropriate to carry out the purposes of, 9108
and exercise the powers granted under this chapter or any other 9109
provision of the Revised Code, including any of the following: 9110

(1) Except as otherwise provided in section 123.211 of the 9111
Revised Code, prepare, or contract to be prepared, by licensed 9112
engineers or architects, surveys, general and detailed plans, 9113
specifications, bills of materials, and estimates of cost for 9114
any projects, improvements, or public buildings to be 9115
constructed by state agencies that may be authorized by 9116
legislative appropriations or any other funds made available 9117
therefor, provided that the construction of the projects, 9118
improvements, or public buildings is a statutory duty of the 9119
commission. This section does not require the independent 9120
employment of an architect or engineer as provided by section 9121
153.01 of the Revised Code in the cases to which section 153.01 9122

of the Revised Code applies. This section does not affect or 9123
alter the existing powers of the director of transportation. 9124

(2) Except as otherwise provided in section 123.211 of the 9125
Revised Code, have general supervision over the construction of 9126
any projects, improvements, or public buildings constructed for 9127
a state agency and over the inspection of materials prior to 9128
their incorporation into those projects, improvements, or 9129
buildings. 9130

(3) Except as otherwise provided in section 123.211 of the 9131
Revised Code, make contracts for and supervise the design and 9132
construction of any projects and improvements or the 9133
construction and repair of buildings under the control of a 9134
state agency. All such contracts may be based in whole or in 9135
part on the unit price or maximum estimated cost, with payment 9136
computed and made upon actual quantities or units. 9137

~~(4) Adopt, amend, and rescind rules pertaining to the 9138
administration of the construction of the public works of the 9139
state as required by law, in accordance with Chapter 119. of the 9140
Revised Code. 9141~~

~~(5) Contract with, retain the services of, or designate, 9142
and fix the compensation of, such agents, accountants, 9143
consultants, advisers, and other independent contractors as may 9144
be necessary or desirable to carry out the programs authorized 9145
under this chapter, or authorize the executive director to 9146
perform such powers and duties. 9147~~

~~(6)~~ (5) Receive and accept any gifts, grants, donations, 9148
and pledges, and receipts therefrom, to be used for the programs 9149
authorized under this chapter. 9150

~~(7)~~ (6) Make and enter into all contracts, commitments, and 9151

agreements, and execute all instruments, necessary or incidental 9152
to the performance of its duties and the execution of its rights 9153
and powers under this chapter, or authorize the executive 9154
director to perform such powers and duties. 9155

~~(8)~~ (7) Debar a contractor as provided in section 153.02 of 9156
the Revised Code. 9157

~~(9)~~ (8) Enter into and administer cooperative agreements 9158
for cultural projects, as provided in sections 123.28 and 9159
123.281 of the Revised Code. 9160

(B) The commission shall appoint and fix the compensation 9161
of an executive director who shall serve at the pleasure of the 9162
commission. The executive director shall supervise the 9163
operations of the commission and perform such other duties as 9164
delegated by the commission. The executive director also shall 9165
employ and fix the compensation of such employees as will 9166
facilitate the activities and purposes of the commission, who 9167
shall serve at the pleasure of the executive director. The 9168
employees of the commission are exempt from Chapter 4117. of the 9169
Revised Code and are not considered public employees as defined 9170
in section 4117.01 of the Revised Code. Any agreement entered 9171
into prior to July 1, 2012, between the office of collective 9172
bargaining and the exclusive representative for employees of the 9173
commission is binding and shall continue to have effect. 9174

(C) The attorney general shall serve as the legal 9175
representative for the commission and may appoint other counsel 9176
as necessary for that purpose in accordance with section 109.07 9177
of the Revised Code. 9178

(D) Purchases for, and the custody and repair of, 9179
buildings under the management and control of the capitol square 9180

review and advisory board are not subject to the control and 9181
jurisdiction of the Ohio facilities construction commission. 9182

Sec. 123.22. (A) As used in this section: 9183

(1) "Construct" includes reconstruct, improve, renovate, 9184
enlarge, or otherwise alter. 9185

(2) "Energy consumption analysis" means the evaluation of 9186
all energy consuming systems, components, and equipment by 9187
demand and type of energy, including the internal energy load 9188
imposed on a facility by its occupants and the external energy 9189
load imposed by climatic conditions. 9190

(3) "Facility" means a building or other structure, or 9191
part of a building or other structure, that includes provision 9192
for a heating, refrigeration, ventilation, cooling, lighting, 9193
hot water, or other major energy consuming system, component, or 9194
equipment. 9195

(4) "Life-cycle cost analysis" means a general approach to 9196
economic evaluation that takes into account all dollar costs 9197
related to owning, operating, maintaining, and ultimately 9198
disposing of a project over the appropriate study period. 9199

(5) "Political subdivision" means a county, township, 9200
municipal corporation, board of education of any school 9201
district, or any other body corporate and politic that is 9202
responsible for government activities in a geographic area 9203
smaller than that of the state. 9204

(6) "State funded" means funded in whole or in part 9205
through appropriation by the general assembly or through the use 9206
of any guarantee provided by this state. 9207

(7) "State institution of higher education" has the same 9208

meaning as in section 3345.011 of the Revised Code. 9209

(8) "Cogeneration" means the simultaneous production of 9210
thermal energy and electricity for use primarily within a 9211
building or complex of buildings. 9212

(B) The Ohio facilities construction commission shall 9213
develop energy efficiency and conservation programs for new 9214
construction design and review and for existing building audit 9215
and retrofit. 9216

The commission may accept and administer grants from 9217
public and private sources for carrying out any of its duties 9218
under this section. 9219

(C) No state agency, department, division, bureau, office, 9220
unit, board, commission, authority, quasi-governmental entity, 9221
or institution shall construct or cause to be constructed, 9222
within the limits prescribed in this section, a state-funded 9223
facility without a proper life-cycle cost analysis as computed 9224
or prepared by a qualified architect or engineer in accordance 9225
with the rules required by division (D) of this section. 9226

Construction shall proceed only upon the disclosure to the 9227
commission, for the facility chosen, of the life-cycle costs as 9228
determined in this section and the capitalization of the initial 9229
construction costs of the building. The results of life-cycle 9230
cost analysis shall be a primary consideration in the selection 9231
of a building design. That analysis shall be required only for 9232
construction of buildings with an area of twenty thousand square 9233
feet or greater, except the commission may waive this 9234
requirement or may require an analysis for buildings with an 9235
area of less than twenty thousand square feet. For projects with 9236
an estimated construction cost exceeding fifty million dollars, 9237

the analysis shall include a review of cogeneration as an energy 9238
source. 9239

Nothing in this section shall deprive or limit any state 9240
agency that has review authority over design or construction 9241
plans from requiring a life-cycle cost analysis or energy 9242
consumption analysis. 9243

~~(D) For the purposes of assisting the commission in its 9244
responsibility for state-funded facilities pursuant to section 9245
123.21 of the Revised Code and of cost-effectively reducing the 9246
energy consumption of those and any other state-funded 9247
facilities, thereby promoting fiscal, economic, and 9248
environmental benefits to this state, the commission shall 9249
promulgate rules specifying cost-effective, energy efficiency 9250
and conservation standards that may govern the design, 9251
construction, operation, and maintenance of all state-funded 9252
facilities, except facilities of state institutions of higher 9253
education or facilities operated by a political subdivision. The 9254
development services agency shall cooperate in providing 9255
information and technical expertise to the commission to ensure 9256
promulgation of rules of maximum effectiveness. The standards 9257
prescribed by rules promulgated under this division may draw 9258
from or incorporate, by reference or otherwise and in whole or 9259
in part, standards already developed or implemented by any 9260
competent, public or private standards organization or program. 9261
The commission may adopt the following rules also may include 9262
any of the following in accordance with Chapter 119. of the 9263
Revised Code: 9264~~

(1) Specifications for a life-cycle cost analysis that 9265
shall determine, for the economic life of such state-funded 9266
facility, the reasonably expected costs of facility ownership, 9267

operation, and maintenance including labor and materials. Life-cycle cost may be expressed as an annual cost for each year of the facility's use. 9268
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A life-cycle cost analysis additionally may include an energy consumption analysis that conforms to division (D) (2) of this section. 9271
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(2) Specifications for an energy consumption analysis of the facility's heating, refrigeration, ventilation, cooling, lighting, hot water, and other major energy consuming systems, components, and equipment. 9274
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A life-cycle cost analysis and energy consumption analysis shall be based on the best currently available methods of analysis, such as those of the national institute of standards and technology, the United States department of energy or other federal agencies, professional societies, and directions developed by the department. 9278
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(3) Specifications for energy performance indices, to be used to audit and evaluate competing design proposals submitted to the state. 9284
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(4) A process by which a manager of a specified state-funded facility, except a facility of a state institution of higher education or a facility operated by a political subdivision, may receive a waiver of compliance with any provision of the rules required by divisions (D) (1) to (3) of this section. 9287
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(E) Each state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, institution, and state institution of higher education shall comply with any applicable provision of this section or of 9293
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a rule promulgated pursuant to division (D) of this section. 9297

Sec. 124.17. The director of administrative services may 9298
institute an employee awards system designed to encourage all 9299
state employees to submit suggestions that will reduce the 9300
costs, or improve the quality, of state services. Employee 9301
awards granted under the system may be either monetary or 9302
nonmonetary. The director shall provide, by rule, reasonable 9303
standards for determining the amount, not to exceed five 9304
thousand dollars per employee, of any cash award, and for 9305
determining the value of any nonmonetary award, that may be 9306
given for a suggestion. The department of administrative 9307
services shall review each adopted suggestion and determine the 9308
amount or type of award, if any, to be given. 9309

In addition to the employees award system, the director 9310
may establish a program for the recognition of exemplary 9311
performance of employees paid in accordance with section 124.152 9312
of the Revised Code and those employees listed in divisions (B) 9313
(2) and (4) of section 124.14 of the Revised Code. The program 9314
may include, but is not limited to, cash awards, additional 9315
leave, or other provisions as the director considers 9316
appropriate, ~~and the director shall adopt rules in accordance~~ 9317
~~with Chapter 119. of the Revised Code to provide for the~~ 9318
~~administration of the program.~~ 9319

Sec. 124.74. (A) Division (B) of this section applies to 9320
any of the following individuals: 9321

(1) An employee in the service of the state; 9322

(2) A prospective employee for a position in the service 9323
of the state; 9324

(3) A contractor of a state agency, board, or commission; 9325

(4) A contractor, employee, or prospective employee of a board of county commissioners or a county department of job and family services, child support enforcement agency, or public children services agency.

(B) If an individual described in division (A) of this section has or, in the case of a prospective employee, will have access to or the use of federal tax information, the head of the state or county agency, department, board, or commission with which the individual is employed, will be employed, or is contracted shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check based on the individual's fingerprints in accordance with section 109.572 of the Revised Code. The head of the agency, department, board, or commission shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check.

Such an individual, and the agency, department, board, or commission with which the individual is employed, will be employed, or is contracted, shall also comply with any separate request by the federal bureau of investigation to conduct a national criminal records check.

(C) A ~~state or~~ county agency, department, board, or commission may adopt any rules or policies necessary to implement this section.

Sec. 125.14. (A) The director of administrative services shall allocate any proceeds from the transfer, sale, or lease of excess and surplus supplies in the following manner:

(1) Except as otherwise provided in division (A) (2) or (3) of this section, the proceeds of such a transfer, sale, or lease

shall be paid into the state treasury to the credit of the 9355
investment recovery fund, which is hereby created. 9356

(2) Except as otherwise provided in division (A) (2) of 9357
this section, when supplies originally were purchased with funds 9358
from nongeneral revenue fund sources, the director shall 9359
determine what fund or account originally was used to purchase 9360
the supplies, and the credit for the proceeds from any transfer, 9361
sale, or lease of those supplies shall be transferred to that 9362
fund or account. If the director cannot determine which fund or 9363
account originally was used to purchase the supplies, if the 9364
fund or account is no longer active, or if the proceeds from the 9365
transfer, sale, or lease of a unit of supplies are less than one 9366
hundred dollars or any larger amount the director may establish 9367
with the approval of the director of budget and management, then 9368
the proceeds from the transfer, sale, or lease of such supplies 9369
shall be paid into the state treasury to the credit of the 9370
investment recovery fund. 9371

(3) In accordance with division (H) (2) of section 125.832 9372
of the Revised Code, when vehicles originally were purchased 9373
with moneys derived from the general revenue fund, the proceeds 9374
shall be deposited, in the director's discretion, into the state 9375
treasury to the credit of either the fleet management fund 9376
created by section 125.83 of the Revised Code or to the credit 9377
of the investment recovery fund created by this section. Any 9378
such proceeds deposited into the state treasury to the credit of 9379
the investment recovery fund may be transferred from the 9380
investment recovery fund to the fleet management fund. 9381

(B) The investment recovery fund shall be used to pay for 9382
the operating expenses of the state surplus property program and 9383
of the federal surplus property program described in sections 9384

125.84 to ~~125.90~~125.89 of the Revised Code. Any amounts in 9385
excess of these operating expenses shall periodically be 9386
transferred to the general revenue fund of the state. If 9387
proceeds paid into the investment recovery fund are insufficient 9388
to pay for the program's operating expenses, a service fee may 9389
be charged to state agencies to eliminate the deficit. 9390

(C) Proceeds from the sale of recyclable goods and 9391
materials shall be paid into the state treasury to the credit of 9392
the recycled materials fund, which is hereby created, except 9393
that the director of environmental protection, upon request, may 9394
grant an exemption from this requirement. The director shall 9395
administer the fund for the benefit of recycling programs in 9396
state agencies. 9397

Sec. 125.84. In conformance with the "Federal Property and 9398
Administrative Services Act of 1949," 63 Stat. 377, as amended, 9399
similar or related federal property disposal acts of congress, 9400
and sections 125.84 to ~~125.90~~125.89 of the Revised Code, the 9401
department of administrative services may acquire, warehouse, 9402
distribute, transfer, retransfer, recapture, revert, and dispose 9403
of federal personal property and shall assist in the 9404
acquisition, conveyance, reconveyance, recapture, reversion, and 9405
disposal of federal real and related personal property, not 9406
required for the needs and the discharge of the responsibilities 9407
of all federal departments, agencies, boards, and commissions, 9408
for the purpose of making such property available for use to 9409
eligible state civil defense, health, and educational 9410
institutions and organizations; state departments, agencies, 9411
boards, and commissions; bodies politic and corporate, political 9412
subdivisions, or other district, regional, or similar 9413
authorities established by or pursuant to law; duly authorized 9414
local tax-supported civil defense organizations; local tax- 9415

supported health and educational institutions; local tax- 9416
supported institutions and organizations; private nonprofit 9417
federally tax-exempt health and educational institutions and 9418
organizations in the state; private nonprofit federally tax- 9419
exempt institutions, organizations, and activities in the state; 9420
and to such other institutions, organizations, or activities in 9421
the state as may hereafter become eligible to receive such 9422
property. 9423

Any instrument by which real property is acquired pursuant 9424
to this section shall identify the agency of the state that has 9425
the use and benefit of the real property as specified in section 9426
5301.012 of the Revised Code. 9427

Sec. 125.87. Transferees, recipients, and entities 9428
referred to in sections 125.84 to ~~125.90~~ 125.89 of the Revised 9429
Code shall be required to pay to the department of 9430
administrative services such service charges or fees as the 9431
department may require in connection with federal property 9432
acquired, warehoused, distributed, transferred, conveyed, or 9433
reconveyed by the department and may be required to pay service 9434
charges or fees, if any, on property recaptured, reverted, or 9435
disposed of by the department when such action pertains to that 9436
property on which title is restricted by: the United States; the 9437
rules or orders of the department; ~~the rules issued in~~ 9438
~~conformance with section 5502.25 of the Revised Code;~~ or 9439
sections 125.84 to ~~125.90~~ 125.89 of the Revised Code. All 9440
service charges or fees collected by the department under this 9441
section shall be paid into the state treasury to the credit of 9442
the investment recovery fund created under section 125.14 of the 9443
Revised Code. 9444

Sec. 125.88. The governing body of any public authority, 9445

office, organization, or semiautonomous entity referred to in 9446
section 125.84 of the Revised Code may appropriate, authorize 9447
the expenditure of, obligate and expend funds for service 9448
charges or fees assessed by the department of administrative 9449
services for federal property acquired, retransferred, 9450
recaptured, reverted, or disposed of under sections 125.84 to 9451
~~125.90~~ 125.89 of the Revised Code and may accept federal 9452
personal property for redistribution in the state, and if 9453
accepted shall redistribute such property to any eligible class, 9454
division, or unit of government authorized by the department to 9455
acquire retransferable property and shall collect and reimburse 9456
the department for such departmental service charges as may be 9457
levied in connection with such retransfers; but those entities 9458
receiving property that may be or is to be retransferred or 9459
loaned, shall, as the department may require, be held 9460
accountable for the use of such property and for maintaining 9461
records thereof. Federal personal property transferred to a body 9462
politic and corporate or a political subdivision or transferred 9463
for use or redistribution by a public office or a district or 9464
regional or similar authority, ~~for the purpose of complying with~~ 9465
~~the applicable provisions of the rules promulgated by authority~~ 9466
~~of section 5502.25 of the Revised Code,~~ also may be loaned on a 9467
nonprofit basis, by assignment, to approved organized and 9468
supporting agencies and auxiliaries. 9469

Sec. 128.63. The tax commissioner may adopt rules in 9470
accordance with Chapter 119. of the Revised Code ~~to carry out~~ 9471
~~this chapter, including rules prescribing the necessary~~ 9472
accounting for the collection fee under division (B) of section 9473
128.46 of the Revised Code. 9474

Sec. 131.024. (A) The attorney general may, not later than 9475
the first day of February of each year, send to the director of 9476

commerce a request containing the name, address, and social 9477
security number of any person who owes a claim that has been 9478
certified to the attorney general under section 131.02 of the 9479
Revised Code and request that the director provide information 9480
to the attorney general as required in division (B) of this 9481
section. If the information the director provides identifies or 9482
results in identifying unclaimed funds held by the state for an 9483
obligor in default, the attorney general may file a claim under 9484
section 169.08 of the Revised Code to recover the unclaimed 9485
funds. If the director allows the claim, the director shall pay 9486
the claim directly to the attorney general. The director shall 9487
not disallow a claim made by the attorney general because the 9488
attorney general is not the owner of the unclaimed funds 9489
according to the report made under section 169.03 of the Revised 9490
Code. 9491

(B) The director of commerce shall provide the attorney 9492
general, not later than the first day of March of each year, the 9493
name, address, social security number, if the social security 9494
number is available, and any other identifying information for 9495
any individual included in a request sent by the attorney 9496
general pursuant to division (A) of this section who has 9497
unclaimed funds delivered or reported to the state under Chapter 9498
169. of the Revised Code. 9499

~~(C) The attorney general, in consultation with the 9500
department of commerce, may adopt rules under Chapter 119. of 9501
the Revised Code to aid in the implementation of this section. 9502~~

Sec. 131.33. (A) No state agency shall incur an obligation 9503
which exceeds the agency's current appropriation authority. 9504
Except as provided in division (D) of this section, unexpended 9505
balances of appropriations shall, at the close of the period for 9506

which the appropriations are made, revert to the funds from 9507
which the appropriations were made, except that the director of 9508
budget and management shall transfer such unexpended balances 9509
from the first fiscal year to the second fiscal year of an 9510
agency's appropriations to the extent necessary for voided 9511
warrants to be reissued pursuant to division (C) of section 9512
126.37 of the Revised Code. 9513

Except as provided in this section, appropriations made to 9514
a specific fiscal year shall be expended only to pay liabilities 9515
incurred within that fiscal year. 9516

(B) All payrolls shall be charged to the allotments of the 9517
fiscal quarters in which the applicable payroll vouchers are 9518
certified by the director of budget and management in accordance 9519
with section 126.07 of the Revised Code. As used in this 9520
division, "payrolls" means any payment made in accordance with 9521
section 125.21 of the Revised Code. 9522

(C) Legal liabilities from prior fiscal years for which 9523
there is no reappropriation authority shall be discharged from 9524
the unencumbered balances of current appropriations. 9525

(D) (1) Federal grant funds obligated by the department of 9526
job and family services or the department of children and youth 9527
for financial allocations to county family services agencies and 9528
local boards may, at the discretion of the director of job and 9529
family services or the director of children and youth, be 9530
available for expenditure for the duration of the federal grant 9531
period of obligation and liquidation, as follows: 9532

(a) At the end of the state fiscal year, all unexpended 9533
county family services agency and local board financial 9534
allocations obligated from federal grant funds may continue to 9535

be valid for expenditure during subsequent state fiscal years. 9536

(b) The financial allocations described in division (D) (1) 9537
(a) of this section shall be reconciled at the end of the 9538
federal grant period of availability or as required by federal 9539
law, regardless of the state fiscal year of the appropriation. 9540

~~(2) The director of job and family services and the 9541
director of children and youth may adopt rules in accordance 9542
with section 111.15 of the Revised Code, as if they were 9543
internal management rules, as necessary to implement division 9544
(D) of this section. 9545~~

~~(3) As used in division (D) of this section: 9546~~

(a) "County family services agency" has the same meaning 9547
as in section 307.981 of the Revised Code. 9548

(b) "Local board" has the same meaning as in section 9549
6301.01 of the Revised Code. 9550

Sec. 135.182. (A) As used in this section: 9551

(1) "Public depository" means that term as defined in 9552
section 135.01 of the Revised Code, but also means an 9553
institution that receives or holds any public deposits as 9554
defined in section 135.31 of the Revised Code. 9555

(2) "Public depositor" means that term as defined in 9556
section 135.01 of the Revised Code, but also includes a county 9557
and any municipal corporation that has adopted a charter under 9558
Article XVIII, Ohio Constitution. 9559

(3) "Public deposits," "public moneys," and "treasurer" 9560
mean those terms as defined in section 135.01 of the Revised 9561
Code, but also have the same meanings as are set forth in 9562
section 135.31 of the Revised Code, but for purposes of this 9563

section does not include the moneys of metropolitan housing 9564
authorities. 9565

(B) (1) Not later than July 1, 2017, the treasurer of state 9566
shall create the Ohio pooled collateral program. Under this 9567
program, each institution designated as a public depository that 9568
selects the pledging method prescribed in division (A) (2) of 9569
section 135.18 or division (A) (2) of section 135.37 of the 9570
Revised Code shall pledge to the treasurer of state a single 9571
pool of eligible securities for the benefit of all public 9572
depositories at the public depository to secure the repayment of 9573
all uninsured public deposits at the public depository, provided 9574
that at all times the total market value of the securities so 9575
pledged is at least equal to either of the following: 9576

(a) One hundred two per cent of the total amount of all 9577
uninsured public deposits; 9578

(b) An amount determined by rules adopted by the treasurer 9579
of state that set forth the criteria for determining the 9580
aggregate market value of the pool of eligible securities 9581
pledged by a public depository pursuant to division (B) of this 9582
section. Such criteria shall include, but are not limited to, 9583
prudent capital and liquidity management by the public 9584
depository and the safety and soundness of the public depository 9585
as determined by a third-party rating organization. 9586

(2) The treasurer of state shall monitor the eligibility, 9587
market value, and face value of the pooled securities pledged by 9588
the public depository. Each public depository shall carry in its 9589
accounting records at all times a general ledger or other 9590
appropriate account of the total amount of all public deposits 9591
to be secured by the pool, as determined at the opening of 9592
business each day, and the total market value of securities 9593

pledged to secure such deposits, and report such information to 9594
the treasurer of state in a manner and frequency as determined 9595
by the treasurer of state pursuant to rules adopted by the 9596
treasurer of state. A public depositor shall be responsible for 9597
periodically confirming the accuracy of its account balances 9598
with the treasurer of state; otherwise, the treasurer of state 9599
shall be the sole public depositor responsible for monitoring 9600
and ensuring the sufficiency of securities pledged under this 9601
section. 9602

(3) If, on any day, the total market value of the 9603
securities pledged by the public depository is less than that 9604
specified in division (B) (1) (a) or (b) of this section, 9605
whichever is applicable, the public depository shall have two 9606
business days to pledge additional eligible securities having a 9607
market value sufficient, when combined with the market value of 9608
eligible securities already pledged, to satisfy the requirement 9609
of division (B) (1) (a) or (b) of this section, as applicable, to 9610
secure the repayment of all uninsured public deposits at the 9611
public depository. 9612

(C) The public depository shall designate a qualified 9613
trustee approved by the treasurer of state and place with such 9614
trustee for safekeeping the eligible securities pledged pursuant 9615
to division (B) of this section. The trustee shall hold the 9616
eligible securities in an account indicating the treasurer of 9617
state's security interest in the eligible securities. The 9618
treasurer of state shall give written notice of the trustee to 9619
all public depositors for which such securities are pledged. The 9620
trustee shall report to the treasurer of state information 9621
relating to the securities pledged to secure such public 9622
deposits in a manner and frequency as determined by the 9623
treasurer of state. 9624

(D) In order for a public depository to receive public 9625
moneys under this section, the public depository and the 9626
treasurer of state shall first execute an agreement that sets 9627
forth the entire arrangement among the parties and that meets 9628
the requirements described in 12 U.S.C. 1823(e). In addition, 9629
the agreement shall authorize the treasurer of state to obtain 9630
control of the collateral pursuant to division (D) of section 9631
1308.24 of the Revised Code. 9632

(E) The securities or other obligations described in 9633
division (D) of section 135.18 of the Revised Code shall be 9634
eligible as collateral for the purposes of division (B) of this 9635
section, provided no such securities or obligations pledged as 9636
collateral are at any time in default as to either principal or 9637
interest. 9638

(F) Any federal reserve bank or branch thereof located in 9639
this state or federal home loan bank, without compliance with 9640
Chapter 1111. of the Revised Code and without becoming subject 9641
to any other law of this state relative to the exercise by 9642
corporations of trust powers generally, is qualified to act as 9643
trustee for the safekeeping of securities, under this section. 9644
Any institution mentioned in section 135.03 or 135.32 of the 9645
Revised Code that holds a certificate of qualification issued by 9646
the superintendent of financial institutions or any institution 9647
complying with sections 1111.04, 1111.05, and 1111.06 of the 9648
Revised Code is qualified to act as trustee for the safekeeping 9649
of securities under this section, other than those belonging to 9650
itself or to an affiliate as defined in section 1101.01 of the 9651
Revised Code. 9652

(G) The public depository may substitute, exchange, or 9653
release eligible securities deposited with the qualified trustee 9654

pursuant to this section, provided that such substitution, 9655
exchange, or release is effectuated pursuant to written 9656
authorization from the treasurer of state, and such action does 9657
not reduce the total market value of the securities to an amount 9658
that is less than the amount established pursuant to division 9659
(B) of this section. 9660

(H) Notwithstanding the fact that a public depository is 9661
required to pledge eligible securities in certain amounts to 9662
secure public deposits, a qualified trustee has no duty or 9663
obligation to determine the eligibility, market value, or face 9664
value of any securities deposited with the trustee by a public 9665
depository. This applies in all situations including, but not 9666
limited to, a substitution or exchange of securities, but 9667
excluding those situations effectuated by division (I) of this 9668
section in which the trustee is required to determine face and 9669
market value. 9670

(I) The qualified trustee shall enter into a custodial 9671
agreement with the treasurer of state and public depository in 9672
which the trustee agrees to comply with entitlement orders 9673
originated by the treasurer of state without further consent by 9674
the public depository or, in the case of collateral held by the 9675
public depository in an account at a federal reserve bank, the 9676
treasurer of state shall have the treasurer's security interest 9677
marked on the books of the federal reserve bank where the 9678
account for the collateral is maintained. If the public 9679
depository fails to pay over any part of the public deposits 9680
made therein as provided by law and secured pursuant to division 9681
(B) of this section, the treasurer of state shall give written 9682
notice of this failure to the qualified trustee holding the pool 9683
of securities pledged against the public deposits, and at the 9684
same time shall send a copy of this notice to the public 9685

depository. Upon receipt of this notice, the trustee shall 9686
transfer to the treasurer of state for sale, the pooled 9687
securities that are necessary to produce an amount equal to the 9688
public deposits made by the public depositor and not paid over, 9689
less the portion of the deposits covered by any federal deposit 9690
insurance, plus any accrued interest due on the deposits. The 9691
treasurer of state shall sell any of the bonds or other 9692
securities so transferred. When a sale of bonds or other 9693
securities has been so made and upon payment to the public 9694
depositor of the purchase money, the treasurer of state shall 9695
transfer such bonds or securities whereupon the absolute 9696
ownership of such bonds or securities shall pass to the 9697
purchasers. Any surplus after deducting the amount due to the 9698
public depositor and expenses of sale shall be paid to the 9699
public depository. 9700

(J) Any charges or compensation of a qualified trustee for 9701
acting as such under this section shall be paid by the public 9702
depository and in no event shall be chargeable to the public 9703
depositor or to any officer of the public depositor. The charges 9704
or compensation shall not be a lien or charge upon the 9705
securities deposited for safekeeping prior or superior to the 9706
rights to and interests in the securities of the public 9707
depositor. The treasurer and the treasurer's bonders or surety 9708
shall be relieved from any liability to the public depositor or 9709
to the public depository for the loss or destruction of any 9710
securities deposited with a qualified trustee pursuant to this 9711
section. 9712

(K) A public depositor, treasurer, or the public 9713
depositor's or treasurer's bonders or surety are not liable for 9714
the loss of funds if a public depository fails to comply with 9715
the terms set forth in the agreement provided for in division 9716

(D) of this section for the appropriate level of collateral, as 9717
required under division (B) (1) (a) or (b) of this section, to 9718
secure the public deposits made under that agreement. 9719

(L) (1) The following information is confidential and not a 9720
public record under section 149.43 of the Revised Code: 9721

(a) All reports or other information obtained or created 9722
about a public depository for purposes of division (B) (1) (b) of 9723
this section; 9724

(b) The identity of a public depositor's public 9725
depository; 9726

(c) The identity of a public depository's public 9727
depositories. 9728

(2) Nothing in this section prevents the treasurer of 9729
state from releasing or exchanging such confidential information 9730
as required by law or for the operation of the pooled collateral 9731
program. 9732

(M) The treasurer of state may impose reasonable fees, 9733
including late fees, upon public depositories participating in 9734
the pooled collateral program to defray the actual and necessary 9735
expenses incurred by the treasurer in connection with the 9736
program. All such fees collected by the treasurer shall be 9737
deposited into the state treasury to the credit of the 9738
administrative fund created in section 113.20 of the Revised 9739
Code. 9740

~~(N) The treasurer of state may adopt rules necessary for 9741
the implementation of this section and sections 135.18 and 9742
135.181 of the Revised Code. Such rules shall be adopted in 9743
accordance with Chapter 119. of the Revised Code. 9744~~

Sec. 135.22. (A) For purposes of this section:	9745
(1) "Treasurer" has the same meaning as in section 135.01 of the Revised Code, but does not include a county treasurer or the treasurer of state. "Treasurer" includes any person whose duties include making investment decisions with respect to the investment or deposit of interim moneys.	9746 9747 9748 9749 9750
(2) "Subdivision" has the same meaning as in section 135.01 of the Revised Code.	9751 9752
(B) To enhance the background and working knowledge of treasurers in investments, cash management, the collection of taxes, ethics, and in any other subject area that the treasurer of state determines is reasonably related to the duties of a treasurer, the treasurer of state shall provide annual continuing education programs for treasurers. A treasurer annually shall complete the continuing education programs described in this section, unless the treasurer annually provides a notice of exemption described in division (E) of this section.	9753 9754 9755 9756 9757 9758 9759 9760 9761 9762
(C) The treasurer of state shall determine the manner, content, and length of the continuing education programs after consultation with appropriate statewide organizations of local government officials.	9763 9764 9765 9766
(D) Upon successful completion of a continuing education program required by this section, the treasurer of state shall issue a certificate indicating that the treasurer has successfully completed the continuing education program prescribed by the treasurer of state. The treasurer of state shall forward to the auditor of state any certificates issued pursuant to this division by the treasurer of state. The auditor	9767 9768 9769 9770 9771 9772 9773

of state shall maintain in the auditor's records any 9774
certificates forwarded by the treasurer of state pursuant to 9775
this division. As part of the auditor of state's audit of the 9776
subdivision conducted in accordance with section 117.11 of the 9777
Revised Code, the auditor of state shall report whether the 9778
treasurer is in compliance with this section of the Revised 9779
Code. 9780

(E) Division (B) of this section does not apply to any 9781
treasurer who annually provides a notice of exemption to the 9782
auditor of state. The notice shall be certified by the treasurer 9783
of state and shall provide that the treasurer is not subject to 9784
the continuing education requirements set forth in division (B) 9785
of this section, because the treasurer invests or deposits 9786
public moneys in the following investments only: 9787

(1) Interim deposits pursuant to division (B) (3) of 9788
section 135.14 or section 135.145 of the Revised Code; 9789

(2) No-load money market mutual funds pursuant to division 9790
(B) (5) of section 135.14 of the Revised Code; 9791

(3) The Ohio subdivision's fund pursuant to division (B) 9792
(6) of section 135.14 of the Revised Code. 9793

(F) In carrying out the duties required by this section, 9794
the treasurer of state may charge the subdivision served by the 9795
treasurer a registration fee that will meet actual and necessary 9796
expenses in connection with the training of the treasurer, 9797
including instruction fees, site acquisition costs, and the cost 9798
of course materials. Any necessary personal expenses of a 9799
treasurer incurred as a result of attending the continuing 9800
education courses shall be borne by the subdivision represented 9801
by the treasurer. 9802

(G) The treasurer of state may allow any other interested person to attend any of the continuing education programs that are held pursuant to this section, provided that before attending any such continuing education program, the interested person has paid to the treasurer of state the full registration fee set for the continuing education program.

(H) All funds collected pursuant to this section shall be paid into the county treasurer education fund created pursuant to section 321.46 of the Revised Code, and the actual and necessary expenses of the treasurer of state in conducting the continuing education programs required by this section shall be paid from this fund.

~~(I) The treasurer of state may adopt reasonable rules not inconsistent with this section for the implementation of this section.~~

Sec. 135.45. (A) Subject to division (B) of this section, a treasurer, governing board, or investing authority of a subdivision may pay public moneys of the subdivision into the Ohio subdivision's fund, which may be established in the custody of the treasurer of state. The treasurer of state shall invest the moneys in the fund in separately managed accounts and pooled accounts, including the state treasurer's investment pool, in the same manner, in the same types of instruments, and subject to the same limitations provided for the deposit and investment of interim moneys of the state, except that the fund shall not be invested in the linked deposits authorized under section 135.61 of the Revised Code.

(B) (1) On and after July 1, 1997, a treasurer, governing board, or investing authority of a subdivision that has not entered into an agreement with the treasurer of state under

division (C) of this section shall not invest public moneys of 9833
the subdivision in a pooled account of the Ohio subdivision's 9834
fund under division (B) (6) of section 135.14 of the Revised Code 9835
or division (A) (6) of section 135.35 of the Revised Code if the 9836
pool does not maintain the highest letter or numerical rating 9837
provided by at least one nationally recognized statistical 9838
rating organization. 9839

(2) Upon receipt of notice that the pool does not maintain 9840
the highest letter or numerical rating required under division 9841
(B) (1) of this section, the treasurer of state shall have ninety 9842
days to obtain the required highest letter or numerical rating. 9843
If the treasurer of state fails to obtain the required highest 9844
letter or numerical rating, the treasurer of state shall have an 9845
additional one hundred eighty days to develop a plan to dissolve 9846
the pool. The plan shall include reasonable standards for the 9847
equitable return of public moneys in the pool to those 9848
subdivisions participating in the pool. 9849

(3) Treasurers, governing boards, or investing authorities 9850
of subdivisions participating in the pool shall not be required 9851
to divest in the pool during the initial one hundred eighty days 9852
following the treasurer of state's receipt of notice under 9853
division (B) (2) of this section. 9854

(C) A treasurer, governing board, or investing authority 9855
of a subdivision that wishes to invest public moneys of the 9856
subdivision in a separately managed account or pooled account of 9857
the Ohio subdivision's fund may enter into an agreement with the 9858
treasurer of state that sets forth the manner in which the money 9859
is to be invested. The treasurer of state shall invest the 9860
moneys in accordance with the agreement, subject to the 9861
limitations set forth in division (A) of this section. For 9862

purposes of this division, the limitation on investments in debt 9863
interests provided in division (A) (11) (a) of section 135.143 of 9864
the Revised Code shall not apply to a subdivision's excess 9865
reserves. 9866

(D) The treasurer of state shall adopt ~~such rules as are~~ 9867
~~necessary for the implementation of this section, including the~~ 9868
~~efficient administration of and~~ accounting for the separately 9869
managed accounts and pooled accounts, including the state 9870
treasurer's investment pool, and the specification of minimum 9871
amounts that may be paid into such pools and minimum periods of 9872
time for which such payments shall be retained in the pools. The 9873
rules shall provide for the administrative expenses of the 9874
separately managed accounts and pooled accounts, including the 9875
state treasurer's investment pool, to be paid from the earnings 9876
and for the interest earnings in excess of such expenses to be 9877
credited to the several treasurers, governing boards, and 9878
investing authorities participating in a pool in a manner which 9879
equitably reflects the differing amounts of their respective 9880
investments in the pool and the differing periods of time for 9881
which such amounts are in the pool. 9882

(E) The treasurer of state shall give bond with sufficient 9883
sureties, payable to the treasurers, governing boards, and 9884
investing authorities of subdivisions participating in the fund, 9885
for the benefit of the subdivisions whose moneys are paid into 9886
the fund for investment, in the total penal sum of two hundred 9887
fifty thousand dollars, conditioned for the faithful discharge 9888
of the treasurer of state's duties in relation to the fund. 9889

(F) The treasurer of state and the treasurer of state's 9890
bonders or surety are liable for the loss of any interim moneys 9891
of the state and subdivisions invested under this section to the 9892

same extent the treasurer of state and the treasurer of state's 9893
bonders or surety are liable for the loss of public moneys under 9894
section 135.19 of the Revised Code. 9895

(G) As used in this section: 9896

(1) "Interim moneys" and "governing board" have the same 9897
meanings as in section 135.01 of the Revised Code. 9898

(2) (a) "Subdivision" has the same meaning as in section 9899
135.01 of the Revised Code, but also includes a county, a 9900
municipal corporation that has adopted a charter under Article 9901
XVIII, Ohio Constitution, or any government entity for which the 9902
fund is a permissible investment. 9903

(b) "Public moneys of a subdivision" has the same meaning 9904
as in section 135.01 of the Revised Code, but also includes 9905
"public moneys" as defined in section 135.31 of the Revised 9906
Code, and funds held in the custody of the treasurer of state 9907
notwithstanding any limitations on the permissible investments 9908
of such funds. 9909

(3) "Treasurer" has the same meaning as in sections 135.01 9910
and 135.31 of the Revised Code. 9911

(4) "Investing authority" has the same meaning as in 9912
section 135.31 of the Revised Code. 9913

(5) "Excess reserves" means the amount of a subdivision's 9914
public moneys that exceed the average of a subdivision's annual 9915
operating expenses in the immediately preceding three fiscal 9916
years. 9917

Sec. 135.46. (A) The treasurer of state may create a 9918
taxable investment pool or a tax-exempt investment pool, or 9919
both, for the purpose of providing a procedure for the temporary 9920

investment of bond proceeds. The pool shall be in the custody of 9921
the treasurer of state. 9922

(B) A treasurer, governing board, or investing authority 9923
of a subdivision, or any agency of the state that has debt- 9924
issuing authority may pay bond proceeds into either or both of 9925
the pools authorized under division (A) of this section. 9926

(C) The treasurer of state shall invest the funds of the 9927
taxable investment pool authorized under division (A) of this 9928
section in the same manner, in the same types of instruments, 9929
and subject to the same limitations provided for the deposit and 9930
investment of interim moneys of the state and subdivisions under 9931
sections 135.14 and 135.143 of the Revised Code. The treasurer 9932
also may invest in any other taxable obligations issued by any 9933
political subdivision of the state. 9934

(D) The treasurer of state shall invest the funds of the 9935
tax-exempt investment pool in debt obligations and participation 9936
interests in such obligations, if all of the following apply: 9937

(1) The obligations are issued by or on behalf of any 9938
state of the United States, or any political subdivision, 9939
agency, or instrumentality of any such state; 9940

(2) The interest on such obligations is exempt from 9941
federal income taxation; 9942

(3) The obligations are rated in either of the two highest 9943
classifications established by at least one nationally 9944
recognized statistical rating organization. 9945

(E) (1) The treasurer of state shall, pursuant to Chapter 9946
119. of the Revised Code, adopt ~~such rules as are necessary to~~ 9947
~~carry out the purposes of this section and for the efficient~~ 9948
~~administration and~~ accounting of a pool established pursuant to 9949

division (A) of this section. 9950

(2) The rules shall provide for the administrative 9951
expenses of such pool to be paid from its earnings and for the 9952
interest earnings in excess of such expenses to be credited to 9953
the several treasurers, governing boards, investing authorities, 9954
and agencies of the state participating in the pool in a manner 9955
that equitably reflects the differing amounts of their 9956
respective investments in the pool and the differing periods of 9957
time for which such amounts are in the pool. 9958

(3) The rules shall establish standards governing pools 9959
authorized under division (A) of this section, taking into 9960
consideration all federal rebate and yield restrictions and the 9961
objective of maintaining a high degree of safety and liquidity. 9962

(F) Upon creating a pool authorized under division (A) of 9963
this section, the treasurer of state shall give bond with 9964
sufficient sureties, payable to the treasurers, governing 9965
boards, and investing authorities of subdivisions and agencies 9966
of the state participating in the pool, for the benefit of the 9967
participating subdivisions and agencies, in the total penal sum 9968
of two hundred fifty thousand dollars, conditioned for the 9969
faithful discharge of the treasurer of state's duties in 9970
relation to the pool. 9971

(G) The treasurer of state and the treasurer of state's 9972
bonders or surety are liable for the loss of any moneys of the 9973
state invested under this section through a pool established 9974
under division (A) of this section to the same extent the 9975
treasurer of state and the treasurer of state's bonders or 9976
surety are liable for the loss of public moneys under section 9977
135.19 of the Revised Code. 9978

(H) As used in this section:	9979
(1) "Governing board" has the same meaning as in section 135.01 of the Revised Code.	9980 9981
(2) "Interim moneys" has the same meaning as in section 135.01 of the Revised Code.	9982 9983
(3) "Investing authority" has the same meaning as in section 135.31 of the Revised Code.	9984 9985
(4) "Public moneys of a subdivision" has the same meaning as in section 135.01 of the Revised Code, but also includes "public moneys" as defined in section 135.31 of the Revised Code, and funds held in the custody of the treasurer of state notwithstanding any limitations on the permissible investments of such funds.	9986 9987 9988 9989 9990 9991
(5) "Subdivision" has the same meaning as in section 135.01 of the Revised Code, but also includes a county, or a municipal corporation that has adopted a charter under Article XVIII, Ohio Constitution.	9992 9993 9994 9995
(6) "Treasurer" has the same meaning as in sections 135.01 and 135.31 of the Revised Code.	9996 9997
Sec. 135.61. (A) For the purposes of this section:	9998
(1) "Eligible borrower," "eligible credit union," and "eligible lending institution" have the same meanings as in section 135.62 of the Revised Code.	9999 10000 10001
(2) "Eligible participant" and "eligible savings institution" have the same meanings as in section 135.70 of the Revised Code.	10002 10003 10004
(B) The treasurer of state may invest in linked deposits	10005

under sections 135.61 to 135.66 and 135.70 to 135.71 of the Revised Code, provided that at the time any such linked deposits are placed, purchased, or designated, the combined amount of investments of public money of the state in linked deposits of any kind is not more than twelve per cent of the state's total average investment portfolio, as determined by the treasurer of state. When deciding whether to invest in any linked deposits, the treasurer of state shall give priority to the investment, liquidity, and cash flow needs of the state.

(C) The treasurer of state may, in accordance with section 111.15 of the Revised Code, adopt rules ~~necessary~~ for the implementation and administration of linked deposits authorized by this section, including, but not limited to, that establish the manner in which an eligible lending institution or eligible savings institution is designated, and the manner in which linked deposits are placed, purchased, designated, held, and collateralized.

(D) Notwithstanding any contrary provision of the Revised Code, the treasurer of state may require an eligible credit union that holds linked deposits authorized under this section to pay interest at a rate not lower than the product of the interest rate set in the deposit agreement, as required by sections 135.623 and 135.703 of the Revised Code, multiplied by the sum of one plus the treasurer of state's assessment rate. ~~The treasurer of state may, in accordance with section 119.03 of the Revised Code, adopt rules necessary for the implementation of this division.~~

(E) (1) Records of the treasurer of state, an eligible lending institution, or an eligible savings institution are not public records within the meaning of section 149.43 of the

Revised Code if any of the following apply: 10036

(a) The record is provided by an eligible borrower to an 10037
eligible lending institution, or by an eligible participant to 10038
an eligible savings institution, to obtain a financial service 10039
or product from such institution. 10040

(b) The record results from a transaction between the 10041
eligible borrower and the eligible lending institution, or the 10042
eligible participant and the eligible savings institution, 10043
involving a financial product or service. 10044

(c) An eligible lending institution or eligible savings 10045
institution otherwise obtains the record about an eligible 10046
borrower or eligible participant in connection with providing a 10047
financial product or service. 10048

(2) The records specified in division (E)(1) of this 10049
section may include names, addresses, telephone numbers, social 10050
security numbers, income, credit scores, information obtained 10051
through cookies and other internet collection devices, loan 10052
amounts, contributors to a linked deposit savings account, and 10053
amounts contributed to, earned by, or distributed from a linked 10054
deposit savings account. 10055

Sec. 145.038. (A) A public employer who on or after 10056
January 7, 2013, begins to receive personal services from an 10057
individual it classifies as an independent contractor or another 10058
classification other than public employee shall inform the 10059
individual of the classification and that no contributions will 10060
be made to the public employees retirement system for the 10061
services. Not later than thirty days after the services begin, 10062
the employer to whom the personal services will be rendered 10063
shall require the individual to acknowledge, in writing on a 10064

form provided by the system, that the individual has been 10065
informed that the employer does not consider the individual a 10066
public employee and no contributions will be made to the public 10067
employees retirement system for the services. The employer shall 10068
retain the acknowledgement for a period of five years after the 10069
date the services begin and immediately transmit a copy of it to 10070
the public entity responsible for submitting to the system the 10071
reports required by section 145.47 of the Revised Code. The 10072
public entity shall transmit a copy of the acknowledgement to 10073
the system. 10074

(B) (1) Regardless of whether the individual has made an 10075
acknowledgement under division (A) of this section and, except 10076
as provided in division (B) (2) of this section, an individual 10077
may request that the public employees retirement board determine 10078
whether the individual is a public employee for purposes of this 10079
chapter. 10080

(2) Division (B) (1) of this section does not apply to an 10081
individual employed by a business entity under contract with a 10082
public employer to provide personal services to the employer. 10083

(C) A request for a determination must be made not later 10084
than five years after the individual begins to provide personal 10085
services to the public employer, unless the individual 10086
demonstrates to the board's satisfaction through medical records 10087
that at the time the five-year period ended the individual was 10088
physically or mentally incapacitated and unable to request a 10089
determination. 10090

(D) On receipt of a request under division (B) (1) of this 10091
section, the board shall determine whether the individual is a 10092
public employee for the purposes of this chapter. If the board 10093
determines that the individual is not a public employee for the 10094

services, for the purposes of this chapter, the individual shall 10095
not be considered a public employee with regard to the services 10096
in question. The board's determination is final. 10097

The board shall notify the individual and the public 10098
employer of its determination. The determination shall apply to 10099
services performed before, on, or after January 7, 2013, for the 10100
same employer in the same capacity. 10101

~~(E) The board may adopt rules under section 145.09 of the 10102
Revised Code to implement this section and sections 145.036 and 10103
145.037 of the Revised Code. 10104~~

Sec. 145.09. The public employees retirement board shall 10105
elect from its membership a chairperson. The board shall appoint 10106
an executive director who shall serve as secretary to the board, 10107
an actuary, and other employees as necessary for the transaction 10108
of the business of the public employees retirement system. The 10109
compensation of all persons so appointed shall be fixed by the 10110
board. Such persons appointed by the board are not employees of 10111
the state and are not subject to Chapter 124. of the Revised 10112
Code. 10113

Effective ninety days after September 15, 2004, the board 10114
may not employ a state retirement system investment officer, as 10115
defined in section 1707.01 of the Revised Code, who does not 10116
hold a valid state retirement system investment officer license 10117
issued by the division of securities in the department of 10118
commerce. 10119

Every expense voucher of an employee, officer, or board 10120
member of the public employees retirement system shall itemize 10121
all purchases and expenditures. 10122

The board shall perform other functions, except adopt 10123

rules unless specifically required to do so, as required for the 10124
proper execution of this chapter, ~~and may adopt rules in~~ 10125
~~accordance with section 111.15 of the Revised Code for the~~ 10126
~~proper administration and management of this chapter.~~ 10127

The board may take all appropriate action to avoid payment 10128
by the system or its members of federal or state income taxes on 10129
contributions to the system or amounts earned on such 10130
contributions. 10131

Notice of proposed rules shall be given to interested 10132
parties and rules adopted by the board shall be published and 10133
otherwise made available. When it files a rule with the joint 10134
committee on agency rule review pursuant to section 111.15 of 10135
the Revised Code, the board shall submit to the Ohio retirement 10136
study council a copy of the full text of the rule, and if 10137
applicable, a copy of the rule summary and fiscal analysis 10138
required by division (B) of section 106.024 of the Revised Code. 10139

The board may sue and be sued, plead and be impleaded, 10140
contract and be contracted with. All of its business shall be 10141
transacted, all of its funds invested, all warrants for money 10142
drawn and payments made, and all of its cash and securities and 10143
other property shall be held in the name of the board, or in the 10144
name of its nominee, provided that nominees are authorized by 10145
retirement board resolution for the purpose of facilitating the 10146
ownership and transfer of investments. 10147

If the Ohio retirement study council establishes a uniform 10148
format for any report the board is required to submit to the 10149
council, the board shall submit the report in that format. 10150

Sec. 145.092. (A) The public employees retirement board, 10151
in consultation with the Ohio ethics commission, shall review 10152

any existing policy regarding the travel and payment of travel 10153
expenses of members and employees of the public employees 10154
retirement board and adopt rules in accordance with section 10155
~~145.09~~111.15 of the Revised Code establishing a new or revised 10156
policy regarding travel and payment of travel expenses. Not less 10157
than sixty days before adopting a new or revised policy, the 10158
board shall submit the policy to the Ohio retirement study 10159
council for review. 10160

(B) If the board intends to award a bonus to any employee 10161
of the board, it shall adopt rules in accordance with section 10162
~~145.09~~111.15 of the Revised Code establishing a policy 10163
regarding employee bonuses. 10164

(C) The board shall provide copies of the rules adopted 10165
under divisions (A) and (B) of this section to each member of 10166
the Ohio retirement study council; 10167

(D) The board shall submit both of the following to the 10168
Ohio retirement study council: 10169

(1) A proposed operating budget, including an 10170
administrative budget for the board, for the next immediate 10171
fiscal year and adopt that budget not earlier than sixty days 10172
after it is submitted to the council; 10173

(2) A plan describing how the board will improve the 10174
dissemination of public information pertaining to the board. 10175

Sec. 145.196. (A) As used in this section: 10176

(1) "Individual account" means the account maintained for 10177
a member of the PERS combined plan in the defined contribution 10178
fund created in section 145.23 of the Revised Code, in which the 10179
member's contributions under section 145.85 of the Revised Code 10180
are deposited and credited. 10181

(2) "PERS combined plan" means the hybrid plan established under section 145.81 of the Revised Code that includes a PERS defined benefit plan component and a PERS defined contribution plan component that includes definitely determinable benefits as described in section 145.82 of the Revised Code.

(B) The public employees retirement system may, in accordance with rules it adopts under ~~this~~ section 111.15 of the Revised Code, consolidate the PERS combined plan with the PERS defined benefit plan for the purpose of administering the definitely determinable benefits under the PERS combined plan and the allowance payable under section 145.335 of the Revised Code.

(C) If the system consolidates the PERS combined plan with the PERS defined benefit plan as permitted under division (B) of this section, all of the following apply:

(1) The PERS combined plan ceases to be a separate legal entity, and all members participating in the PERS combined plan at the time of consolidation shall be members of the PERS defined benefit plan.

(2) The system shall do all of the following regarding a member's individual account:

(a) Maintain the individual account of each member who was participating in the PERS combined plan at the time of consolidation;

(b) Deposit and credit the member's contributions under section 145.47 of the Revised Code into the member's individual account;

(c) If the system maintains the member's individual account in the defined contribution fund for purposes of

investing the account's funds, treat the individual account as 10211
deposited and credited to the PERS defined benefit plan for 10212
accounting purposes; 10213

(d) Administer the member's individual account in 10214
accordance with rules adopted by the public employees retirement 10215
board in accordance with section 111.15 of the Revised Code and 10216
in a manner consistent with the PERS defined contribution plan. 10217

(3) The system shall deposit and credit the employer 10218
contributions under section 145.48 of the Revised Code for a 10219
member participating in the PERS combined plan at the time of 10220
consolidation into the employers' accumulation fund created in 10221
section 145.23 of the Revised Code to pay the definitely 10222
determinable benefits under the plan. 10223

(4) All members participating in the PERS combined plan at 10224
the time of consolidation shall be entitled to the rights and 10225
benefits to which the member was entitled under the PERS 10226
combined plan as of the date of consolidation, subject to future 10227
amendments to the PERS defined benefit plan. 10228

(D) The eligibility of members participating in the PERS 10229
combined plan at the time of consolidation under this section 10230
for age and service retirement, disability, survivor, or death 10231
benefits shall be determined under sections 145.32, 145.35, 10232
145.36, 145.361, 145.45, and 145.451 of the Revised Code. A 10233
member's retirement allowance shall be an amount determined in 10234
accordance with section 145.335 of the Revised Code. 10235

(E) The following sections of Chapter 145. of the Revised 10236
Code do not apply to the individual account of a member 10237
participating in the PERS combined plan at the time of 10238
consolidation under this section: sections 145.222, 145.297, 10239

145.298, 145.2914, 145.31, 145.311, 145.312, 145.33, 145.332, 10240
145.334, 145.37, 145.382, 145.383, 145.385, 145.40, 145.401, 10241
145.472, 145.49, 145.581, 145.582, 145.62, 145.63, 145.64, and 10242
145.65 of Revised Code. 10243

Sec. 145.28. (A) As used in this section, "paying system" 10244
and "transferring system" have the same meanings as in section 10245
145.37 of the Revised Code. 10246

(B) (1) Except as provided in division (B) (2) of this 10247
section, a member of the public employees retirement system with 10248
at least eighteen months of contributing service in the system, 10249
the state teachers retirement system, or the school employees 10250
retirement system who exempted self from membership in one or 10251
more of the systems pursuant to section 145.03 or 3309.23 of the 10252
Revised Code, or former section 3307.25 or 3309.25 of the 10253
Revised Code, or was exempt under section 3307.24 of the Revised 10254
Code, may purchase credit for each year or portion of a year of 10255
service for which the member was exempted. 10256

(2) A member may not purchase credit under this section 10257
for exempted service if the service was exempted from 10258
contribution under section 145.03 of the Revised Code and 10259
subject to the tax on wages imposed by the "Federal Insurance 10260
Contributions Act," 68A Stat. 415 (1954), 26 U.S.C.A. 3101, as 10261
amended. 10262

(C) Credit shall be purchased under this section in 10263
accordance with section 145.29 of the Revised Code. 10264

(D) Credit purchasable under this section shall not exceed 10265
one year of service for any twelve-month period. If the period 10266
of service for which credit is purchasable under this section is 10267
concurrent with a period of service that will be used to 10268

calculate a retirement benefit from this system, the state 10269
teachers retirement system, or school employees retirement 10270
system, the amount of the credit shall be adjusted in accordance 10271
with rules adopted by the public employees retirement board. 10272

A member who is also a member of the state teachers 10273
retirement system or the school employees retirement system 10274
shall purchase credit for any service for which the member 10275
exempted self under section 145.03 or 3309.23 of the Revised 10276
Code, or former section 3307.25 or 3309.25 of the Revised Code, 10277
or was exempt under section 3307.24 of the Revised Code, from 10278
the retirement system in which the member has the greatest 10279
number of years of service credit. If the member receives 10280
benefits under section 145.37 of the Revised Code, the system 10281
that is the paying system under that section shall receive from 10282
the system or systems that are transferring systems the amounts 10283
paid by the member for purchase of credit for exempt service 10284
plus interest at the actuarial assumption rate of the 10285
transferring system. The interest shall be for the period 10286
beginning on the date of the member's last payment for purchase 10287
of the credit and ending on the date of the member's retirement. 10288

~~(E) The retirement board shall adopt rules to implement 10289
this section. 10290~~

Sec. 145.2913. (A) As used in this section, "transferred 10291
service credit" means service credit purchased or obtained under 10292
section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 10293
of the Revised Code prior to the date a member commenced the 10294
employment covered by the public employees retirement system for 10295
which the member is currently contributing to the system. 10296

(B) A member of the public employees retirement system who 10297
has contributions on deposit with, but is no longer contributing 10298

to, a uniform retirement system shall, in computing years of 10299
service, be given full credit for transferred service credit if 10300
a transfer to the public employees retirement system is made 10301
under this division. At the request of a member a transfer shall 10302
be made if all of the following conditions are met: 10303

(1) The member is eligible, or with the credit will be 10304
eligible, for a retirement or disability benefit. 10305

(2) The member agrees to retire or accept a disability 10306
benefit not later than ninety days after receiving notice from 10307
the public employees retirement system that the credit has been 10308
obtained. 10309

(3) For each year of service, the uniform system transfers 10310
to the public employees retirement system the sum of the 10311
following: 10312

(a) An amount equal to the amounts transferred to the 10313
uniform system under section 742.21, 742.214, 742.375, 5505.201, 10314
5505.40, or 5505.41 of the Revised Code; 10315

(b) Interest, determined as provided in division (E) of 10316
this section, on the amount specified in division (B) (3) (a) of 10317
this section for the period from the last day of the year in 10318
which the transfer under section 742.21, 742.214, 742.375, 10319
5505.201, 5505.40, or 5505.41 of the Revised Code was made to 10320
the date a transfer is made under this section. 10321

(C) A member of the public employees retirement system 10322
with at least eighteen months of contributing service credit 10323
with the public employees retirement system who has received a 10324
refund of contributions to a uniform retirement system shall, in 10325
computing years of service, be given full credit for transferred 10326
service credit if all of the following conditions are met: 10327

- (1) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit. 10328
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- (2) The member agrees to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that the credit has been obtained. 10330
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- (3) For each year of service, the public employees retirement system receives the sum of the following: 10334
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- (a) An amount, which shall be paid by the member, equal to the amount refunded by the uniform system to the member for that year for transferred service credit, with interest on that amount from the date of the refund to the date a payment is made under this section; 10336
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- (b) Interest, which shall be transferred by the uniform system, on the amount refunded to the member for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date the refund was made; 10341
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- (c) If the uniform system retained any portion of the amount transferred under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code, an amount, which shall be transferred by the uniform system, equal to the amount retained, with interest on that amount for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date a transfer is made under this section. 10346
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- On receipt of payment from the member, the public employees retirement system shall notify the uniform system, 10355
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which, on receipt of the notice, shall make the transfer 10357
required by this division. Interest shall be determined as 10358
provided in division (E) of this section. 10359

(D) Service credit purchased or obtained under this 10360
section shall be considered the equivalent of Ohio service 10361
credit. A member may choose to purchase only part of the credit 10362
the member is eligible to purchase under division (C) of this 10363
section, subject to rules adopted by the public employees 10364
retirement board. A member is ineligible to purchase or obtain 10365
service credit under this section for service to be used in the 10366
calculation of any retirement benefit currently being paid or 10367
payable to the member in the future under any other retirement 10368
program or for service credit that may be purchased or obtained 10369
under section 145.295 of the Revised Code. 10370

(E) Interest charged under this section shall be 10371
calculated separately for each year of service credit at the 10372
lesser of the actuarial assumption rate for that year of the 10373
public employees retirement system or of the uniform retirement 10374
system to which the credit was transferred under section 742.21, 10375
742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised 10376
Code. The interest shall be compounded annually. 10377

(F) Any amounts transferred or paid under divisions (B) 10378
and (C) of this section that are attributable to contributions 10379
made by the member or to amounts paid to purchase service credit 10380
shall be credited to the employees' savings fund created under 10381
section 145.23 of the Revised Code. Any remaining amounts shall 10382
be credited to one or more of the funds created under that 10383
section as determined by the board. 10384

(G) At the request of the public employees retirement 10385
system, the uniform retirement system shall certify to the 10386

public employees retirement system a copy of the records of the 10387
service and contributions of a public employees retirement 10388
system member who seeks service credit under this section. The 10389
uniform retirement system shall specify the portions of the 10390
amounts transferred that are attributable to employee 10391
contributions, employer contributions, and interest. 10392

(H) If a member of the public employees retirement system 10393
who is not a current contributor elects to receive service 10394
credit under section 742.214 or 5505.41 of the Revised Code for 10395
transferred service credit, as defined in those sections, the 10396
system shall transfer to the uniform retirement system, as 10397
applicable, the amount specified in division (B) or (C) of 10398
section 742.214 or division (B) or (C) of section 5505.41 of the 10399
Revised Code. 10400

(I) The public employees retirement system shall withdraw 10401
the credit and refund all amounts paid or transferred under this 10402
section if either of the following occurs: 10403

(1) The member fails to retire or accept a disability 10404
benefit not later than ninety days after receiving notice from 10405
the public employees retirement system that credit has been 10406
obtained under this section. 10407

(2) The member's application for a disability benefit is 10408
denied. 10409

~~(J) The board may adopt rules to implement this section.~~ 10410

Sec. 145.2914. (A) The public employees retirement board 10411
may adopt rules in accordance with section ~~145.09-111.15~~ of the 10412
Revised Code to establish a program under which service credit 10413
earned under section 145.33 of the Revised Code or division (A) 10414
(2), (B) (1) (b), or (C) (2) of section 145.332 of the Revised Code 10415

is treated as service credit earned under division (A) (1), (B) 10416
(1) (a), or (C) (1) of section 145.332 of the Revised Code if the 10417
member elects to do one of the following: 10418

(1) Have the amount of service credit earned under section 10419
145.33 of the Revised Code or division (A) (2), (B) (1) (b), or (C) 10420
(2) of section 145.332 of the Revised Code reduced so there is 10421
no additional liability to the public employees retirement 10422
system; 10423

(2) Make payment to the public employees retirement system 10424
in accordance with the rules. The number of years of service 10425
credit earned under section 145.33 of the Revised Code or 10426
division (A) (2), (B) (1) (b), or (C) (2) of section 145.332 of the 10427
Revised Code that may be treated as service credit earned under 10428
division (A) (1), (B) (1) (a), or (C) (1) of section 145.332 of the 10429
Revised Code shall not exceed five. 10430

(B) If the board adopts rules under division (A) of this 10431
section, all of the following apply to payments made under 10432
division (A) (2) of this section: 10433

(1) For each year or portion of a year of service credit 10434
earned under section 145.33 of the Revised Code or division (A) 10435
(2), (B) (1) (b), or (C) (2) of section 145.332 of the Revised Code 10436
that is to be treated as service credit earned under division 10437
(A) (1), (B) (1) (a), or (C) (1) of section 145.332 of the Revised 10438
Code, the member shall pay to the retirement system an amount 10439
specified by the retirement board that is not less than one 10440
hundred per cent of the additional liability resulting from the 10441
purchase of that year, or portion of a year, of service. 10442

(2) Any amounts paid under this section shall be credited 10443
to the employees' savings fund. 10444

(3) The amounts paid by the member under this section are 10445
subject to the limits established by division (n) of section 415 10446
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 10447
U.S.C. 415(n), as amended. 10448

(C) A member may make the election authorized by this 10449
section if the member is eligible to retire under this chapter 10450
or will become eligible to retire as a result of the election. 10451
The member shall agree to retire not later than ninety days 10452
after making the election under division (A) (1) of this section 10453
or receiving notice of the additional liability specified under 10454
division (B) (1) of this section. If the member makes the 10455
election under division (A) (2) of this section, payment shall be 10456
made in full for any credit earned under section 145.33 of the 10457
Revised Code or division (A) (2), (B) (1) (b), or (C) (2) of section 10458
145.332 of the Revised Code that is to be treated as service 10459
credit earned under division (A) (1), (B) (1) (a), or (C) (1) of 10460
section 145.332 of the Revised Code, but the member may choose 10461
to make payment for only part of the credit for which the member 10462
is eligible. 10463

(D) If the member does not retire not later than ninety 10464
days after making the election under division (A) (1) of this 10465
section or the payment under division (A) (2) of this section, 10466
the system shall refund any payment and shall not treat the 10467
credit as service credit earned under division (A) (1), (B) (1) 10468
(a), or (C) (1) of section 145.332 of the Revised Code. 10469

~~(E) The board's rules may deal with any other matter 10470
necessary to implement this section. 10471~~

Sec. 145.311. (A) A member of the public employees 10472
retirement system who has at least eighteen months of 10473
contributing service credit in the system, the Ohio police and 10474

fire pension fund, school employees retirement system, state 10475
teachers retirement system, or state highway patrol retirement 10476
system, and is a former member of or no longer contributing to 10477
the school employees retirement system or state teachers 10478
retirement system may restore service credit under section 10479
3307.71 or 3309.26 of the Revised Code by making payments 10480
pursuant to this section through a payroll deduction plan 10481
established under section 145.294 of the Revised Code. A member 10482
seeking to restore this service credit shall notify the public 10483
employees retirement system on a form approved by the public 10484
employees retirement board. After receiving the notice, the 10485
public employees retirement system shall request that the former 10486
retirement system calculate under section 3307.712 or 3309.262 10487
of the Revised Code the cost to the member to restore service 10488
credit for each year or portion of a year of service for which 10489
the member seeks to restore the service credit. The amount the 10490
former retirement system certifies as the cost of restoring the 10491
service credit, plus interest described in division (B) of this 10492
section, is the cost to the member of restoring the service 10493
credit. On receiving the certification from the former 10494
retirement system, the public employees retirement system shall 10495
notify the member of the cost. 10496

(B) For each year or portion of a year of service credit 10497
restored under section 3307.71 or 3309.26 of the Revised Code, a 10498
member shall pay to the public employees retirement system the 10499
amount certified by the former retirement system plus interest 10500
at a rate specified by the former retirement system under 10501
section 3307.712 or 3309.262 of the Revised Code for the period 10502
during which deductions are made under section 145.294 of the 10503
Revised Code. 10504

(C) The public employees retirement board shall at least 10505

annually transmit to the former retirement system notice and any 10506
payments made to restore service credit under section 3307.71 or 10507
3309.26 of the Revised Code. The former retirement system shall 10508
restore the service credit for the year or portion of a year for 10509
which the payment was made. 10510

~~(D) The board shall adopt rules to implement this section.~~ 10511

Sec. 145.323. (A) Except as otherwise provided in this 10512
section, the public employees retirement board shall annually 10513
increase each allowance, pension, or benefit payable under this 10514
chapter. 10515

Until the last day of December of the fifth full calendar 10516
year after ~~the effective date of this amendment~~ January 7, 2013, 10517
the increase shall be three per cent. For each succeeding 10518
calendar year, the increase shall be as follows: 10519

(1) For each allowance, pension, or benefit granted not 10520
later than ~~the effective date of this amendment~~ January 7, 2013, 10521
three per cent; 10522

(2) For each allowance, pension, or benefit granted on or 10523
after ~~the effective date of this amendment~~ January 7, 2013, the 10524
percentage increase in the consumer price index, not exceeding 10525
three per cent, as determined by the United States bureau of 10526
labor statistics (U.S. city average for urban wage earners and 10527
clerical workers: "all items 1982-84=100") for the twelve-month 10528
period ending on the thirtieth day of June of the immediately 10529
preceding calendar year. If the consumer price index for that 10530
period did not increase, no increase shall be made under 10531
division (A) (2) of this section. 10532

No allowance, pension, or benefit shall exceed the limit 10533
established by section 415 of the "Internal Revenue Code of 10534

1986," 100 Stat. 2085, 26 U.S.C. 415, as amended. 10535

The first increase is payable to all persons becoming 10536
eligible after June 30, 1971, upon such persons receiving an 10537
allowance for twelve months. The increased amount is payable for 10538
the ensuing twelve-month period or until the next increase is 10539
granted under this section, whichever is later. Subsequent 10540
increases shall be determined from the date of the first 10541
increase paid to the former member in the case of an allowance 10542
being paid a beneficiary under an option, or from the date of 10543
the first increase to the survivor first receiving an allowance 10544
or benefit in the case of an allowance or benefit being paid to 10545
the subsequent survivors of the former member. 10546

The date of the first increase under this section becomes 10547
the anniversary date for any future increases. 10548

The allowance or benefit used in the first calculation of 10549
an increase under this section shall remain as the base for all 10550
future increases, unless a new base is established. 10551

(B) If payment of a portion of a benefit is made to an 10552
alternate payee under section 145.571 of the Revised Code, 10553
increases under this section granted while the order is in 10554
effect shall be apportioned between the alternate payee and the 10555
benefit recipient in the same proportion that the amount being 10556
paid to the alternate payee bears to the amount paid to the 10557
benefit recipient. 10558

If payment of a portion of a benefit is made to one or 10559
more beneficiaries under a multiple-life plan under section 10560
145.46 of the Revised Code, each increase under this section 10561
granted while the plan of payment is in effect shall be divided 10562
among the designated beneficiaries in accordance with the 10563

portion each beneficiary has been allocated. 10564

~~(C) The board shall make all rules necessary to carry out
this section.~~ 10565
10566

Sec. 145.381. (A) This section applies in the case of a 10567
person who is or most recently has been employed by a public 10568
employer in a position that is customarily filled by a vote of 10569
members of a board or commission or by the legislative authority 10570
of a county, municipal corporation, or township. 10571

(B) A board, commission, or legislative authority that 10572
proposes to continue the employment as a reemployed retirant or 10573
rehire as a reemployed retirant to the same position an 10574
individual described in division (A) of this section shall do 10575
both of the following ~~in accordance with rules adopted under~~ 10576
~~division (C) of this section:~~ 10577

(1) Not less than sixty days before the employment as a 10578
reemployed retirant is to begin, give public notice that the 10579
person is or will be retired and is seeking employment with the 10580
public employer; 10581

(2) Between fifteen and thirty days before the employment 10582
as a reemployed retirant is to begin and after complying with 10583
division (B)(1) of this section, hold a public meeting on the 10584
issue of the person being employed by the public employer. 10585

The notice regarding division (B)(1) of this section shall 10586
include the time, date, and location at which the public meeting 10587
is to take place. 10588

~~(C) The public employees retirement board shall adopt
rules as necessary to implement this section.~~ 10589
10590

Sec. 145.391. The public employees retirement board may 10591

establish and maintain a qualified governmental excess benefit 10592
arrangement that meets the requirements of division (m) of 10593
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 10594
2085, 26 U.S.C.A. 415, as amended, and any regulations adopted 10595
thereunder. If established, the arrangement shall be a separate 10596
portion of the public employees retirement system and be 10597
maintained solely for the purpose of providing to retired 10598
members that part of a benefit otherwise payable under this 10599
chapter that exceeds the limits established by section 415 of 10600
the "Internal Revenue Code of 1986," as amended. If established, 10601
the amounts required to fund the arrangement shall be included 10602
in the employer's contribution required by sections 145.48 and 10603
145.51 of the Revised Code. 10604

Members participating in an arrangement established under 10605
this section shall not be permitted to elect to defer 10606
compensation to the arrangement. Contributions to and benefits 10607
paid under an arrangement shall not be payable from a trust that 10608
is part of the system unless the trust is maintained solely for 10609
the purpose of providing such benefits. 10610

~~The board shall adopt rules to administer an arrangement~~ 10611
~~established under this section.~~ 10612

Sec. 145.401. (A) As used in this section, "service 10613
credit" means service credit earned for periods for which 10614
contributions were made under section 145.47 of the Revised Code 10615
and, if applicable, periods for which service credit was 10616
purchased or restored under section 145.302 or 145.31 of the 10617
Revised Code. 10618

(B) If a member has, or at the time of death had, at least 10619
five years of service credit, the public employees retirement 10620
board shall include the amount specified in rules adopted by the 10621

board in the amount payable under section 145.40 of the Revised Code to the member, or under division (B) of section 145.43 of the Revised Code to a beneficiary or beneficiaries of the member, unless at the time of death the member was a disability benefit recipient. The amount specified in rules shall be paid from the employers' accumulation fund.

(C) The public employees retirement board shall adopt rules under section ~~145.09~~111.15 of the Revised Code specifying the additional amounts that may be provided a member under section 145.40 of the Revised Code or a beneficiary or beneficiaries under division (B) of section 145.43 of the Revised Code. The additional amounts may vary depending on the amount of service credit the member has accrued.

Sec. 145.43. (A) As used in this section and in section 145.45 of the Revised Code:

(1) "Child" means a biological or legally adopted child of a deceased member. If a court hearing for an interlocutory decree for adoption was held prior to the member's death, "child" includes the child who was the subject of the hearing notwithstanding the fact that the final decree of adoption, adjudging the surviving spouse as the adoptive parent, is made subsequent to the member's death.

(2) "Parent" is a parent or legally adoptive parent of a deceased member.

(3) "Dependent" means a beneficiary who receives one-half of the beneficiary's support from a member during the twelve months prior to the member's death.

(4) "Surviving spouse" means an individual who establishes a valid marriage to a member at the time of the member's death

by marriage certificate or pursuant to division (E) of this section. 10651
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(5) "Survivor" means a surviving spouse, child, or parent. 10653

(6) "Accumulated contributions" has the meaning given in section 145.01 of the Revised Code, except that, notwithstanding that section, it does not include additional amounts deposited in the employees' savings fund pursuant to the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to April 6, 2007, or pursuant to section 145.62 of the Revised Code. 10654
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(B) Except as provided in division (C) (1) of section 145.45 of the Revised Code, should a member die before age and service retirement, the member's accumulated contributions and any applicable amount calculated under section 145.401 of the Revised Code, shall be paid to the person or persons the member has designated under section 145.431 of the Revised Code. A member may designate two or more persons as beneficiaries to be paid the accumulated account in a lump sum. Subject to rules adopted by the public employees retirement board, a member who designates two or more persons as beneficiaries shall specify the percentage of the lump sum that each beneficiary is to be paid. If the member has not specified the percentages, the lump sum shall be divided equally among the beneficiaries. 10661
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The last designation of any beneficiary revokes all previous designations. The member's marriage, divorce, marriage dissolution, legal separation, or withdrawal of account, or the birth of the member's child, or adoption of a child, shall constitute an automatic revocation of the member's previous designation. If a deceased member was also a member of the school employees retirement system or the state teachers 10674
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retirement system and a survivor benefit may be paid under 10681
section 145.37, 3307.57, or 3309.35 of the Revised Code, the 10682
beneficiary last established among the systems shall be the sole 10683
beneficiary in all the systems. 10684

If the accumulated contributions of a deceased member are 10685
not claimed by a beneficiary or by the estate of the deceased 10686
member within five years after the death, the contributions 10687
shall remain in the employees' savings fund or may be 10688
transferred to the income fund and thereafter shall be paid to 10689
the beneficiary or to the member's estate upon application to 10690
the board. The board, in accordance with section 111.15 of the 10691
Revised Code, shall formulate and adopt the necessary rules 10692
governing all designations of beneficiaries. 10693

(C) Except as provided in division (C) (1) of section 10694
145.45 of the Revised Code, if a member dies before age and 10695
service retirement and is not survived by a designated 10696
beneficiary, the following shall qualify, with all attendant 10697
rights and privileges, in the following order of precedence, the 10698
member's: 10699

(1) Surviving spouse; 10700

(2) Children, share and share alike; 10701

(3) A dependent parent, if that parent takes survivor 10702
benefits under division (B) of section 145.45 of the Revised 10703
Code; 10704

(4) Parents, share and share alike; 10705

(5) Estate. 10706

If the beneficiary is deceased or is not located within 10707
ninety days, the beneficiary ceases to qualify for any benefit 10708

and the beneficiary next in order of precedence shall qualify as a beneficiary. 10709
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Any payment made to a beneficiary as determined by the board shall be a full discharge and release to the board from any future claims. 10711
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(D) Any amount due a retirant or disability benefit recipient receiving a monthly benefit and unpaid to the retirant or recipient at death shall be paid to the beneficiary designated in writing duly executed on a form provided by the board, signed by the retirant or recipient, and filed with the board. If no such designation has been filed, or if the designated beneficiary is not located within ninety days, any amounts payable under this chapter due to the death of the retirant or recipient shall be paid in the following order of precedence to the retirant's or recipient's: 10714
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(1) Surviving spouse; 10724

(2) Children, share and share alike; 10725

(3) Parents, share and share alike; 10726

(4) Estate. 10727

The payment shall be a full discharge and release to the board from any future claim for the payment. 10728
10729

Any amount due a beneficiary receiving a monthly benefit and unpaid to the beneficiary at the beneficiary's death shall be paid to the beneficiary's estate. 10730
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(E) If the validity of marriage cannot be established to the satisfaction of the board for the purpose of disbursing any amount due under this section or section 145.45 of the Revised Code, the board may accept a decision rendered by a court having 10733
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jurisdiction in the state in which the member was domiciled at 10737
the time of death that the relationship constituted a valid 10738
marriage at the time of death, or the "spouse" would have the 10739
same status as a widow or widower for purposes of sharing the 10740
distribution of the member's intestate personal property. 10741

(F) As used in this division, "recipient" means an 10742
individual who is receiving or may be eligible to receive an 10743
allowance or benefit under this chapter based on the 10744
individual's service to a public employer. 10745

If the death of a member, a recipient, or any individual 10746
who would be eligible to receive an allowance or benefit under 10747
this chapter by virtue of the death of a member or recipient is 10748
caused by one of the following beneficiaries, no amount due 10749
under this chapter to the beneficiary shall be paid to the 10750
beneficiary in the absence of a court order to the contrary 10751
filed with the board: 10752

(1) A beneficiary who is convicted of, pleads guilty to, 10753
or is found not guilty by reason of insanity of a violation of 10754
or complicity in the violation of either of the following: 10755

(a) Section 2903.01, 2903.02, or 2903.03 of the Revised 10756
Code; 10757

(b) An existing or former law of any other state, the 10758
United States, or a foreign nation that is substantially 10759
equivalent to section 2903.01, 2903.02, or 2903.03 of the 10760
Revised Code. 10761

(2) A beneficiary who is indicted for a violation of or 10762
complicity in the violation of the sections or laws described in 10763
division (F)(1)(a) or (b) of this section and is adjudicated 10764
incompetent to stand trial; 10765

(3) A beneficiary who is a juvenile found to be a delinquent child by reason of committing an act that, if committed by an adult, would be a violation of or complicity in the violation of the sections or laws described in division (F) (1) (a) or (b) of this section.

Sec. 145.58. (A) The public employees retirement board shall adopt rules in accordance with section 111.15 of the Revised Code establishing eligibility for any coverage provided under this section. The rules shall base eligibility on years and types of service credit earned by members. Eligibility determinations shall be made in accordance with the rules, except that an individual who, as a result of making a false statement in an attempt to secure a benefit under this section, is convicted of violating section 2921.13 of the Revised Code is ineligible for coverage.

(B) The board may enter into agreements with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, or surgical coverage, or any combination thereof, for eligible individuals receiving age and service retirement or a disability or survivor benefit subscribing to the plan, or for PERS retirants employed under section 145.38 of the Revised Code, for coverage in accordance with division (D) (2) of section 145.38 of the Revised Code. Notwithstanding any other provision of this chapter, the policy or contract may also include coverage for any eligible individual's spouse and dependent children and for any of the eligible individual's sponsored dependents as the board determines appropriate. If all or any portion of the policy or contract premium is to be paid by any individual receiving age and service retirement or a disability or survivor benefit, the

individual shall, by written authorization, instruct the board 10797
to deduct the premium agreed to be paid by the individual to the 10798
company, corporation, or agency. 10799

The board may contract for coverage on the basis of part 10800
or all of the cost of the coverage to be paid from appropriate 10801
funds of the public employees retirement system. The cost paid 10802
from the funds of the system shall be included in the employer's 10803
contribution rate provided by sections 145.48 and 145.51 of the 10804
Revised Code. The board may by rule adopted in accordance with 10805
section 111.15 of the Revised Code provide coverage to 10806
individuals who are not eligible under the rules adopted under 10807
division (A) of this section if the coverage is provided at no 10808
cost to the retirement system. The board shall not pay or 10809
reimburse the cost for coverage under this section or section 10810
145.584 of the Revised Code for any such individual. 10811

The board may provide for self-insurance of risk or level 10812
of risk as set forth in the contract with the companies, 10813
corporations, or agencies, and may provide through the self- 10814
insurance method specific coverage as authorized by rules of the 10815
board. 10816

(C) The board shall, beginning the month following receipt 10817
of satisfactory evidence of the payment for coverage, pay 10818
monthly to each recipient of service retirement, or a disability 10819
or survivor benefit under the public employees retirement system 10820
who is eligible for coverage under part B of the medicare 10821
program established under Title XVIII of "The Social Security 10822
Act Amendments of 1965," 79 Stat. 301 (1965), 42 U.S.C.A. 1395j, 10823
as amended, an amount determined by the board for such coverage, 10824
except that the board shall make no such payment to any 10825
individual who is not eligible for coverage under the rules 10826

adopted under division (A) of this section or pay an amount that 10827
exceeds the amount paid by the recipient for the coverage. 10828

At the request of the board, the recipient shall certify 10829
to the retirement system the amount paid by the recipient for 10830
coverage described in this division. 10831

(D) The board shall establish by rule requirements for the 10832
coordination of any coverage or payment provided under this 10833
section or section 145.584 of the Revised Code with any similar 10834
coverage or payment made available to the same individual by the 10835
Ohio police and fire pension fund, state teachers retirement 10836
system, school employees retirement system, or state highway 10837
patrol retirement system. 10838

~~(E) The board shall make all other necessary rules~~ 10839
~~pursuant to the purpose and intent of this section.~~ 10840

Sec. 145.583. The PERS defined benefit plan or a PERS 10841
defined contribution plan may include a program under which a 10842
member participating in the plan, the member's employer, or a 10843
retirant is permitted to make deposits for the purpose of 10844
providing funds to the member or retirant for the payment of 10845
health, medical, hospital, surgical, dental, vision care, or 10846
drug expenses, including insurance premiums, deductible amounts, 10847
or copayments. Deposits made under this section are in addition 10848
to contributions required by this chapter and any other deposits 10849
made under it. 10850

A program established under this section may be a 10851
voluntary employees' beneficiary association, as described in 10852
section 501(c)(9) of the Internal Revenue Code, 26 U.S.C. 501(c) 10853
(9), as amended; an account described in section 401(h) of the 10854
Internal Revenue Code, 26 U.S.C. 401(h), as amended; a medical 10855

savings account; or a similar type of program under which an individual may accumulate funds for the purpose of paying such expenses. To implement the program, the public employees retirement board may enter into agreements with insurance companies or other entities authorized to conduct business in this state.

~~If the PERS defined benefit plan or a PERS defined contribution plan includes a program described in this section, the board shall adopt rules to establish and administer the program.~~

Sec. 145.584. (A) Except as otherwise provided in division (B) of this section, the board of the public employees retirement system shall make available to each retirant or disability benefit recipient receiving a monthly allowance or benefit on or after January 1, 1968, who has attained the age of sixty-five years, and who is not eligible to receive hospital insurance benefits under the federal old age, survivors, and disability insurance program without payment of premiums, one of the following:

(1) Hospital insurance coverage substantially equivalent to the federal hospital insurance benefits, Social Security Amendments of 1965, 79 Stat. 291, 42 U.S.C.A. 1395c, as amended;

(2) An amount, determined by the board, to reimburse the retirant or disability benefit recipient for payment of premiums for federal hospital insurance benefits described in this division, which amount shall not exceed the premiums paid.

This coverage or amount shall also be made available to the spouse, widow, or widower of such retirant or disability benefit recipient provided such spouse, widow, or widower has

attained age sixty-five and is not eligible to receive hospital 10885
insurance benefits under the federal old age, survivors, and 10886
disability insurance program without payment of premiums. The 10887
widow or widower of a retirant or disability benefit recipient 10888
shall be eligible for such coverage or amount only if he or she 10889
is the recipient of a monthly allowance or benefit from this 10890
system. A portion of the cost of the premium or amount for the 10891
spouse may be paid from the appropriate funds of the system. The 10892
remainder of the cost shall be paid by the recipient of the 10893
allowance or benefit. 10894

The cost of such coverage or amount, paid from the funds 10895
of the system, shall be included in the employer's rate provided 10896
by section 145.48 of the Revised Code. The retirement board ~~is~~ 10897
~~authorized to make all necessary rules pursuant to the purpose~~ 10898
~~and intent of this section, and~~ may contract for such coverage 10899
as provided in section 145.58 of the Revised Code. 10900

At the request of the board, the recipient of 10901
reimbursement under this section shall certify to the retirement 10902
system the premium paid for the federal insurance benefits 10903
described in division (A) of this section. Payment of the amount 10904
described in division (A) (2) of this section shall begin for the 10905
first month that the recipient is participating in both the 10906
federal hospital insurance benefits and a health care 10907
arrangement offered by the system. 10908

(B) The board need not make the hospital insurance 10909
coverage or amount described in division (A) of this section 10910
available to any person for whom it is prohibited by section 10911
145.58 of the Revised Code from paying or reimbursing the 10912
premium cost of such insurance. 10913

Sec. 145.62. Subject to rules adopted by the public 10914

employees retirement system under section ~~145.09~~111.15 of the 10915
Revised Code, a contributor participating in the PERS defined 10916
benefit plan or contributing under section 145.38 or 145.383 of 10917
the Revised Code may deposit additional amounts in the 10918
employees' savings fund established under section 145.23 of the 10919
Revised Code. The additional deposits may be made either 10920
directly to the retirement system or by payroll deduction under 10921
section 145.294 of the Revised Code. The contributor shall 10922
receive in return either an annuity, as provided in section 10923
145.64 of the Revised Code, having a reserve equal to the amount 10924
deposited or a refund under section 145.63 of the Revised Code 10925
of the amount deposited, together with earnings on the amount 10926
deposited as the public employees retirement board determines 10927
appropriate. If the annuity under the plan of payment selected 10928
by the contributor under section 145.64 of the Revised Code 10929
would be less than fifty dollars per month, the contributor 10930
shall receive the refund. 10931

Sec. 145.65. (A) As used in this section, "child," 10932
"parent," and "surviving spouse" have the same meanings as in 10933
section 145.43 of the Revised Code. 10934

(B) Should a contributor die before commencement of a 10935
benefit under section 145.64 of the Revised Code, any deposits 10936
made under section 145.62 or the version of division (C) of 10937
section 145.23 of the Revised Code as it existed immediately 10938
prior to ~~the effective date of this section~~April 6, 2007, plus 10939
earnings shall be paid to the person or persons the contributor 10940
has designated in writing duly executed on a form provided by 10941
the public employees retirement system, signed by the 10942
contributor, and filed with the system prior to the 10943
contributor's death. A contributor may designate two or more 10944
persons as beneficiaries. Subject to rules adopted by the public 10945

employees retirement board, a contributor who designates two or 10946
more persons as beneficiaries under this division shall specify 10947
the percentage of the deposits that each beneficiary is to be 10948
paid. If the contributor has not specified the percentage, the 10949
deposits shall be divided equally among the beneficiaries. 10950

The last designation of any beneficiary revokes all 10951
previous designations. The contributor's marriage, divorce, 10952
marriage dissolution, legal separation, or refund under section 10953
145.63 of the Revised Code, or the birth of the contributor's 10954
child, or adoption of a child, shall constitute an automatic 10955
revocation of the contributor's previous designation. 10956

If the deposits of a deceased contributor are not claimed 10957
by a beneficiary or by the estate of the deceased contributor 10958
within five years, the deposits shall be transferred to the 10959
income fund and thereafter paid to the beneficiary or to the 10960
contributor's estate on application to the system. The board, in 10961
accordance with section 111.15 of the Revised Code, shall 10962
formulate and adopt the necessary rules governing all 10963
designations of beneficiaries. 10964

(C) If a contributor dies before commencement of a benefit 10965
under section 145.64 of the Revised Code and is not survived by 10966
a designated beneficiary, the following shall qualify with all 10967
attendant rights and privileges, in the following order of 10968
precedence, the contributor's: 10969

- (1) Surviving spouse; 10970
- (2) Children, share and share alike; 10971
- (3) Parents, share and share alike; 10972
- (4) Estate. 10973

If the beneficiary is deceased or is not located within 10974
ninety days, the beneficiary ceases to qualify for any benefit 10975
and the beneficiary next in order of precedence shall qualify as 10976
a beneficiary. 10977

Any payment made to a beneficiary as determined by the 10978
board shall be a full discharge and release to the board from 10979
any future claims. 10980

(D) If the validity of marriage cannot be established to 10981
the satisfaction of the board for the purpose of disbursing any 10982
amount due under section 145.63 or 145.64 of the Revised Code, 10983
the board may accept a decision rendered by a court having 10984
jurisdiction in the state in which the contributor was domiciled 10985
at the time of death that the relationship constituted a valid 10986
marriage at the time of death, or the "spouse" would have the 10987
same status as a widow or widower for purposes of sharing the 10988
distribution of the contributor's intestate personal property. 10989

(E) If the death of a contributor or any individual who 10990
would be eligible to receive a refund under section 145.63 of 10991
the Revised Code or an annuity payment under section 145.64 of 10992
the Revised Code by virtue of the death of a contributor is 10993
caused by a beneficiary, as described in division (F) of section 10994
145.43 of the Revised Code, no amount due under section 145.63 10995
or 145.64 of the Revised Code to that beneficiary shall be paid 10996
to that beneficiary in the absence of a court order to the 10997
contrary filed with the board. 10998

Sec. 145.81. The public employees retirement board shall 10999
establish the PERS defined contribution plans, which shall be 11000
one or more plans consisting of benefit options that provide for 11001
an individual account for each participating member and under 11002
which benefits are based solely on the amounts that have 11003

accumulated in the account. The plans may include options under 11004
which a member participating in a plan may receive definitely 11005
determinable benefits. 11006

Each plan established under this section shall meet the 11007
requirements of sections 145.81 to 145.98 of the Revised Code— 11008
~~and any rules adopted in accordance with section 145.80 of the~~ 11009
~~Revised Code.~~ It may include life insurance, annuities, variable 11010
annuities, regulated investment trusts, pooled investment funds, 11011
or other forms of investment. Each plan may also permit a 11012
participant to transfer participation to another plan created 11013
under this chapter. Transfers must be made in accordance with 11014
section 145.814 of the Revised Code. 11015

The board may administer the plans, enter into contracts 11016
with other entities to administer the plans, or both. 11017

Sec. 145.814. (A) As used in this section, "eligible 11018
member" means a member who was eligible to make an election 11019
under section 145.19 or 145.191 of the Revised Code, regardless 11020
of whether the member elected to participate in a PERS defined 11021
contribution plan. 11022

(B) If permitted to do so by the plan documents for a PERS 11023
defined contribution plan or rules governing the PERS defined 11024
benefit plan, an eligible member may elect, at intervals 11025
specified by the plan document or rules, to participate in a 11026
different defined contribution plan or in the PERS defined 11027
benefit plan. ~~The election is subject to this section and rules~~ 11028
~~adopted by the public employees retirement board under sections~~ 11029
~~145.09 and 145.80 of the Revised Code.~~ An election to 11030
participate in a different plan shall be made in writing on a 11031
form provided by the public employees retirement system and 11032
filed with the system. The election shall take effect on the 11033

first day of the month following the date the election is filed 11034
and, except as provided in the plan documents or rules governing 11035
the PERS defined benefit plan, is irrevocable on receipt by the 11036
system. 11037

(C) Except as provided in division (D) of this section, an 11038
election to participate in a different plan shall apply only to 11039
employee and employer contributions made and, if applicable, 11040
service credit earned after the effective date of the election. 11041

(D) An eligible member may elect to have the member's 11042
amount on deposit for the prior plan and, if applicable, service 11043
credit earned prior to the effective date of the election 11044
deposited and credited in accordance with the member's new plan 11045
if the member, by the election, will begin participating in the 11046
PERS defined benefit plan or a PERS defined contribution plan 11047
with definitely determinable benefits. The amount on deposit is 11048
the amount the member would be entitled to receive as a refund 11049
from the prior plan if the member ceased to be a public 11050
employee. 11051

If a member makes the election described in this division 11052
and service credit is transferred, the board's actuary shall 11053
determine the additional liability to the system, if any. The 11054
additional liability is the amount that, when added to the 11055
amount on deposit, will provide the remaining portion of the 11056
pension reserve for the period of the member's service as a 11057
public employee in the prior plan. 11058

If the actuary determines that there is an additional 11059
liability, the member shall elect one of the following: 11060

(1) To receive the total amount of service credit that the 11061
member would have received had the member been participating in 11062

the new plan, pay to the system an amount equal to the 11063
additional liability; 11064

(2) To receive an amount of service credit in the new plan 11065
that corresponds to the amount on deposit for the prior plan. 11066

For each member who makes the election described in this 11067
division, the system shall deposit and credit to the new plan 11068
the amount on deposit for the prior plan and, if applicable, the 11069
amount paid by the member. The board may specify in rules 11070
adopted under ~~sections 145.09 and 145.80~~ section 111.15 of the 11071
Revised Code how service credit in the defined benefit plan may 11072
be converted to amounts on deposit in the defined contribution 11073
plan. 11074

Sec. 145.97. Each PERS defined contribution plan shall 11075
permit a member participating in the plan to do both of the 11076
following: 11077

(A) If the member has withdrawn the amounts that have 11078
accumulated on behalf of the member under the plan, returns to 11079
employment covered under this chapter, and is participating in a 11080
plan that includes definitely determinable benefits, pay to the 11081
system the amounts withdrawn ~~in accordance with rules adopted~~ 11082
~~under section 145.80 of the Revised Code;~~ 11083

(B) Make additional deposits as permitted by the "Internal 11084
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as 11085
amended. 11086

Sec. 147.62. (A) The secretary of state shall adopt rules 11087
under Chapter 119. of the Revised Code ~~necessary to implement,~~ 11088
~~set,~~ and maintain standards for online notarizations and online 11089
notaries public. Such rules shall address ~~at a minimum,~~ all of 11090
the following: 11091

(1) The standards, procedures, application forms, and fees	11092
for the authorization of a notary public to act as an online	11093
notary public;	11094
(2) The means of performing online notarizations;	11095
(3) Standards for the technology to be used in online	11096
notarizations;	11097
(4) Standards for remote presentation, credential	11098
analysis, and identity proofing;	11099
(5) Standards for the retention of records relating to	11100
online notarizations;	11101
(6) The modification of forms of notarial certificates for	11102
any notarial act that is an online notarization;	11103
(7) Standards and requirements for the termination of a	11104
notary public's authorization to perform online notarizations.	11105
(B) The office of information technology in the department	11106
of administrative services shall provide assistance to the	11107
secretary of state relating to the equipment, security, and	11108
technological aspects of the standards established under this	11109
section.	11110
Sec. 148.04. (A) The public employees retirement board	11111
shall initiate, plan, expedite, and, subject to an appropriate	11112
assurance of the approval of the internal revenue service,	11113
promulgate and offer to all eligible employees, and thereafter	11114
administer on behalf of all participating employees and	11115
continuing members, and alter as required, a program for	11116
deferral of compensation, including a reasonable number of	11117
options to the employee for the investment of deferred funds,	11118
always in such form as will assure the desired tax treatment of	11119

such funds. The members of the board are the trustees of any 11120
deferred funds and shall discharge their duties with respect to 11121
the funds solely in the interest of and for the exclusive 11122
benefit of participating employees, continuing members, and 11123
their beneficiaries. With respect to such deferred funds, 11124
section 148.09 of the Revised Code shall apply to claims against 11125
participating employees or continuing members and their 11126
employers. 11127

(B) Every employer of an eligible employee shall enroll 11128
the employee in a deferred compensation program offered by the 11129
board on the employee's application to participate, on the 11130
employee's election under section 148.041 of the Revised Code, 11131
or by automatic enrollment under section 148.042 of the Revised 11132
Code. 11133

(C) The board shall take all actions necessary to ensure 11134
that the program qualifies as an eligible deferred compensation 11135
plan under section 457(b) of the Internal Revenue Code of 1986, 11136
26 U.S.C. 457. The board shall, subject to any applicable 11137
provisions of the Ohio public employees deferred compensation 11138
program plan, undertake to obtain as favorable conditions of tax 11139
treatment as possible, both in the initial programs and any 11140
permitted alterations of them or additions to them, as to such 11141
matters as terms of distribution, designation of beneficiaries, 11142
withdrawal upon disability, financial hardship, or termination 11143
of public employment, and other optional provisions. 11144

The board may establish a designated Roth account feature 11145
or any other feature in which an employee may make tax-deferred 11146
or nontax-deferred contributions to an eligible government plan 11147
in accordance with 26 U.S.C. 457, as amended. 11148

(D) In no event shall the total of the amount of deferred 11149

compensation to be set aside under a deferred compensation 11150
program and the employee's nondeferred income for any year 11151
exceed the total annual salary or compensation under the 11152
existing salary schedule or classification plan applicable to 11153
the employee in that year. 11154

Such a deferred compensation program shall be in addition 11155
to any retirement or any other benefit program provided by law 11156
for employees of this state. The board shall adopt rules 11157
pursuant to Chapter 119. of the Revised Code to ~~provide any~~ 11158
~~necessary standards or conditions for the administration of its~~ 11159
~~programs, including~~ establish any limits on the portion of a 11160
participating employee's compensation that may be deferred in 11161
order to avoid adverse treatment of the program by the internal 11162
revenue service or the occurrence of deferral, withholding, or 11163
other deductions in excess of the compensation available for any 11164
pay period. 11165

Both of the following apply to a deferred compensation 11166
program established under this section: 11167

(1) Any income deferred under the program shall continue 11168
to be included as regular compensation for the purpose of 11169
computing the contributions to and benefits from the retirement 11170
system of an employee; 11171

(2) Any sums deferred shall not be included in the 11172
computation of any federal and state income taxes withheld on 11173
behalf of an employee. Sums contributed to a Roth account 11174
feature or other feature to which nontax-deferred contributions 11175
are made shall be included in the computation of any federal and 11176
state income taxes withheld on behalf of an employee. 11177

(E) This section does not limit the authority of any 11178

municipal corporation, county, township, park district, 11179
conservancy district, sanitary district, health district, public 11180
library, county law library, public institution of higher 11181
education, or school district to provide separate authorized 11182
plans or programs for deferring compensation of their officers 11183
and employees in addition to the program for the deferral of 11184
compensation offered by the board. Any municipal corporation, 11185
township, public institution of higher education, or school 11186
district that offers such plans or programs shall include a 11187
reasonable number of options to its officers or employees for 11188
the investment of the deferred funds, including annuities, 11189
variable annuities, regulated investment trusts, or other forms 11190
of investment approved by the municipal corporation, township, 11191
public institution of higher education, or school district, that 11192
will assure the desired tax treatment of the funds. 11193

Sec. 149.331. The state records program of the department 11194
of administrative services shall do all of the following: 11195

(A) Establish and promulgate in consultation with the 11196
state archivist standards, procedures, and techniques for the 11197
effective management of state records; 11198

(B) Review applications for one-time records disposal and 11199
schedules of records retention and destruction submitted by 11200
state agencies in accordance with section 149.333 of the Revised 11201
Code; 11202

(C) Establish "general schedules" proposing the disposal, 11203
after the lapse of specified periods of time, of records of 11204
specified form or character common to several or all agencies 11205
that either have accumulated or may accumulate in such agencies 11206
and that apparently will not, after the lapse of the periods 11207
specified, have sufficient administrative, legal, fiscal, or 11208

other value to warrant their further preservation by the state; 11209

(D) Establish and maintain a records management training 11210
program, and provide a basic consulting service, for personnel 11211
involved in record-making and record-keeping functions of 11212
departments, offices, and institutions; 11213

(E) Provide for the disposition of any remaining records 11214
of any state agency, board, or commission, whether in the 11215
executive, judicial, or legislative branch of government, that 11216
has terminated its operations. After the closing of the Ohio 11217
veterans' children's home, the resident records of the home and 11218
the resident records of the home when it was known as the 11219
soldiers' and sailors' orphans' home required to be maintained 11220
by approved records retention schedules shall be administered by 11221
the state department of education and workforce pursuant to this 11222
chapter, the administrative records of the home required to be 11223
maintained by approved records retention schedules shall be 11224
administered by the department of administrative services 11225
pursuant to this chapter, and historical records of the home 11226
shall be transferred to an appropriate archival institution in 11227
this state prescribed by the state records program. 11228

(F) Establish a centralized program coordinating 11229
micrographics standards, training, and services for the benefit 11230
of all state agencies; 11231

(G) Establish and publish in accordance with the 11232
applicable law necessary procedures ~~and rules~~ for the retention 11233
and disposal of state records. 11234

This section does not apply to the records of state- 11235
supported institutions of higher education, which shall keep 11236
their own records. 11237

Sec. 153.71. (A) Any public authority that is not the 11238
state or a state institution of higher education and that is 11239
planning to contract for professional design services or design- 11240
build services may adopt, amend, or rescind rules, in accordance 11241
with Chapter 119. of the Revised Code, to implement sections 11242
153.66 to 153.70 of the Revised Code. 11243

(B) Sections 153.66 to 153.70 of the Revised Code do not 11244
apply to any of the following: 11245

(1) Any project with an estimated professional design fee 11246
of twenty-five thousand dollars or less; 11247

(2) Any project with an estimated professional design fee 11248
of more than twenty-five thousand dollars but less than fifty 11249
thousand dollars if both of the following requirements are met: 11250

(a) The public authority selects a single design 11251
professional or firm from among those that have submitted a 11252
current statement of qualifications within the immediately 11253
preceding year, as provided under section 153.68 of the Revised 11254
Code, based on the public authority's determination that the 11255
selected design professional or firm is the most qualified to 11256
provide the required professional design services; 11257

(b) The public authority and the selected design 11258
professional or firm comply with division (B) of section 153.69 11259
of the Revised Code with respect to the negotiation of a 11260
contract. 11261

(3) Any project determined in writing by the public 11262
authority head to be an emergency requiring immediate action 11263
including, but not limited to, any projects requiring multiple 11264
contracts let as part of a program requiring a large number of 11265
professional design firms of the same type. 11266

Sec. 156.05. In accordance with Chapter 119. of the 11267
Revised Code, the executive director of the Ohio facilities 11268
construction commission shall adopt, ~~and enforce~~ rules ~~necessary~~ 11269
~~to administer sections 156.01 to 156.04 of the Revised Code.~~ 11270
Rules adopted under this section shall to establish procedures 11271
by which the executive director may authorize in the executive 11272
director's stead the manager of any building owned by the state 11273
to enter into contracts authorized under sections 156.01 to 11274
156.04 of the Revised Code. 11275

Sec. 163.58. ~~(A) Except as otherwise provided in rules~~ 11276
~~adopted under division (B) of this section, the~~ The head of each 11277
displacing agency is authorized to establish such regulations 11278
and procedures as ~~h~~et the head of the displacing agency may 11279
determine to be necessary to assure: 11280

~~(1)~~ (A) That the payments and assistance authorized by 11281
sections 163.51 to 163.62 of the Revised Code shall be 11282
administered in a manner which is fair and reasonable, and as 11283
uniform as practicable; 11284

~~(2)~~ (B) That a displaced person who makes proper 11285
application for a payment authorized for such person by sections 11286
163.51 to 163.62 of the Revised Code shall be paid promptly 11287
after a move or, in hardship cases, be paid in advance; 11288

~~(3)~~ (C) That any person aggrieved by a determination as to 11289
eligibility for a payment authorized by such sections, or the 11290
amount of a payment, may have ~~his~~ the person's application 11291
reviewed by the head of the displacing agency having authority 11292
over the applicable program or project. 11293

~~(B) Notwithstanding any provision of the Revised Code to~~ 11294
~~the contrary, the lead agency shall adopt such rules as may be~~ 11295

~~necessary to implement sections 163.51 to 163.62 of the Revised Code in a manner which is as fair, reasonable, and uniform as practicable. As used in this section, "lead agency" means the state agency that the governor shall designate to carry out the duties prescribed by this division.~~ 11296
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Sec. 166.02. (A) The general assembly finds that many 11301
local areas throughout the state are experiencing economic 11302
stagnation or decline, and that the economic development 11303
programs provided for in this chapter will constitute deserved, 11304
necessary reinvestment by the state in those areas, materially 11305
contribute to their economic revitalization, and result in 11306
improving the economic welfare of all the people of the state. 11307
Accordingly, it is declared to be the public policy of the 11308
state, through the operations of this chapter and other 11309
applicable laws adopted pursuant to Section 2p or 13 of Article 11310
VIII, Ohio Constitution, and other authority vested in the 11311
general assembly, to assist in and facilitate the establishment 11312
or development of eligible projects or assist and cooperate with 11313
any governmental agency in achieving such purpose. 11314

(B) In furtherance of such public policy and to implement 11315
such purpose, the director of development may: 11316

(1) After consultation with appropriate governmental 11317
agencies, enter into agreements with persons engaged in 11318
industry, commerce, distribution, development of tourism 11319
attractions or professional sports facilities, or research and 11320
with governmental agencies to induce such persons to acquire, 11321
construct, reconstruct, rehabilitate, renovate, enlarge, 11322
improve, equip, or furnish, or otherwise develop, eligible 11323
projects and make provision therein for project facilities and 11324
governmental actions, as authorized by this chapter and other 11325

applicable laws, subject to any required actions by the general 11326
assembly or the controlling board and subject to applicable 11327
local government laws and regulations; 11328

(2) Provide for the guarantees and loans as provided for 11329
in sections 166.06 and 166.07 of the Revised Code; 11330

(3) Subject to release of such moneys by the controlling 11331
board, contract for labor and materials needed for, or contract 11332
with others, including governmental agencies, to provide, 11333
project facilities the allowable costs of which are to be paid 11334
for or reimbursed from moneys in the facilities establishment 11335
fund, and contract for the operation of such project facilities; 11336

(4) Subject to release thereof by the controlling board, 11337
from moneys in the facilities establishment fund acquire or 11338
contract to acquire by gift, exchange, or purchase, including 11339
the obtaining and exercise of purchase options, property, and 11340
convey or otherwise dispose of, or provide for the conveyance or 11341
disposition of, property so acquired or contracted to be 11342
acquired by sale, exchange, lease, lease purchase, conditional 11343
or installment sale, transfer, or other disposition, including 11344
the grant of an option to purchase, to any governmental agency 11345
or to any other person without necessity for competitive bidding 11346
and upon such terms and conditions and manner of consideration 11347
pursuant to and as the director determines to be appropriate to 11348
satisfy the objectives of sections 166.01 to 166.11 of the 11349
Revised Code; 11350

(5) Retain the services of or employ financial 11351
consultants, appraisers, consulting engineers, superintendents, 11352
managers, construction and accounting experts, attorneys, and 11353
employees, agents, and independent contractors as are necessary 11354
in the director's judgment and fix the compensation for their 11355

services; 11356

(6) Receive and accept from any person grants, gifts, and 11357
contributions of money, property, labor, and other things of 11358
value, to be held, used and applied only for the purpose for 11359
which such grants, gifts, and contributions are made; 11360

(7) Enter into appropriate arrangements and agreements 11361
with any governmental agency for the taking or provision by that 11362
governmental agency of any governmental action; 11363

(8) Do all other acts and enter into contracts and execute 11364
all instruments necessary or appropriate to carry out the 11365
provisions of this chapter; 11366

~~(9) Adopt rules to implement any of the provisions of this 11367
chapter applicable to the director. 11368~~

(C) The determinations by the director that facilities 11369
constitute eligible projects, that facilities are project 11370
facilities, that costs of such facilities are allowable costs, 11371
and all other determinations relevant thereto or to an action 11372
taken or agreement entered into shall be conclusive for purposes 11373
of the validity and enforceability of rights of parties arising 11374
from actions taken and agreements entered into under this 11375
chapter. 11376

(D) Except as otherwise prescribed in this chapter, all 11377
expenses and obligations incurred by the director in carrying 11378
out the director's powers and in exercising the director's 11379
duties under this chapter, shall be payable solely from, as 11380
appropriate, moneys in the facilities establishment fund, the 11381
loan guarantee fund, the innovation Ohio loan guarantee fund, 11382
the innovation Ohio loan fund, the research and development loan 11383
fund, the logistics and distribution infrastructure fund, or 11384

moneys appropriated for such purpose by the general assembly. 11385
This chapter does not authorize the director or the issuing 11386
authority under section 166.08 of the Revised Code to incur 11387
bonded indebtedness of the state or any political subdivision 11388
thereof, or to obligate or pledge moneys raised by taxation for 11389
the payment of any bonds or notes issued or guarantees made 11390
pursuant to this chapter. 11391

(E) Any governmental agency may enter into an agreement 11392
with the director, any other governmental agency, or a person to 11393
be assisted under this chapter, to take or provide for the 11394
purposes of this chapter any governmental action it is 11395
authorized to take or provide, and to undertake on behalf and at 11396
the request of the director any action which the director is 11397
authorized to undertake pursuant to divisions (B) (3), (4), and 11398
(5) of this section or divisions (B) (3), (4), and (5) of section 11399
166.12 of the Revised Code. Governmental agencies of the state 11400
shall cooperate with and provide assistance to the director of 11401
development and the controlling board in the exercise of their 11402
respective functions under this chapter. 11403

Sec. 166.12. (A) The general assembly finds that in order 11404
to maintain and enhance the competitiveness of the Ohio economy 11405
and to improve the economic welfare of all of the people of the 11406
state, it is necessary to ensure that high-value jobs based on 11407
research, technology, and innovation will be available to the 11408
people of this state. Further, the general assembly finds that 11409
the attraction of such jobs and their presence in this state 11410
will materially contribute to the economic welfare of all of the 11411
people of the state. Accordingly, it is declared to be the 11412
public policy of this state, through the operations under 11413
sections 166.01 and 166.12 to 166.16 of the Revised Code, and 11414
the loan and loan guarantee provisions contained in those 11415

sections, applicable laws adopted pursuant to Section 13 of 11416
Article VIII, Ohio Constitution, and other authority vested in 11417
the general assembly, to assist in and facilitate the 11418
establishment or development of eligible innovation projects or 11419
assist and cooperate with any governmental agency in achieving 11420
that purpose. 11421

(B) In furtherance of that public policy and to implement 11422
that purpose, the director of development may: 11423

(1) After consultation with appropriate governmental 11424
agencies, enter into agreements with persons engaged in 11425
industry, commerce, distribution, development of tourism 11426
attractions or professional sports facilities, or research and 11427
with governmental agencies to induce such persons to acquire, 11428
construct, reconstruct, rehabilitate, renovate, enlarge, 11429
improve, equip, or furnish, or otherwise develop, eligible 11430
innovation projects and make provision therein for project 11431
facilities and governmental actions, as authorized by sections 11432
166.01 and 166.12 to 166.16 of the Revised Code and other 11433
applicable laws; 11434

(2) Provide for innovation Ohio loan guarantees and loans 11435
under sections 166.15 and 166.16 of the Revised Code; 11436

(3) Subject to the release of such moneys by the 11437
controlling board, contract for labor and materials needed for, 11438
or contract with others, including governmental agencies, to 11439
provide, eligible innovation projects the allowable innovation 11440
costs of which are to be paid for or reimbursed from moneys in 11441
the innovation Ohio loan fund, and contract for the operation of 11442
such eligible innovation projects; 11443

(4) Subject to release thereof by the controlling board, 11444

from moneys in the innovation Ohio loan fund, acquire or 11445
contract to acquire by gift, exchange, or purchase, including 11446
the obtaining and exercise of purchase options, innovation 11447
property, and convey or otherwise dispose of, or provide for the 11448
conveyance or disposition of, innovation property so acquired or 11449
contracted to be acquired by sale, exchange, lease, lease 11450
purchase, conditional or installment sale, transfer, or other 11451
disposition, including the grant of an option to purchase, to 11452
any governmental agency or to any other person without necessity 11453
for competitive bidding and upon such terms and conditions and 11454
manner of consideration pursuant to, and as the director 11455
determines to be appropriate to satisfy the objectives of, 11456
Chapter 166. of the Revised Code; 11457

(5) Retain the services of or employ financial 11458
consultants, appraisers, consulting engineers, superintendents, 11459
managers, construction and accounting experts, attorneys, and 11460
employees, agents, and independent contractors as are necessary 11461
in the director's judgment and fix the compensation for their 11462
services; 11463

(6) Receive and accept from any person grants, gifts, and 11464
contributions of money, property, labor, and other things of 11465
value, to be held, used, and applied only for the purpose for 11466
which such grants, gifts, and contributions are made; 11467

(7) Enter into appropriate arrangements and agreements 11468
with any governmental agency for the taking or provision by that 11469
governmental agency of any governmental action with respect to 11470
innovation projects; 11471

(8) Do all other acts and enter into contracts and execute 11472
all instruments necessary or appropriate to carry out the 11473
provisions of sections 166.01 and 166.12 to 166.16 of the 11474

Revised Code; 11475

(9) With respect to property, including but not limited to 11476
innovation property, take such interests, including but not 11477
limited to mortgages, security interests, assignments, and 11478
exclusive or non-exclusive licenses, as may be necessary or 11479
appropriate under the circumstances, to ensure that innovation 11480
property is used within this state and that products or services 11481
associated with that innovation property are produced or, in the 11482
case of services, delivered, by persons employed within this 11483
state; 11484

~~(10) Adopt rules necessary to implement any of the 11485
provisions of sections 166.01 and 166.12 to 166.16 of the 11486
Revised Code applicable to the director. 11487~~

(C) The determinations by the director that facilities or 11488
property constitute eligible innovation projects and that costs 11489
of such facilities or property are allowable innovation costs, 11490
and all other determinations relevant thereto or to an action 11491
taken or agreement entered into, shall be conclusive for 11492
purposes of the validity and enforceability of rights of parties 11493
arising from actions taken and agreements entered into under 11494
sections 166.01 and 166.12 to 166.16 of the Revised Code. 11495

Sec. 166.17. (A) The general assembly finds that in order 11496
to enhance the economic opportunities available to and improve 11497
the economic welfare of all the people of the state, and to 11498
maintain and enhance the competitiveness of the Ohio economy, it 11499
is necessary to ensure that the people of the state will 11500
continue to have access to high-value jobs in technology, and 11501
that, to facilitate such continued access, it is necessary to 11502
provide incentives to retain and attract businesses that will 11503
develop new or improved technologies, processes, and products, 11504

or apply existing technologies in new ways. Further, the general 11505
assembly finds that the attraction of such jobs and their 11506
presence in this state will materially contribute to the 11507
economic welfare of all the people of the state. Accordingly, it 11508
is declared to be the public policy of this state, through 11509
operations under sections 166.17 to 166.21, 5733.352, and 11510
5747.331 of the Revised Code and the provisions for financial 11511
assistance contained in those sections, other applicable laws 11512
adopted pursuant to Section 13 of Article VIII, Ohio 11513
Constitution, and other authority vested in the general 11514
assembly, to assist in and facilitate the establishment or 11515
development of eligible research and development projects or 11516
assist and cooperate with any governmental agency in achieving 11517
that purpose. 11518

(B) In furtherance of that public policy and to implement 11519
that purpose, the director of development may do any of the 11520
following: 11521

(1) After consultation with appropriate governmental 11522
agencies, enter into agreements with persons engaged in 11523
industry, commerce, distribution, development of tourism 11524
attractions or professional sports facilities, or research and 11525
with governmental agencies, to induce such persons to acquire, 11526
construct, reconstruct, rehabilitate, renovate, enlarge, 11527
improve, equip, furnish, or develop eligible research and 11528
development projects, or to enable governmental agencies to 11529
acquire, construct, reconstruct, rehabilitate, renovate, 11530
enlarge, improve, equip, furnish, or develop eligible research 11531
and development projects for lease to persons engaged in 11532
industry, commerce, distribution, development of tourism 11533
attractions or professional sports facilities, or research; 11534

- (2) Provide for loans under section 166.21 of the Revised Code to finance eligible research and development projects; 11535
11536
- (3) Subject to the release of moneys in the research and development loan fund by the controlling board, contract for labor and materials needed for, or contract with others, including governmental agencies, to provide, eligible research and development projects, the allowable costs of which are to be paid for or reimbursed from such moneys, and contract for the operation of those projects; 11537
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- (4) From moneys in the research and development loan fund, subject to release thereof by the controlling board, acquire or contract to acquire property by gift, exchange, or purchase, including by obtaining and exercising purchase options, and convey or otherwise dispose of, or provide for the conveyance or disposition of, that property by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to, and as the director determines to be appropriate to satisfy the objectives of, Chapter 166. of the Revised Code; 11544
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- (5) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, employees, agents, and independent contractors as are necessary in the director's judgment, and fix the compensation for their services; 11557
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- (6) Receive and accept from any person, grants, gifts, and contributions of money, property, labor, and other things of 11563
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value, to be held, used, and applied only for the purpose for 11565
which such grants, gifts, and contributions are made; 11566

(7) Enter into arrangements and agreements with any 11567
governmental agency for the agency to take or provide any 11568
governmental action with respect to eligible research and 11569
development projects; 11570

(8) Do all other acts, enter into contracts, execute all 11571
instruments, and make all certifications necessary or 11572
appropriate to carry out sections 166.01, 166.17 to 166.21, 11573
5733.352, and 5747.331 of the Revised Code; 11574

(9) With respect to property that is the subject of or 11575
related to research and development financial assistance, take 11576
such interests, including, but not limited to, mortgages, 11577
security interests, leasehold interests, assignments, and 11578
exclusive or nonexclusive licenses, as may be necessary or 11579
appropriate under the circumstances, to ensure that the property 11580
is used within this state and that products or services 11581
associated with that property are produced or, in the case of 11582
services, delivered, by persons employed within this state; 11583

~~(10) Adopt rules necessary to implement any of the 11584
provisions of sections 166.17 to 166.21, 5733.352, and 5747.331 11585
of the Revised Code that are applicable to the director. 11586~~

(C) The determination by the director that facilities or 11587
property constitute an eligible research and development project 11588
and that the costs of such facilities or property are allowable 11589
costs related to the project, and all other determinations 11590
relevant thereto, or to an action taken or agreement entered 11591
into, shall be conclusive for purposes of the validity and 11592
enforceability of rights of parties arising from actions taken 11593

and agreements entered into under sections 166.17 to 166.21, 11594
5733.352, and 5747.331 of the Revised Code. 11595

Sec. 169.09. The director of commerce shall make, in 11596
accordance with Chapter 119. of the Revised Code, ~~necessary~~ 11597
rules that prescribe uniform methods for conducting unclaimed 11598
funds audits under section 169.03 of the Revised Code and for 11599
determining when such an audit is appropriate, ~~and may make~~ 11600
~~necessary rules to carry out any other duty imposed upon the~~ 11601
~~director by this chapter.~~ 11602

Sec. 173.02. The department of aging ~~shall adopt, and may~~ 11603
~~rescind, rules as necessary to carry out the provisions of~~ 11604
~~Chapter 173. of the Revised Code and may:~~ 11605

(A) Provide technical assistance and consultation to 11606
public and private nonprofit agencies with respect to programs, 11607
services, and activities for elderly people; 11608

(B) Cooperate with federal agencies, other state agencies 11609
or departments, and organizations to conduct studies and surveys 11610
on the special problems of the aged in such matters as mental 11611
and physical health, housing, transportation, family 11612
relationships, employment, income, vocational rehabilitation, 11613
recreation, and education; make such reports as are appropriate 11614
to the governor and other federal and state agencies; and 11615
develop recommendations for administrative or legislative action 11616
to alleviate such problems; 11617

(C) Develop and strengthen the services available for the 11618
aging in the state by coordinating the existing services 11619
provided by federal, state, and local departments and agencies, 11620
and private agencies and facilities; 11621

(D) Extend and expand services for the aged through 11622

coordinating the interests and efforts of local communities in 11623
studying the problems of the aged citizens of this state; 11624

(E) Encourage, promote, and aid in the establishment of 11625
programs and services on the local level for the betterment of 11626
the living conditions of the aged by making it possible for the 11627
aged to more fully enjoy and participate in family and community 11628
life; 11629

(F) Sponsor voluntary community rehabilitation and 11630
recreational facilities for the purpose of improving the general 11631
welfare of the elderly; 11632

(G) Stimulate the training of workers in the field of 11633
aging; 11634

(H) Provide consultants to agencies, associations, or 11635
individuals providing services supported by the department; 11636

(I) Provide support which shall include, but not be 11637
limited to, financial support for the Martin Janis multipurpose 11638
senior center in Columbus; 11639

(J) Recommend methods of improving the effectiveness of 11640
state services for elderly citizens; 11641

(K) Adopt rules pursuant to Chapter 119. of the Revised 11642
Code to request fees, if not prohibited by any federal or state 11643
law, from persons using services or facilities for the elderly 11644
that are provided, operated, contracted for, or supported by the 11645
department, provided that requesting the fees will not 11646
disqualify the department from receiving federal or state funds; 11647

(L) Publish a description of the organization and 11648
functions of the department so that all interested agencies and 11649
individuals may receive information about, and be better able to 11650

solicit assistance from, the department. 11651

Sec. 173.27. (A) As used in this section: 11652

(1) "Applicant" means a person who is under final 11653
consideration for employment by a responsible party in a full- 11654
time, part-time, or temporary position that involves providing 11655
ombudsman services to residents and recipients. "Applicant" 11656
includes a person who is under final consideration for 11657
employment as the state long-term care ombudsman or the head of 11658
a regional long-term care ombudsman program. "Applicant" does 11659
not include a person seeking to provide ombudsman services to 11660
residents and recipients as a volunteer without receiving or 11661
expecting to receive any form of remuneration other than 11662
reimbursement for actual expenses. 11663

(2) "Criminal records check" has the same meaning as in 11664
section 109.572 of the Revised Code. 11665

(3) "Disqualifying offense" means any of the offenses 11666
listed or described in divisions (A) (3) (a) to (e) of section 11667
109.572 of the Revised Code. 11668

(4) "Employee" means a person employed by a responsible 11669
party in a full-time, part-time, or temporary position that 11670
involves providing ombudsman services to residents and 11671
recipients. "Employee" includes the person employed as the state 11672
long-term care ombudsman and a person employed as the head of a 11673
regional long-term care ombudsman program. "Employee" does not 11674
include a person who provides ombudsman services to residents 11675
and recipients as a volunteer without receiving or expecting to 11676
receive any form of remuneration other than reimbursement for 11677
actual expenses. 11678

(5) "Responsible party" means the following: 11679

(a) In the case of an applicant who is under final consideration for employment as the state long-term care ombudsman or the person employed as the state long-term care ombudsman, the director of aging;

(b) In the case of any other applicant who is under final consideration for employment with the state long-term care ombudsman program or any other employee of the state long-term care ombudsman program, the state long-term care ombudsman;

(c) In the case of an applicant who is under final consideration for employment with a regional long-term care ombudsman program (including as the head of the regional program) or an employee of a regional long-term care ombudsman program (including the head of a regional program), the regional long-term care ombudsman program.

(B) A responsible party may not employ an applicant or continue to employ an employee in a position that involves providing ombudsman services to residents and recipients if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D) (1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or 11709
more of the databases, if any, specified in rules adopted under 11710
this section and the rules prohibit the responsible party from 11711
employing an applicant or continuing to employ an employee 11712
included in such a database in a position that involves 11713
providing ombudsman services to residents and recipients. 11714

(2) After the applicant or employee is provided, pursuant 11715
to division (E) (2) (a) of this section, a copy of the form 11716
prescribed pursuant to division (C) (1) of section 109.572 of the 11717
Revised Code and the standard impression sheet prescribed 11718
pursuant to division (C) (2) of that section, the applicant or 11719
employee fails to complete the form or provide the applicant's 11720
or employee's fingerprint impressions on the standard impression 11721
sheet. 11722

(3) Unless the applicant or employee meets standards 11723
specified in rules adopted under this section, the applicant or 11724
employee is found by a criminal records check required by this 11725
section to have been convicted of, pleaded guilty to, or been 11726
found eligible for intervention in lieu of conviction for a 11727
disqualifying offense. 11728

(C) A responsible party or a responsible party's designee 11729
shall inform each applicant of both of the following at the time 11730
of the applicant's initial application for employment in a 11731
position that involves providing ombudsman services to residents 11732
and recipients: 11733

(1) That a review of the databases listed in division (D) 11734
of this section will be conducted to determine whether the 11735
responsible party is prohibited by division (B) (1) of this 11736
section from employing the applicant in the position; 11737

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(D) As a condition of any applicant's being employed by a responsible party in a position that involves providing ombudsman services to residents and recipients, the responsible party or designee shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the responsible party or designee shall conduct a database review of an employee in accordance with the rules as a condition of the responsible party continuing to employ the employee in a position that involves providing ombudsman services to residents and recipients. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended;

(3) The registry of developmental disabilities employees

established under section 5123.52 of the Revised Code; 11768

(4) The internet-based sex offender and child-victim 11769
offender database established under division ~~(A) (11)~~ (A) (10) of 11770
section 2950.13 of the Revised Code; 11771

(5) The internet-based database of inmates established 11772
under section 5120.66 of the Revised Code; 11773

(6) The state nurse aide registry established under 11774
section 3721.32 of the Revised Code; 11775

(7) Any other database, if any, specified in rules adopted 11776
under this section. 11777

(E) (1) As a condition of any applicant's being employed by 11778
a responsible party in a position that involves providing 11779
ombudsman services to residents and recipients, the responsible 11780
party or designee shall request that the superintendent of the 11781
bureau of criminal identification and investigation conduct a 11782
criminal records check of the applicant. If rules adopted under 11783
this section so require, the responsible party or designee shall 11784
request that the superintendent conduct a criminal records check 11785
of an employee at times specified in the rules as a condition of 11786
the responsible party continuing to employ the employee in a 11787
position that involves providing ombudsman services to residents 11788
and recipients. However, the responsible party or designee is 11789
not required to request the criminal records check of the 11790
applicant or employee if the responsible party is prohibited by 11791
division (B) (1) of this section from employing the applicant or 11792
continuing to employ the employee in a position that involves 11793
providing ombudsman services to residents and recipients. If an 11794
applicant or employee for whom a criminal records check request 11795
is required by this section does not present proof of having 11796

been a resident of this state for the five-year period 11797
immediately prior to the date the criminal records check is 11798
requested or provide evidence that within that five-year period 11799
the superintendent has requested information about the applicant 11800
or employee from the federal bureau of investigation in a 11801
criminal records check, the responsible party or designee shall 11802
request that the superintendent obtain information from the 11803
federal bureau of investigation as part of the criminal records 11804
check. Even if an applicant or employee for whom a criminal 11805
records check request is required by this section presents proof 11806
of having been a resident of this state for the five-year 11807
period, the responsible party or designee may request that the 11808
superintendent include information from the federal bureau of 11809
investigation in the criminal records check. 11810

(2) A responsible party or designee shall do all of the 11811
following: 11812

(a) Provide to each applicant and employee for whom a 11813
criminal records check request is required by this section a 11814
copy of the form prescribed pursuant to division (C)(1) of 11815
section 109.572 of the Revised Code and a standard impression 11816
sheet prescribed pursuant to division (C)(2) of that section; 11817

(b) Obtain the completed form and standard impression 11818
sheet from the applicant or employee; 11819

(c) Forward the completed form and standard impression 11820
sheet to the superintendent. 11821

(3) A responsible party shall pay to the bureau of 11822
criminal identification and investigation the fee prescribed 11823
pursuant to division (C)(3) of section 109.572 of the Revised 11824
Code for each criminal records check the responsible party or 11825

the responsible party's designee requests under this section. 11826
The responsible party may charge an applicant a fee not 11827
exceeding the amount the responsible party pays to the bureau 11828
under this section if the responsible party or designee notifies 11829
the applicant at the time of initial application for employment 11830
of the amount of the fee. 11831

(F) (1) A responsible party may employ conditionally an 11832
applicant for whom a criminal records check is required by this 11833
section prior to obtaining the results of the criminal records 11834
check if both of the following apply: 11835

(a) The responsible party is not prohibited by division 11836
(B) (1) of this section from employing the applicant in a 11837
position that involves providing ombudsman services to residents 11838
and recipients; 11839

(b) The responsible party or designee requests the 11840
criminal records check in accordance with division (E) of this 11841
section before conditionally employing the applicant. 11842

(2) A responsible party shall terminate the employment of 11843
an applicant employed conditionally under division (F) (1) of 11844
this section if the results of the criminal records check, other 11845
than the results of any request for information from the federal 11846
bureau of investigation, are not obtained within the period 11847
ending sixty days after the date the request for the criminal 11848
records check is made. Regardless of when the results of the 11849
criminal records check are obtained, if the results indicate 11850
that the applicant has been convicted of, pleaded guilty to, or 11851
been found eligible for intervention in lieu of conviction for a 11852
disqualifying offense, the responsible party shall terminate the 11853
applicant's employment unless the applicant meets standards 11854
specified in rules adopted under this section that permit the 11855

responsible party to employ the applicant and the responsible 11856
party chooses to employ the applicant. Termination of employment 11857
under this division shall be considered just cause for discharge 11858
for purposes of division (D) (2) of section 4141.29 of the 11859
Revised Code if the applicant makes any attempt to deceive the 11860
responsible party or designee about the applicant's criminal 11861
record. 11862

(G) The report of any criminal records check conducted 11863
pursuant to a request made under this section is not a public 11864
record for the purposes of section 149.43 of the Revised Code 11865
and shall not be made available to any person other than the 11866
following: 11867

(1) The applicant or employee who is the subject of the 11868
criminal records check or the applicant's or employee's 11869
representative; 11870

(2) The responsible party or designee; 11871

(3) In the case of a criminal records check conducted for 11872
an applicant who is under final consideration for employment 11873
with a regional long-term care ombudsman program (including as 11874
the head of the regional program) or an employee of a regional 11875
long-term care ombudsman program (including the head of a 11876
regional program), the state long-term care ombudsman or a 11877
representative of the office of the state long-term care 11878
ombudsman program who is responsible for monitoring the regional 11879
program's compliance with this section; 11880

(4) A court or hearing officer involved in a case dealing 11881
with any of the following: 11882

(a) A denial of employment of the applicant or employee; 11883

(b) Employment or unemployment benefits of the applicant 11884

or employee; 11885

(c) A civil or criminal action regarding the medicaid 11886
program or a program the department of aging administers. 11887

(5) Pursuant to a lawful subpoena or valid court order, 11888
any necessary individual not identified in division (G) (4) of 11889
this section who is involved in a case dealing with any issue, 11890
matter, or action described in division (G) (4) (a), (b), or (c) 11891
of this section. 11892

(H) In a tort or other civil action for damages that is 11893
brought as the result of an injury, death, or loss to person or 11894
property caused by an applicant or employee who a responsible 11895
party employs in a position that involves providing ombudsman 11896
services to residents and recipients, all of the following shall 11897
apply: 11898

(1) If the responsible party employed the applicant or 11899
employee in good faith and reasonable reliance on the report of 11900
a criminal records check requested under this section, the 11901
responsible party shall not be found negligent solely because of 11902
its reliance on the report, even if the information in the 11903
report is determined later to have been incomplete or 11904
inaccurate. 11905

(2) If the responsible party employed the applicant in 11906
good faith on a conditional basis pursuant to division (F) of 11907
this section, the responsible party shall not be found negligent 11908
solely because it employed the applicant prior to receiving the 11909
report of a criminal records check requested under this section. 11910

(3) If the responsible party in good faith employed the 11911
applicant or employee because the applicant or employee meets 11912
standards specified in rules adopted under this section, the 11913

responsible party shall not be found negligent solely because 11914
the applicant or employee has been convicted of, pleaded guilty 11915
to, or been found eligible for intervention in lieu of 11916
conviction for a disqualifying offense. 11917

(I) The state long-term care ombudsman may not act as the 11918
director of aging's designee for the purpose of this section. 11919
The head of a regional long-term care ombudsman program may not 11920
act as the regional program's designee for the purpose of this 11921
section if the head is the employee for whom a database review 11922
or criminal records check is being conducted. 11923

(J) (1) The director of aging ~~shall~~ may adopt rules in 11924
accordance with Chapter 119. of the Revised Code ~~to implement~~ 11925
~~this section.~~ 11926

~~(1)~~ The rules may to do the following: 11927

(a) Require employees to undergo database reviews and 11928
criminal records checks under this section; 11929

(b) If the rules require employees to undergo database 11930
reviews and criminal records checks under this section, exempt 11931
one or more classes of employees from the requirements; 11932

(c) For the purpose of division (D) (7) of this section, 11933
specify other databases that are to be checked as part of a 11934
database review conducted under this section. 11935

(2) The director shall adopt rules ~~shall~~ under Chapter 11936
119. of the Revised Code to specify all of the following: 11937

(a) The procedures for conducting database reviews under 11938
this section; 11939

(b) If the rules require employees to undergo database 11940
reviews and criminal records checks under this section, the 11941

times at which the database reviews and criminal records checks 11942
are to be conducted; 11943

(c) If the rules specify other databases to be checked as 11944
part of the database reviews, the circumstances under which a 11945
responsible party is prohibited from employing an applicant or 11946
continuing to employ an employee who is found by a database 11947
review to be included in one or more of those databases; 11948

(d) Standards that an applicant or employee must meet for 11949
a responsible party to be permitted to employ the applicant or 11950
continue to employ the employee in a position that involves 11951
providing ombudsman services to residents and recipients if the 11952
applicant or employee is found by a criminal records check 11953
required by this section to have been convicted of, pleaded 11954
guilty to, or been found eligible for intervention in lieu of 11955
conviction for a disqualifying offense. 11956

Sec. 173.38. (A) As used in this section: 11957

(1) "Applicant" means a person who is under final 11958
consideration for employment with a responsible party in a full- 11959
time, part-time, or temporary direct-care position or is 11960
referred to a responsible party by an employment service for 11961
such a position. "Applicant" does not include a person being 11962
considered for a direct-care position as a volunteer. 11963

(2) "Area agency on aging" has the same meaning as in 11964
section 173.14 of the Revised Code. 11965

(3) "Community-based long-term care services" means 11966
community-based long-term care services, as defined in section 11967
173.14 of the Revised Code, that are provided under a program 11968
the department of aging administers. 11969

(4) "Consumer" means an individual who receives community- 11970

- based long-term care services. 11971
- (5) "Criminal records check" has the same meaning as in 11972
section 109.572 of the Revised Code. 11973
- (6) (a) "Direct-care position" means an employment position 11974
in which an employee has either or both of the following: 11975
- (i) In-person contact with one or more consumers; 11976
- (ii) Access to one or more consumers' personal property or 11977
records. 11978
- (b) "Direct-care position" does not include any of the 11979
following: 11980
- (i) A person whose sole duties are transporting 11981
individuals under Chapter 306. of the Revised Code; 11982
- (ii) An attorney licensed to practice law in this state; 11983
- (iii) A person who is not licensed to practice law in this 11984
state, but, at the direction of an attorney licensed to practice 11985
law in this state, assists the attorney in the attorney's 11986
provision of legal services. 11987
- (7) "Disqualifying offense" means any of the offenses 11988
listed or described in divisions (A) (3) (a) to (e) of section 11989
109.572 of the Revised Code. 11990
- (8) "Employee" means a person employed by a responsible 11991
party in a full-time, part-time, or temporary direct-care 11992
position and a person who works in such a position due to being 11993
referred to a responsible party by an employment service. 11994
"Employee" does not include a person who works in a direct-care 11995
position as a volunteer. 11996
- (9) "PASSPORT administrative agency" has the same meaning 11997

as in section 173.42 of the Revised Code.	11998
(10) "Provider" has the same meaning as in section 173.39 of the Revised Code.	11999 12000
(11) "Responsible party" means the following:	12001
(a) An area agency on aging in the case of either of the following:	12002 12003
(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position;	12004 12005 12006 12007 12008
(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the agency by an employment service.	12009 12010 12011 12012
(b) A PASSPORT administrative agency in the case of either of the following:	12013 12014
(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position;	12015 12016 12017 12018 12019
(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the agency by an employment service.	12020 12021 12022 12023
(c) A provider in the case of either of the following:	12024

(i) A person who is an applicant because the person is 12025
under final consideration for employment with the provider in a 12026
full-time, part-time, or temporary direct-care position or is 12027
referred to the provider by an employment service for such a 12028
position; 12029

(ii) A person who is an employee because the person is 12030
employed by the provider in a full-time, part-time, or temporary 12031
direct-care position or works in such a position due to being 12032
referred to the provider by an employment service. 12033

(d) A subcontractor in the case of either of the 12034
following: 12035

(i) A person who is an applicant because the person is 12036
under final consideration for employment with the subcontractor 12037
in a full-time, part-time, or temporary direct-care position or 12038
is referred to the subcontractor by an employment service for 12039
such a position; 12040

(ii) A person who is an employee because the person is 12041
employed by the subcontractor in a full-time, part-time, or 12042
temporary direct-care position or works in such a position due 12043
to being referred to the subcontractor by an employment service. 12044

(12) "Subcontractor" has the meaning specified in rules 12045
adopted under this section. 12046

(13) "Volunteer" means a person who serves in a direct- 12047
care position without receiving or expecting to receive any form 12048
of remuneration other than reimbursement for actual expenses. 12049

(14) "Waiver agency" has the same meaning as in section 12050
5164.342 of the Revised Code. 12051

(B) This section does not apply to any of the following: 12052

(1) A person who is subject to a database review or criminal records check under section 173.381 or 3740.11 of the Revised Code;	12053 12054 12055
(2) A person who is subject to a criminal records check under section 3721.121 of the Revised Code;	12056 12057
(3) A participant-directed provider, but only if the director of aging has conducted a database review of the provider in the same manner that other database reviews are conducted under this section;	12058 12059 12060 12061
(4) An ambulette driver employed by an organization licensed under Chapter 4766. of the Revised Code.	12062 12063
(C) No responsible party shall employ an applicant or continue to employ an employee in a direct-care position if any of the following apply:	12064 12065 12066
(1) A review of the databases listed in division (E) of this section reveals any of the following:	12067 12068
(a) That the applicant or employee is included in one or more of the databases listed in divisions (E) (1) to (5) of this section;	12069 12070 12071
(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;	12072 12073 12074 12075 12076 12077
(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the responsible party from	12078 12079 12080

employing an applicant or continuing to employ an employee 12081
included in such a database in a direct-care position. 12082

(2) After the applicant or employee is provided, pursuant 12083
to division (F) (2) (a) of this section, a copy of the form 12084
prescribed pursuant to division (C) (1) of section 109.572 of the 12085
Revised Code and the standard impression sheet prescribed 12086
pursuant to division (C) (2) of that section, the applicant or 12087
employee fails to complete the form or provide the applicant's 12088
or employee's fingerprint impressions on the standard impression 12089
sheet. 12090

(3) Unless the applicant or employee meets standards 12091
specified in rules adopted under this section, the applicant or 12092
employee is found by a criminal records check required by this 12093
section to have been convicted of, pleaded guilty to, or been 12094
found eligible for intervention in lieu of conviction for a 12095
disqualifying offense. 12096

(D) Except as provided by division (G) of this section, 12097
the chief administrator of a responsible party shall inform each 12098
applicant of both of the following at the time of the 12099
applicant's initial application for employment or referral to 12100
the responsible party by an employment service for a direct-care 12101
position: 12102

(1) That a review of the databases listed in division (E) 12103
of this section will be conducted to determine whether the 12104
responsible party is prohibited by division (C) (1) of this 12105
section from employing the applicant in the direct-care 12106
position; 12107

(2) That, unless the database review reveals that the 12108
applicant may not be employed in the direct-care position, a 12109

criminal records check of the applicant will be conducted and 12110
the applicant is required to provide a set of the applicant's 12111
fingerprint impressions as part of the criminal records check. 12112

(E) As a condition of employing any applicant in a direct- 12113
care position, the chief administrator of a responsible party 12114
shall conduct a database review of the applicant in accordance 12115
with rules adopted under this section. If rules adopted under 12116
this section so require, the chief administrator of a 12117
responsible party shall conduct a database review of an employee 12118
in accordance with the rules as a condition of continuing to 12119
employ the employee in a direct-care position. However, a chief 12120
administrator is not required to conduct a database review of an 12121
applicant or employee if division (G) of this section applies. A 12122
database review shall determine whether the applicant or 12123
employee is included in any of the following: 12124

(1) The excluded parties list system that is maintained by 12125
the United States general services administration pursuant to 12126
subpart 9.4 of the federal acquisition regulation and available 12127
at the federal web site known as the system for award 12128
management; 12129

(2) The list of excluded individuals and entities 12130
maintained by the office of inspector general in the United 12131
States department of health and human services pursuant to the 12132
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 12133
and 1320c-5; 12134

(3) The registry of developmental disabilities employees 12135
established under section 5123.52 of the Revised Code; 12136

(4) The internet-based sex offender and child-victim 12137
offender database established under division ~~(A) (11)~~ (A) (10) of 12138

section 2950.13 of the Revised Code; 12139

(5) The internet-based database of inmates established 12140
under section 5120.66 of the Revised Code; 12141

(6) The state nurse aide registry established under 12142
section 3721.32 of the Revised Code; 12143

(7) Any other database, if any, specified in rules adopted 12144
under this section. 12145

(F) (1) As a condition of employing any applicant in a 12146
direct-care position, the chief administrator of a responsible 12147
party shall request that the superintendent of the bureau of 12148
criminal identification and investigation conduct a criminal 12149
records check of the applicant. If rules adopted under this 12150
section so require, the chief administrator of a responsible 12151
party shall request that the superintendent conduct a criminal 12152
records check of an employee at times specified in the rules as 12153
a condition of continuing to employ the employee in a direct- 12154
care position. However, the chief administrator is not required 12155
to request the criminal records check of the applicant or 12156
employee if division (G) of this section applies or the 12157
responsible party is prohibited by division (C) (1) of this 12158
section from employing the applicant or continuing to employ the 12159
employee in a direct-care position. If an applicant or employee 12160
for whom a criminal records check request is required by this 12161
section does not present proof of having been a resident of this 12162
state for the five-year period immediately prior to the date the 12163
criminal records check is requested or provide evidence that 12164
within that five-year period the superintendent has requested 12165
information about the applicant or employee from the federal 12166
bureau of investigation in a criminal records check, the chief 12167
administrator shall request that the superintendent obtain 12168

information from the federal bureau of investigation as part of 12169
the criminal records check. Even if an applicant or employee for 12170
whom a criminal records check request is required by this 12171
section presents proof of having been a resident of this state 12172
for the five-year period, the chief administrator may request 12173
that the superintendent include information from the federal 12174
bureau of investigation in the criminal records check. 12175

(2) The chief administrator shall do all of the following: 12176

(a) Provide to each applicant and employee for whom a 12177
criminal records check request is required by this section a 12178
copy of the form prescribed pursuant to division (C)(1) of 12179
section 109.572 of the Revised Code and a standard impression 12180
sheet prescribed pursuant to division (C)(2) of that section; 12181

(b) Obtain the completed form and standard impression 12182
sheet from the applicant or employee; 12183

(c) Forward the completed form and standard impression 12184
sheet to the superintendent. 12185

(3) A responsible party shall pay to the bureau of 12186
criminal identification and investigation the fee prescribed 12187
pursuant to division (C)(3) of section 109.572 of the Revised 12188
Code for each criminal records check the responsible party 12189
requests under this section. A responsible party may charge an 12190
applicant a fee not exceeding the amount the responsible party 12191
pays to the bureau under this section if both of the following 12192
apply: 12193

(a) The responsible party notifies the applicant at the 12194
time of initial application for employment of the amount of the 12195
fee and that, unless the fee is paid, the applicant will not be 12196
considered for employment. 12197

(b) The medicaid program does not pay the responsible party for the fee it pays to the bureau under this section.	12198 12199
(G) Divisions (D) to (F) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a responsible party by an employment service that supplies full-time, part-time, or temporary staff for direct-care positions and both of the following apply:	12200 12201 12202 12203 12204
(1) The chief administrator of the responsible party receives from the employment service confirmation that a review of the databases listed in division (E) of this section was conducted of the applicant or employee.	12205 12206 12207 12208
(2) The chief administrator of the responsible party receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding the following:	12209 12210 12211 12212 12213 12214
(a) In the case of an applicant, the date of the applicant's referral by the employment service to the responsible party;	12215 12216 12217
(b) In the case of an employee, the date by which the responsible party would otherwise have to request a criminal records check of the employee under division (F) of this section.	12218 12219 12220 12221
(H) (1) A responsible party may employ conditionally an applicant for whom a criminal records check request is required by this section prior to obtaining the results of the criminal records check if the responsible party is not prohibited by division (C) (1) of this section from employing the applicant in	12222 12223 12224 12225 12226

a direct-care position and either of the following applies: 12227

(a) The chief administrator of the responsible party 12228
requests the criminal records check in accordance with division 12229
(F) of this section before conditionally employing the 12230
applicant. 12231

(b) The applicant is referred to the responsible party by 12232
an employment service, the employment service or the applicant 12233
provides the chief administrator of the responsible party a 12234
letter that is on the letterhead of the employment service, the 12235
letter is dated and signed by a supervisor or another designated 12236
official of the employment service, and the letter states all of 12237
the following: 12238

(i) That the employment service has requested the 12239
superintendent to conduct a criminal records check regarding the 12240
applicant; 12241

(ii) That the requested criminal records check is to 12242
include a determination of whether the applicant has been 12243
convicted of, pleaded guilty to, or been found eligible for 12244
intervention in lieu of conviction for a disqualifying offense; 12245

(iii) That the employment service has not received the 12246
results of the criminal records check as of the date set forth 12247
on the letter; 12248

(iv) That the employment service promptly will send a copy 12249
of the results of the criminal records check to the chief 12250
administrator of the responsible party when the employment 12251
service receives the results. 12252

(2) If a responsible party employs an applicant 12253
conditionally pursuant to division (H) (1) (b) of this section, 12254
the employment service, on its receipt of the results of the 12255

criminal records check, promptly shall send a copy of the 12256
results to the chief administrator of the responsible party. 12257

(3) A responsible party that employs an applicant 12258
conditionally pursuant to division (H)(1)(a) or (b) of this 12259
section shall terminate the applicant's employment if the 12260
results of the criminal records check, other than the results of 12261
any request for information from the federal bureau of 12262
investigation, are not obtained within the period ending sixty 12263
days after the date the request for the criminal records check 12264
is made. Regardless of when the results of the criminal records 12265
check are obtained, if the results indicate that the applicant 12266
has been convicted of, pleaded guilty to, or been found eligible 12267
for intervention in lieu of conviction for a disqualifying 12268
offense, the responsible party shall terminate the applicant's 12269
employment unless the applicant meets standards specified in 12270
rules adopted under this section that permit the responsible 12271
party to employ the applicant and the responsible party chooses 12272
to employ the applicant. Termination of employment under this 12273
division shall be considered just cause for discharge for 12274
purposes of division (D)(2) of section 4141.29 of the Revised 12275
Code if the applicant makes any attempt to deceive the 12276
responsible party about the applicant's criminal record. 12277

(I) The report of any criminal records check conducted 12278
pursuant to a request made under this section is not a public 12279
record for the purposes of section 149.43 of the Revised Code 12280
and shall not be made available to any person other than the 12281
following: 12282

(1) The applicant or employee who is the subject of the 12283
criminal records check or the applicant's or employee's 12284
representative; 12285

(2) The chief administrator of the responsible party	12286
requesting the criminal records check or the administrator's	12287
representative;	12288
(3) The administrator of any other facility, agency, or	12289
program that provides community-based long-term care services	12290
that is owned or operated by the same entity that owns or	12291
operates the responsible party that requested the criminal	12292
records check;	12293
(4) The employment service that requested the criminal	12294
records check;	12295
(5) The director of aging or a person authorized by the	12296
director to monitor a responsible party's compliance with this	12297
section;	12298
(6) The medicaid director and the staff of the department	12299
of medicaid who are involved in the administration of the	12300
medicaid program if any of the following apply:	12301
(a) In the case of a criminal records check requested by a	12302
provider or subcontractor, the provider or subcontractor also is	12303
a waiver agency;	12304
(b) In the case of a criminal records check requested by	12305
an employment service, the employment service makes the request	12306
for an applicant or employee the employment service refers to a	12307
provider or subcontractor that also is a waiver agency.	12308
(7) A court or hearing officer involved in a case dealing	12309
with any of the following:	12310
(a) A denial of employment of the applicant or employee;	12311
(b) Employment or unemployment benefits of the applicant	12312
or employee;	12313

(c) A civil or criminal action regarding the medicaid program or a program the department of aging administers. 12314
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(8) Pursuant to a lawful subpoena or valid court order, any necessary individual not identified in division (I) (7) of this section who is involved in a case dealing with any issue, matter, or action described in division (I) (7) (a), (b), or (c) of this section. 12316
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(J) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an applicant or employee who a responsible party employs in a direct-care position, all of the following shall apply: 12321
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(1) If the responsible party employed the applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the responsible party shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate. 12326
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(2) If the responsible party employed the applicant in good faith on a conditional basis pursuant to division (H) of this section, the responsible party shall not be found negligent solely because it employed the applicant prior to receiving the report of a criminal records check requested under this section. 12333
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(3) If the responsible party in good faith employed the applicant or employee because the applicant or employee meets standards specified in rules adopted under this section, the responsible party shall not be found negligent solely because the applicant or employee has been convicted of, pleaded guilty 12338
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to, or been found eligible for intervention in lieu of 12343
conviction for a disqualifying offense. 12344

(K) The director of aging shall adopt rules in accordance 12345
with Chapter 119. of the Revised Code to implement this section. 12346

(1) The rules may do the following: 12347

(a) Require employees to undergo database reviews and 12348
criminal records checks under this section; 12349

(b) If the rules require employees to undergo database 12350
reviews and criminal records checks under this section, exempt 12351
one or more classes of employees from the requirements; 12352

(c) For the purpose of division (E) (7) of this section, 12353
specify other databases that are to be checked as part of a 12354
database review conducted under this section. 12355

(2) The rules shall specify all of the following: 12356

(a) The meaning of the term "subcontractor"; 12357

(b) The procedures for conducting database reviews under 12358
this section; 12359

(c) If the rules require employees to undergo database 12360
reviews and criminal records checks under this section, the 12361
times at which the database reviews and criminal records checks 12362
are to be conducted; 12363

(d) If the rules specify other databases to be checked as 12364
part of the database reviews, the circumstances under which a 12365
responsible party is prohibited from employing an applicant or 12366
continuing to employ an employee who is found by a database 12367
review to be included in one or more of those databases; 12368

(e) Standards that an applicant or employee must meet for 12369

a responsible party to be permitted to employ the applicant or 12370
continue to employ the employee in a direct-care position if the 12371
applicant or employee is found by a criminal records check 12372
required by this section to have been convicted of, pleaded 12373
guilty to, or been found eligible for intervention in lieu of 12374
conviction for a disqualifying offense. 12375

Sec. 173.381. (A) As used in this section: 12376

(1) "Community-based long-term care services" means 12377
community-based long-term care services, as defined in section 12378
173.14 of the Revised Code, that are provided under a program 12379
the department of aging administers. 12380

(2) "Community-based long-term care services certificate" 12381
means a certificate issued under section 173.391 of the Revised 12382
Code. 12383

(3) "Community-based long-term care services contract or 12384
grant" means a contract or grant awarded under section 173.392 12385
of the Revised Code. 12386

(4) "Criminal records check" has the same meaning as in 12387
section 109.572 of the Revised Code. 12388

(5) "Disqualifying offense" means any of the offenses 12389
listed or described in divisions (A) (3) (a) to (e) of section 12390
109.572 of the Revised Code. 12391

(6) "Provider" has the same meaning as in section 173.39 12392
of the Revised Code. 12393

(7) "Self-employed provider" means a provider who works 12394
for the provider's self and has no employees. 12395

(B) This section does not apply to any of the following: 12396

(1) An applicant as defined in section 3740.11 of the Revised Code or an employee as defined in section 3740.01 of the Revised Code;	12397 12398 12399
(2) An ambulette driver employed by an organization licensed under Chapter 4766. of the Revised Code;	12400 12401
(3) An attorney licensed to practice law in this state;	12402
(4) A person who is not licensed to practice law in this state, but who, at the direction of an attorney licensed to practice law in this state, assists the attorney in the attorney's provision of legal services.	12403 12404 12405 12406
(C) (1) The department of aging or its designee shall take the following actions when the circumstances specified in division (C) (2) of this section apply:	12407 12408 12409
(a) Refuse to issue a community-based long-term care services certificate to a self-employed provider;	12410 12411
(b) Revoke a self-employed provider's community-based long-term care services certificate;	12412 12413
(c) Refuse to award a community-based long-term care services contract or grant to a self-employed provider;	12414 12415
(d) Terminate a self-employed provider's community-based long-term care services contract or grant awarded on or after September 15, 2014.	12416 12417 12418
(2) The following are the circumstances that require the department of aging or its designee to take action under division (C) (1) of this section:	12419 12420 12421
(a) A review of the databases listed in division (E) of this section reveals any of the following:	12422 12423

- (i) That the self-employed provider is included in one or more of the databases listed in divisions (E) (1) to (5) of this section; 12424
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- (ii) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the self-employed provider abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident; 12427
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- (iii) That the self-employed provider is included in one or more of the databases, if any, specified in rules adopted under this section and the rules require the department or its designee to take action under division (C) (1) of this section if a self-employed provider is included in such a database. 12433
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- (b) After the self-employed provider is provided, pursuant to division (F) (2) (a) of this section, a copy of the form prescribed pursuant to division (C) (1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C) (2) of that section, the self-employed provider fails to complete the form or provide the self-employed provider's fingerprint impressions on the standard impression sheet. 12438
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- (c) Unless the self-employed provider meets standards specified in rules adopted under this section, the self-employed provider is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense. 12446
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- (D) The department of aging or its designee shall inform 12452

each self-employed provider of both of the following at the time 12453
of the self-employed provider's initial application for a 12454
community-based long-term care services certificate or initial 12455
bid for a community-based long-term care services contract or 12456
grant: 12457

(1) That a review of the databases listed in division (E) 12458
of this section will be conducted to determine whether the 12459
department or its designee is required by division (C) of this 12460
section to refuse to issue or award a community-based long-term 12461
care services certificate or community-based long-term care 12462
services contract or grant to the self-employed provider; 12463

(2) That, unless the database review reveals that the 12464
department or its designee is required to refuse to issue or 12465
award a community-based long-term care services certificate or 12466
community-based long-term care services contract or grant to the 12467
self-employed provider, a criminal records check of the self- 12468
employed provider will be conducted and the self-employed 12469
provider is required to provide a set of the self-employed 12470
provider's fingerprint impressions as part of the criminal 12471
records check. 12472

(E) As a condition of issuing or awarding a community- 12473
based long-term care services certificate or community-based 12474
long-term care services contract or grant to a self-employed 12475
provider, the department of aging or its designee shall conduct 12476
a database review of the self-employed provider in accordance 12477
with rules adopted under this section. If rules adopted under 12478
this section so require, the department or its designee shall 12479
conduct a database review of a self-employed provider in 12480
accordance with the rules as a condition of not revoking or 12481
terminating the self-employed provider's community-based long- 12482

term care services certificate or community-based long-term care 12483
services contract or grant. A database review shall determine 12484
whether the self-employed provider is included in any of the 12485
following: 12486

(1) The excluded parties list system that is maintained by 12487
the United States general services administration pursuant to 12488
subpart 9.4 of the federal acquisition regulation and available 12489
at the federal web site known as the system for award 12490
management; 12491

(2) The list of excluded individuals and entities 12492
maintained by the office of inspector general in the United 12493
States department of health and human services pursuant to the 12494
"Social Security Act," 42 U.S.C. 1320a-7 and 1320c-5; 12495

(3) The registry of developmental disabilities employees 12496
established under section 5123.52 of the Revised Code; 12497

(4) The internet-based sex offender and child-victim 12498
offender database established under division ~~(A) (11)~~ (A) (10) of 12499
section 2950.13 of the Revised Code; 12500

(5) The internet-based database of inmates established 12501
under section 5120.66 of the Revised Code; 12502

(6) The state nurse aide registry established under 12503
section 3721.32 of the Revised Code; 12504

(7) Any other database, if any, specified in rules adopted 12505
under this section. 12506

(F) (1) As a condition of issuing or awarding a community- 12507
based long-term care services certificate or community-based 12508
long-term care services contract or grant to a self-employed 12509
provider, the department of aging or its designee shall request 12510

that the superintendent of the bureau of criminal identification 12511
and investigation conduct a criminal records check of the self- 12512
employed provider. If rules adopted under this section so 12513
require, the department or its designee shall request that the 12514
superintendent conduct a criminal records check of a self- 12515
employed provider at times specified in the rules as a condition 12516
of not revoking or terminating the self-employed provider's 12517
community-based long-term care services certificate or 12518
community-based long-term care services contract or grant. 12519
However, the department or its designee is not required to 12520
request the criminal records check of the self-employed provider 12521
if the department or its designee, because of circumstances 12522
specified in division (C)(2)(a) of this section, is required to 12523
refuse to issue or award a community-based long-term care 12524
services certificate or community-based long-term care services 12525
contract or grant to the self-employed provider or to revoke or 12526
terminate the self-employed provider's certificate or contract 12527
or grant. 12528

If a self-employed provider for whom a criminal records 12529
check request is required by this section does not present proof 12530
of having been a resident of this state for the five-year period 12531
immediately prior to the date the criminal records check is 12532
requested or provide evidence that within that five-year period 12533
the superintendent has requested information about the self- 12534
employed provider from the federal bureau of investigation in a 12535
criminal records check, the department or its designee shall 12536
request that the superintendent obtain information from the 12537
federal bureau of investigation as part of the criminal records 12538
check. Even if a self-employed provider for whom a criminal 12539
records check request is required by this section presents proof 12540
of having been a resident of this state for the five-year 12541

period, the department or its designee may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The department or its designee shall do all of the following:

(a) Provide to each self-employed provider for whom a criminal records check request is required by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and standard impression sheet from the self-employed provider;

(c) Forward the completed form and standard impression sheet to the superintendent.

(3) The department or its designee shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check of a self-employed provider the department or its designee requests under this section. The department or its designee may charge the self-employed provider a fee that does not exceed the amount the department or its designee pays to the bureau.

(G) The report of any criminal records check of a self-employed provider conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The self-employed provider or the self-employed provider's representative;

- (2) The department of aging, the department's designee, or a representative of the department or its designee; 12571
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- (3) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if the self-employed provider is to provide, or provides, community-based long-term care services under a component of the medicaid program that the department of aging administers; 12573
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- (4) A court or hearing officer involved in a case dealing with any of the following: 12579
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- (a) A refusal to issue or award a community-based long-term services certificate or community-based long-term care services contract or grant to the self-employed provider; 12581
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- (b) A revocation or termination of the self-employed provider's community-based long-term care services certificate or community-based long-term care services contract or grant; 12584
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- (c) A civil or criminal action regarding a program the department of aging administers. 12587
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- (5) Pursuant to a lawful subpoena or valid court order, any necessary individual not identified in division (G) (4) of this section who is involved in a case dealing with any issue, matter, or action described in division (G) (4) (a), (b), or (c) of this section. 12589
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- (H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by a self-employed provider, both of the following shall apply: 12594
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- (1) If the department of aging or its designee, in good 12598

faith and reasonable reliance on the report of a criminal 12599
records check requested under this section, issued or awarded a 12600
community-based long-term care services certificate or 12601
community-based long-term care services contract or grant to the 12602
self-employed provider or did not revoke or terminate the self- 12603
employed provider's certificate or contract or grant, the 12604
department and its designee shall not be found negligent solely 12605
because of its reliance on the report, even if the information 12606
in the report is determined later to have been incomplete or 12607
inaccurate. 12608

(2) If the department or its designee in good faith issued 12609
or awarded a community-based long-term care services certificate 12610
or community-based long-term care services contract or grant to 12611
the self-employed provider or did not revoke or terminate the 12612
self-employed provider's certificate or contract or grant 12613
because the self-employed provider meets standards specified in 12614
rules adopted under this section, the department and its 12615
designee shall not be found negligent solely because the self- 12616
employed provider has been convicted of, pleaded guilty to, or 12617
been found eligible for intervention in lieu of conviction for a 12618
disqualifying offense. 12619

(I) (1) The director of aging shall adopt rules in 12620
accordance with Chapter 119. of the Revised Code to ~~implement~~ 12621
~~this section.~~ 12622

~~(1) The rules may do the following:~~ 12623

(a) Require self-employed providers who have been issued 12624
or awarded community-based long-term care services certificates 12625
or community-based long-term care services contracts or grants 12626
to undergo database reviews and criminal records checks under 12627
this section; 12628

(b) If the rules require self-employed providers who have
been issued or awarded community-based long-term care services
certificates or community-based long-term care services
contracts or grants to undergo database reviews and criminal
records checks under this section, exempt one or more classes of
such self-employed providers from the requirements;

(c) For the purpose of division (E)(7) of this section,
specify other databases that are to be checked as part of a
database review conducted under this section.

(2) The director shall adopt rules shall in accordance
with Chapter 119. of the Revised Code to specify all of the
following:

(a) The procedures for conducting database reviews under
this section;

(b) If the rules require self-employed providers who have
been issued or awarded community-based long-term care services
certificates or community-based long-term care services
contracts or grants to undergo database reviews and criminal
records checks under this section, the times at which the
database reviews and criminal records checks are to be
conducted;

(c) If the rules specify other databases to be checked as
part of the database reviews, the circumstances under which the
department of aging or its designee is required to refuse to
issue or award a community-based long-term care services
certificate or community-based long-term care services contract
or grant to a self-employed provider or to revoke or terminate a
self-employed provider's certificate or contract or grant when
the self-employed provider is found by a database review to be

included in one or more of those databases; 12658

(d) Standards that a self-employed provider must meet for 12659
the department or its designee to be permitted to issue or award 12660
a community-based long-term care services certificate or 12661
community-based long-term care services contract or grant to the 12662
self-employed provider or not to revoke or terminate the self- 12663
employed provider's certificate or contract or grant if the 12664
self-employed provider is found by a criminal records check 12665
required by this section to have been convicted of, pleaded 12666
guilty to, or been found eligible for intervention in lieu of 12667
conviction for a disqualifying offense. 12668

Sec. 173.42. (A) As used in sections 173.42 to ~~173.434~~ 12669
173.433 of the Revised Code: 12670

(1) "Area agency on aging" means a public or private 12671
nonprofit entity designated under section 173.011 of the Revised 12672
Code to administer programs on behalf of the department of 12673
aging. 12674

(2) "Department of aging-administered medicaid waiver 12675
component" means each of the following: 12676

(a) The medicaid-funded component of the PASSPORT program 12677
created under section 173.52 of the Revised Code; 12678

(b) The medicaid-funded component of the assisted living 12679
program created under section 173.54 of the Revised Code; 12680

(c) Any other medicaid waiver component, as defined in 12681
section 5166.01 of the Revised Code, that the department of 12682
aging administers pursuant to an interagency agreement with the 12683
department of medicaid under section 5162.35 of the Revised 12684
Code. 12685

(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following:	12686 12687 12688
(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component;	12689 12690
(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section 5164.02 of the Revised Code:	12691 12692 12693 12694
(i) Home health services;	12695
(ii) Private duty nursing services;	12696
(iii) Durable medical equipment;	12697
(iv) Services of a clinical nurse specialist;	12698
(v) Services of a certified nurse practitioner.	12699
(c) Services available to a participant of the PACE program.	12700 12701
(4) "Long-term care consultation" or "consultation" means the consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section.	12702 12703 12704 12705
(5) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.	12706 12707
(6) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.	12708 12709 12710
(7) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative	12711 12712

services regarding the PASSPORT program. 12713

(8) "Program administrator" means an area agency on aging 12714
or other entity under contract with the department of aging to 12715
administer the long-term care consultation program in a 12716
geographic region specified in the contract. 12717

(9) "Representative" means a person acting on behalf of an 12718
individual who is the subject of a long-term care consultation. 12719
A representative may be a family member, attorney, hospital 12720
social worker, or any other person chosen to act on behalf of 12721
the individual. 12722

(B) The department of aging shall develop a long-term care 12723
consultation program whereby individuals or their 12724
representatives are provided with long-term care consultations 12725
and receive through these professional consultations information 12726
about options available to meet long-term care needs and 12727
information about factors to consider in making long-term care 12728
decisions. The long-term care consultations may be provided at 12729
any appropriate time, including either prior to or after the 12730
individual who is the subject of a consultation has been 12731
admitted to a nursing facility or granted assistance in 12732
receiving home and community-based services covered by medicaid 12733
components the department of aging administers. 12734

(C) The long-term care consultation program shall be 12735
administered by the department of aging, except that the 12736
department may have the program administered on a regional basis 12737
by one or more program administrators. The department and each 12738
program administrator shall administer the program in such a 12739
manner that all of the following are included: 12740

(1) Coordination and collaboration with respect to all 12741

available funding sources for long-term care services;	12742
(2) Assessments of individuals regarding their long-term care service needs;	12743 12744
(3) Assessments of individuals regarding their on-going eligibility for long-term care services;	12745 12746
(4) Procedures for assisting individuals in obtaining access to, and coordination of, health and supportive services, including department of aging-administered medicaid waiver components;	12747 12748 12749 12750
(5) Priorities for using available resources efficiently and effectively.	12751 12752
(D) The program's long-term care consultations shall be provided by individuals certified by the department under section 173.422 of the Revised Code.	12753 12754 12755
(E) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following:	12756 12757 12758
(1) The availability of any long-term care options open to the individual;	12759 12760
(2) Sources and methods of both public and private payment for long-term care services;	12761 12762
(3) Factors to consider when choosing among the available programs, services, and benefits;	12763 12764
(4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community;	12765 12766 12767
(5) If the individual is a veteran, as defined in section	12768

5901.01 of the Revised Code, or the spouse, surviving spouse, or
representative of the veteran, both of the following: 12769
12770

(a) The availability of health care or financial benefits 12771
through the United States department of veterans affairs; 12772

(b) Information about congressionally chartered veterans 12773
service organizations or the county veterans service office that 12774
can assist with investigating and applying for benefits through 12775
the United States department of veterans affairs. 12776

(F) An individual's long-term care consultation may 12777
include an assessment of the individual's functional 12778
capabilities. The consultation may incorporate portions of the 12779
determinations required under sections 5119.40, 5123.021, and 12780
5165.03 of the Revised Code and may be provided concurrently 12781
with the assessment required under section 173.546 or 5165.04 of 12782
the Revised Code. 12783

(G) Except as provided in division (I) of this section, a 12784
long-term care consultation shall be provided to each individual 12785
for whom the department or a program administrator determines 12786
such a consultation is appropriate. 12787

(H) A long-term care consultation shall be completed 12788
within the applicable time frames specified in rules adopted 12789
under this section. 12790

(I) An individual is not required to be provided a long- 12791
term care consultation if any of the following is the case: 12792

(1) The department or a program administrator has 12793
attempted to provide the consultation, but the individual or the 12794
individual's representative refuses to cooperate; 12795

(2) The individual is to receive care in a nursing 12796

facility under a contract for continuing care, as defined in 12797
section 173.13 of the Revised Code; 12798

(3) The individual has a contractual right to admission to 12799
a nursing facility operated as part of a system of continuing 12800
care in conjunction with one or more facilities that provide a 12801
less intensive level of services, including a residential care 12802
facility licensed under Chapter 3721. of the Revised Code, a 12803
residential facility licensed under section 5119.34 of the 12804
Revised Code that provides accommodations, supervision, and 12805
personal care services for three to sixteen unrelated adults, or 12806
an independent living arrangement; 12807

(4) The individual is to receive continual care in a home 12808
for the aged exempt from taxation under section 5701.13 of the 12809
Revised Code; 12810

(5) The individual is seeking admission to a facility that 12811
is not a nursing facility with a provider agreement under 12812
section 5165.07, 5165.511, or 5165.512 of the Revised Code; 12813

(6) Pursuant to rules that may be adopted under this 12814
section, the department or a program administrator has exempted 12815
the individual from receiving the long-term care consultation. 12816

(J) As part of the long-term care consultation program, 12817
the department or a program administrator may assist an 12818
individual or individual's representative in accessing all 12819
sources of care and services that are appropriate for the 12820
individual and for which the individual is eligible, including 12821
all available home and community-based services covered by 12822
medicaid components the department of aging administers. The 12823
assistance may include providing for the conduct of assessments 12824
or other evaluations and the development of individualized plans 12825

of care or services under section 173.424 of the Revised Code.	12826
(K) No nursing facility for which an operator has a	12827
provider agreement under section 5165.07, 5165.511, or 5165.512	12828
of the Revised Code shall admit as a resident any individual	12829
described in division (G) of this section, unless the nursing	12830
facility has received evidence that a long-term care	12831
consultation has been completed for the individual or division	12832
(I) of this section is applicable to the individual.	12833
(L) The director of aging shall adopt rules for the	12834
implementation and administration of this section. The rules	12835
shall be adopted in accordance with Chapter 119. of the Revised	12836
Code. The rules may specify any or all of the following:	12837
(1) Procedures for providing long-term care consultations;	12838
(2) Information to be provided through long-term care	12839
consultations regarding long-term care services that are	12840
available;	12841
(3) Criteria and procedures to be used to identify and	12842
recommend appropriate service options for an individual	12843
receiving a long-term care consultation;	12844
(4) Criteria for exempting individuals from receiving a	12845
long-term care consultation;	12846
(5) Circumstances under which it may be appropriate to	12847
provide an individual's long-term care consultation after the	12848
individual's admission to a nursing facility rather than before	12849
admission;	12850
(6) Criteria for identifying individuals for whom a long-	12851
term care consultation is appropriate, including nursing	12852
facility residents who would benefit from the consultation;	12853

(7) A description of the types of information from a nursing facility that is needed under the long-term care consultation program to assist a resident with relocation from the facility;

(8) Standards to prevent conflicts of interest relative to the referrals made by a person who performs a long-term care consultation, including standards that prohibit the person from being employed by a provider of long-term care services;

(9) Procedures for providing notice and an opportunity for a hearing under division (N) of this section;

(10) Time frames for providing or completing a long-term care consultation;

(11) Any other standards or procedures the director considers necessary for the program.

(M) To assist the department and each program administrator with identifying individuals for whom a long-term care consultation is appropriate, the department and program administrator may ask to be given access to nursing facility resident assessment data collected through the use of the resident assessment instrument specified in rules authorized by section 5165.191 of the Revised Code for purposes of the medicaid program. Except when prohibited by state or federal law, the department of health, department of medicaid, or nursing facility holding the data shall grant access to the data on receipt of the request from the department of aging or program administrator.

(N) (1) The director of aging, after providing notice and an opportunity for a hearing, may fine a nursing facility an amount determined by rules the director shall adopt in

accordance with Chapter 119. of the Revised Code for any of the 12883
following reasons: 12884

(a) The nursing facility violates division (K) of this 12885
section; 12886

(b) The nursing facility denies a person attempting to 12887
provide a long-term care consultation access to the facility or 12888
a resident of the facility; 12889

(c) The nursing facility denies the department of aging or 12890
a program administrator access to the facility or a resident of 12891
the facility, as the department or administrator considers 12892
necessary to administer the program. 12893

(2) In accordance with section 5162.66 of the Revised 12894
Code, all fines collected under division (N)(1) of this section 12895
shall be deposited into the state treasury to the credit of the 12896
residents protection fund. 12897

Sec. 173.43. (A) The department of aging shall enter into 12898
an interagency agreement with the department of medicaid under 12899
section 5162.35 of the Revised Code under which the department 12900
of aging is required to establish for each biennium a unified 12901
long-term care budget for home and community-based services 12902
covered by medicaid components the department of aging 12903
administers. The interagency agreement shall require the 12904
department of aging to do all of the following: 12905

(1) Administer the unified long-term care budget in 12906
accordance with sections 173.43 to ~~173.434~~ 173.433 of the 12907
Revised Code and the general assembly's appropriations for home 12908
and community-based services covered by medicaid components the 12909
department of aging administers for the applicable biennium; 12910

(2) Contract with each PASSPORT administrative agency for 12911

assistance in the administration of the unified long-term care budget; 12912
12913

(3) Provide individuals who are eligible for home and community-based services covered by medicaid components the department of aging administers a choice of services that meet the individuals' needs and improve their quality of life; 12914
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(4) Provide a continuum of services that meet the life-long needs of individuals who are eligible for home and community-based services covered by medicaid components the department of aging administers. 12918
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(B) The director of budget and management shall create new appropriation items as necessary for establishment of the unified long-term care budget. 12922
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Sec. 173.45. As used in this section and in sections 173.46 to ~~173.49~~173.48 of the Revised Code: 12925
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(A) "Residential facility" means a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults. 12927
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(B) "Community-based long-term care services" has the same meaning as in section 173.14 of the Revised Code. 12931
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(C) "Long-term care facility" means a nursing home or residential care facility. 12933
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(D) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code. 12935
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(E) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code. 12937
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Sec. 173.46. (A) The department of aging shall develop and 12939
publish a guide to long-term care facilities for use by 12940
individuals considering long-term care facility admission and 12941
their families, friends, and advisors. The guide, which shall be 12942
titled the Ohio long-term care consumer guide, may be published 12943
in printed form or in electronic form for distribution over the 12944
internet. The guide may be developed as a continuation or 12945
modification of the guide published by the department prior to 12946
September 29, 2005, ~~under rules adopted under section 173.02 of~~ 12947
~~the Revised Code.~~ 12948

(B) The Ohio long-term care consumer guide shall include 12949
information on each long-term care facility in this state. For 12950
each facility, the guide shall include the following 12951
information, as applicable to the facility: 12952

(1) Information regarding the facility's compliance with 12953
state statutes and rules and federal statutes and regulations; 12954

(2) Information generated by the centers for medicare and 12955
medicaid services of the United States department of health and 12956
human services from the quality measures developed as part of 12957
its nursing home quality initiative; 12958

(3) Results of the customer satisfaction surveys conducted 12959
under section 173.47 of the Revised Code; 12960

~~(4) Any other information the department specifies in~~ 12961
~~rules adopted under section 173.49 of the Revised Code.~~ 12962

(C) The Ohio long-term care consumer guide may include 12963
information on residential facilities and providers of 12964
community-based long-term care services. ~~The department may~~ 12965
~~adopt rules under section 173.49 of the Revised Code to specify~~ 12966
~~the information to be included in the guide pursuant to this~~ 12967

division.	12968
Sec. 173.502. (A) As used in this section:	12969
(1) "CMS" means the United States Centers for Medicare and Medicaid Services.	12970 12971
(2) "Entity" has the same meaning as in 42 C.F.R. 460.10.	12972
(3) "PACE center," "PACE organization," "participant," and "state administering agency" have the same meanings as in 42 C.F.R. 460.6.	12973 12974 12975
(B) (1) Not later than one hundred twenty days after the effective date of this section, the Department of Aging shall issue a request for proposals from any entity interested in becoming a PACE organization, including for service areas in the counties, or contiguous zip codes within the counties, or extending from the counties, of Franklin, Hamilton, Montgomery, Lorain, Lucas, and Summit. Proposals shall be submitted to the Department not later than ninety days after the date the Department issues the request for proposals.	12976 12977 12978 12979 12980 12981 12982 12983 12984
(2) Division (B) (1) of this section does not prevent the Department from expanding the PACE program outside of the process required by that division, including by issuing other requests for proposals.	12985 12986 12987 12988
(C) To be eligible for approval by the Department to become a PACE organization, an entity that submits a proposal pursuant to division (B) (1) of this section shall meet all of the following requirements:	12989 12990 12991 12992
(1) The entity provides a feasibility study of its proposed service area to the Department.	12993 12994
(2) The entity has a current, valid provider agreement, as	12995

defined in section 5164.01 of the Revised Code, or will be 12996
eligible to enter into a provider agreement by the time that the 12997
entity will begin providing services under the PACE program. 12998

(3) The entity meets all federal requirements applicable 12999
to PACE organizations. 13000

(4) The entity demonstrates to the satisfaction of the 13001
Department that the organization has experience providing health 13002
care services to frail older adults and that each member of the 13003
entity's staff, including employees and contractors, complies 13004
with 42 C.F.R. 460.64. 13005

(5) The entity has a facility suitable to be a PACE 13006
center, or plans to acquire, build, or expand a facility 13007
suitable to be a PACE center prior to beginning services, in its 13008
proposed service area, as described in the request for proposals 13009
process. 13010

~~(6) The entity meets any additional requirements in rules 13011
adopted by the Department pursuant to division (C) of this 13012
section. 13013~~

(D) The Department shall review all proposals submitted in 13014
accordance with division (B) (1) of this section. For at least 13015
each of the six service areas identified in division (C) of this 13016
section, the Department shall determine from the proposals which 13017
entities it considers qualified to become PACE organizations for 13018
each service area. The determination shall be made not later 13019
than nine months after the date the Department issues the 13020
request for proposals. 13021

(E) An entity considered by the Department as qualified to 13022
become a PACE organization may apply to CMS to become a PACE 13023
organization. The Department shall provide support to any such 13024

organization that applies to CMS, by complying with federal requirements. 13025
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(F) Each entity approved to become a PACE organization by CMS shall begin providing services to participants not later than two years after the entity receives notice of its approval from CMS, consistent with federal financial participation. 13027
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~~(G) The Director of Aging may adopt rules to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~ 13031
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Sec. 173.52. (A) The department of medicaid shall create the medicaid-funded component of the PASSPORT program. In creating the medicaid-funded component, the department of medicaid shall collaborate with the department of aging. 13034
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(B) All of the following apply to the medicaid-funded component of the PASSPORT program: 13038
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(1) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of medicaid under section 5162.35 of the Revised Code. 13040
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(2) The medicaid-funded component shall be operated as a separate medicaid waiver component. 13044
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(3) For an individual to be eligible for the medicaid-funded component, the individual must be a medicaid recipient and meet ~~the~~ additional eligibility requirements applicable to the individual established in rules adopted ~~under division (B) (4) of this section.~~ 13046
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~~(4) To the extent authorized by rules authorized by section 5162.021 of the Revised Code,~~ the director of aging 13051
13052

~~shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the medicaid-funded component.~~ 13053
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Sec. 173.522. (A) The department of aging shall create and administer the state-funded component of the PASSPORT program. The state-funded component shall not be administered as part of the medicaid program. 13055
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(B) For an individual to be eligible for the state-funded component of the PASSPORT program, the individual must meet one of the following requirements and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (D) of this section: 13059
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(1) The individual must have been enrolled in the state-funded component on September 1, 1991, (as the state-funded component was authorized by uncodified law in effect at that time) and have had one or more applications for enrollment in the medicaid-funded component of the PASSPORT program denied. 13064
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(2) The individual must have an application for the medicaid-funded component of the PASSPORT program pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component. 13069
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(C) An individual who is eligible for the state-funded component of the PASSPORT program because the individual meets the requirement of division (B) (2) of this section may participate in the component on that basis for a period of time specified in rules adopted under division (D) of this section. 13076
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(D) (1) The director of aging shall adopt rules in 13081

accordance with section 111.15 of the Revised Code to ~~implement~~ 13082
~~the state-funded component of the PASSPORT program.~~ 13083

~~The rules shall include all address both of the following:~~ 13084

(a) Additional eligibility requirements for an individual 13085
to be eligible for the state-funded component of the PASSPORT 13086
program; 13087

(b) The duration that an individual eligible for the 13088
state-funded component of the PASSPORT program under division 13089
(B) (2) of this section may participate in that component; 13090

~~(c) Any other rules the director considers appropriate to~~ 13091
~~implement the state-funded component of the PASSPORT program.~~ 13092

(2) The additional eligibility requirements established in 13093
the rules may vary for the different groups of individuals 13094
specified in divisions (B) (1) and (2) of this section. 13095

Sec. 173.524. An individual enrolled in the PASSPORT 13096
program may request that home-delivered meals provided to the 13097
individual under the PASSPORT program be kosher. If such a 13098
request is made, the department of aging or the department's 13099
designee shall ensure that each home-delivered meal provided to 13100
the individual under the PASSPORT program is kosher. In 13101
complying with this requirement, the department or department's 13102
designee shall require each entity that provides home-delivered 13103
meals to the individual to provide the individual with meals 13104
that meet, as much as possible, ~~the requirements established in~~ 13105
~~rules by rule adopted by the director of aging under sections~~ 13106
~~173.52 and 173.522~~ section 111.15 of the Revised Code governing 13107
the home-delivered meal service while complying with kosher 13108
practices for meal preparation and dietary restrictions. 13109

An entity that provides a kosher home-delivered meal to a 13110

PASSPORT program enrollee pursuant to this section shall be 13111
reimbursed for the meal at a rate equal to the rate for home- 13112
delivered meals furnished to PASSPORT program enrollees 13113
requiring a therapeutic diet. 13114

Sec. 173.543. The department of aging shall create and 13115
administer the state-funded component of the assisted living 13116
program. The state-funded component shall not be administered as 13117
part of the medicaid program. 13118

An individual who is eligible for the state-funded 13119
component may participate in the component for a period of time 13120
specified ~~in rules~~ by rule adopted under this section. 13121

~~The~~ by the director of aging ~~shall adopt rules in~~ 13122
accordance with section 111.15 of the Revised Code ~~to implement~~ 13123
~~the state-funded component. The rules shall specify the period~~ 13124
~~that an individual eligible for the state-funded component may~~ 13125
~~participate in the component.~~ 13126

Sec. 173.60. (A) As used in this section: 13127

(1) "Nursing home" has the same meaning as in section 13128
3721.01 of the Revised Code. 13129

(2) "Person-centered care" means a relationship-based 13130
approach to care that honors and respects the opinions of 13131
individuals receiving care and those working closely with them. 13132

(B) The department of aging shall implement a nursing home 13133
quality initiative to improve the provision of person-centered 13134
care in nursing homes. The office of the state long-term care 13135
ombudsman program shall assist the department with the 13136
initiative. The initiative shall include quality improvement 13137
projects that provide nursing homes with resources and on-site 13138
education promoting person-centered care strategies and positive 13139

resident outcomes, as well as other assistance designed to 13140
improve the quality of nursing home services. The department may 13141
offer any of the projects. 13142

(C) (1) The department shall make available a list of 13143
quality improvement projects that may be used by nursing homes 13144
in meeting the requirements of section 3721.072 of the Revised 13145
Code. In addition to any of the projects offered by the 13146
department pursuant to division (B) of this section, the list 13147
may include projects offered by any of the following: 13148

(a) Other state agencies; 13149

(b) A quality improvement organization under contract with 13150
the United States secretary of health and human services to 13151
carry out in this state the functions described in the "Social 13152
Security Act," section 1154, 42 U.S.C. 1320c-3; 13153

(c) The Ohio person-centered care coalition; 13154

(d) Any other academic, research, or health care entity 13155
identified by the department. 13156

(2) The department shall offer to nursing homes and other 13157
long-term care facility settings infection prevention and 13158
control and facility technical assistance, including services, 13159
programs, and content expertise, as a project authorized under 13160
division (C) (1) of this section to improve quality of care and 13161
quality of life, subject to the availability of funds. 13162

~~(D) The director of aging may adopt rules in accordance 13163
with Chapter 119. of the Revised Code as necessary to implement 13164
this section. 13165~~

Sec. 175.05. (A) The Ohio housing finance agency shall do 13166
all of the following related to the agency's operation: 13167

- (1) Adopt bylaws for the conduct of its business; 13168
- (2) Employ and fix the compensation of the executive 13169
director who serves at the pleasure of the agency to administer 13170
the agency's programs and activities. The executive director may 13171
employ and fix the compensation of employees in the unclassified 13172
civil service as necessary to carry out this chapter and may 13173
employ other personnel who are governed by collective bargaining 13174
law and classified under that law. The executive director shall 13175
carry out all duties as described in section 175.053 of the 13176
Revised Code. 13177
- (3) Establish an operating budget for the agency and 13178
administer funds appropriated for the agency's use; 13179
- (4) Notwithstanding any other provision of the Revised 13180
Code, hold all moneys, funds, properties, and assets the agency 13181
acquires or that are directly or indirectly within the agency's 13182
control, including proceeds from the sale of bonds, revenues, 13183
and otherwise, in trust for the purpose of exercising its powers 13184
and carrying out its duties pursuant to this chapter. 13185
Notwithstanding any other provision of the Revised Code other 13186
than section 175.051 of the Revised Code, at no time shall the 13187
agency's moneys, funds, properties, or assets be considered 13188
public moneys, public funds, public properties, or public assets 13189
or subject to Chapters 131. and 135. of the Revised Code. 13190
- (5) Maintain a principal office and other offices within 13191
the state. 13192
- (B) The Ohio housing finance agency may do any of the 13193
following related to the agency's operation: 13194
- (1) Except as otherwise provided in section 174.04 of the 13195
Revised Code, determine income limits for low- and moderate- 13196

income persons and establish periodic reviews of income limits. 13197
In determining income limits, the agency shall take into 13198
consideration the amount of income available for housing, family 13199
size, the cost and condition of available housing, ability to 13200
pay the amounts the private market charges for decent, safe, and 13201
sanitary housing without federal subsidy or state assistance, 13202
and the income eligibility standards of federal programs. Income 13203
limits may vary from area to area within the state. 13204

(2) Provide technical information, advice, and assistance 13205
related to obtaining federal and state aid to assist in the 13206
planning, construction, rehabilitation, refinancing, and 13207
operation of housing; 13208

(3) Provide information, assistance, or instruction 13209
concerning agency programs, eligibility requirements, 13210
application procedures, and other related matters; 13211

(4) Procure or require the procurement of insurance and 13212
pay the premium against loss in connection with the agency's 13213
operations, to include the repayment of a loan, in amounts and 13214
from insurers, including the federal government, as the agency 13215
determines; 13216

(5) Contract with, retain, or designate financial 13217
consultants, accountants, and other consultants and independent 13218
contractors, other than attorneys, whom the agency determines 13219
are necessary or appropriate; 13220

(6) Charge, alter, and collect interest and other charges 13221
for program services including, but not limited to, the 13222
allocation of loan funds, the purchase of mortgage loans, and 13223
the provision of services that include processing, inspecting, 13224
and monitoring of housing units financed and the financial 13225

records for those units;	13226
(7) Conduct or authorize studies and analyses of housing needs and conditions to the extent that those activities are not carried out by other agencies in a manner that is satisfactory for the agency's needs;	13227 13228 13229 13230
(8) (a) Acquire by gift, purchase, foreclosure, investment, or other means, and hold, assign, pledge, lease, transfer, or otherwise dispose of real and personal property or any interest in that property in the exercise of its powers and the performance of its duties;	13231 13232 13233 13234 13235
(b) Any instrument by which real property is acquired pursuant to this section shall identify the state agency that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.	13236 13237 13238 13239
(9) (a) Borrow money, receive gifts, grants, loans, or other assistance from any federal, state, local, or other government source, including the housing development fund and the housing trust fund, and enter into contracts in connection with those sources of assistance;	13240 13241 13242 13243 13244
(b) Receive assistance or contributions from any nongovernment source to include money, property, labor, or things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made and within the purposes of this chapter.	13245 13246 13247 13248 13249
(10) Sue and be sued in its own name with respect to its contracts, obligations, and covenants, or the enforcement of this chapter. Any actions against the agency shall be brought in a court of competent jurisdiction located in Franklin county, Ohio.	13250 13251 13252 13253 13254

- (11) Enter into any contract, commitment, or agreement and execute any instrument necessary or incidental to the performance of duties and the execution of powers; 13255
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13257
- (12) Adopt an official seal; 13258
- (13) (a) Contract with any private or government entity to administer programs for which the agency receives sufficient revenues for its services or the agency supports with uncommitted agency resources that pay the agency's operating costs; 13259
13260
13261
13262
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- (b) Administer state and federal programs for which the governor designates the agency to act as administrator. The agency may charge administrative fees to the state, the federal government, or a program recipient. 13264
13265
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- (14) Notwithstanding any other provision of the Revised Code, establish, maintain, administer, and close funds and accounts as convenient or appropriate to the agency's operations; 13268
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- (15) Establish a policy to permit the investment of agency funds in securities and obligations; 13272
13273
- (16) Establish rules and procedures that the agency determines are appropriate to appeal the agency's actions and decisions; 13274
13275
13276
- (17) Serve housing needs in instances that the agency determines necessary as a public purpose; 13277
13278
- (18) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code; 13279
13280
- (19) ~~Adopt rules pursuant to Chapter 119. of the Revised Code;~~ 13281
13282

~~(20)~~—Do anything necessary or appropriate to exercise the powers of this chapter and carry out the purposes of this chapter and Section 14, Article VIII and Section 16, Article VIII, Ohio Constitution.

(C) The attorney general shall serve as the legal representative for the Ohio housing finance agency and may appoint special counsel for that purpose in accordance with section 109.07 of the Revised Code.

Sec. 175.12. (A) This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes and the purposes of Section 14, of Article VIII and Section 16, Article VIII, Ohio Constitution.

(B) The following are not public records subject to section 149.43 of the Revised Code:

(1) Financial statements and data submitted for any purpose to the Ohio housing finance agency or the controlling board by any person in connection with applying for, receiving, or accounting for financial assistance the agency provides;

(2) Information that identifies any individual who benefits directly or indirectly from financial assistance the agency provides.

(3) Information provided to the tax commissioner under section 175.16 or 175.17 of the Revised Code, information provided under divisions ~~(I) (1) (a)~~ (H) (1) (a) and (b) of section 175.16 of the Revised Code, and information provided under divisions (H) (1) and (2) of section 175.17 of the Revised Code.

(C) (1) The agencies of this state shall cooperate fully with the Ohio housing finance agency and shall provide information the Ohio housing finance agency determines is

necessary or helpful for its operation. 13312

(2) The Ohio housing finance agency may arrange with and 13313
enter into contracts with other entities to perform functions 13314
this chapter authorizes the agency to perform and compensate 13315
those entities for performing those functions. 13316

(3) The agency may enter into contracts with state 13317
entities as described in this chapter. 13318

(D) Any state agency that provides supplies, equipment, or 13319
services directly related to the mission of the Ohio housing 13320
finance agency as described in section 175.02 of the Revised 13321
Code may enter into an agreement with the Ohio housing finance 13322
agency to furnish those supplies, equipment, or services 13323
pursuant to terms both agencies agree upon for remuneration to 13324
the state agency. 13325

(E) The Ohio housing finance agency is exempt from the 13326
requirements of Chapters 123. and 125. and sections 127.16 and 13327
5147.07 of the Revised Code. 13328

Sec. 175.15. The Ohio housing finance agency and the Ohio 13329
department of development ~~services agency~~ shall include 13330
pregnancy as a priority in its housing assistance programs and 13331
local emergency shelter programs. ~~In consultation with the Ohio~~ 13332
~~development services agency, the Ohio housing finance agency may~~ 13333
~~adopt rules in accordance with Chapter 119. of the Revised Code~~ 13334
~~that are necessary to implement the requirements of this~~ 13335
~~section.~~ 13336

Sec. 175.16. (A) As used in this section: 13337

(1) "Federal credit" means the tax credit authorized under 13338
section 42 of the Internal Revenue Code. 13339

(2) "Credit period," "qualified low-income building," and "qualified basis" have the same meanings as in section 42 of the Internal Revenue Code.

(3) "Qualified project" means a qualified low-income building that is located in Ohio, is placed in service on or after July 1, 2023, and for which the director reserves a tax credit under division (B) of this section before July 1, 2027.

(4) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(5) "Project owner" means a person holding a fee simple interest or a leasehold interest pursuant to a ground lease in the land on which a qualified project sits.

(6) "Reserved credit amount" means the amount determined by the director and stipulated in the notice sent to each owner of a qualified project under division (B) of this section.

(7) "Annual credit amount" means the amount computed by the director under division (D) of this section prior to issuing an eligibility certificate.

(8) "Equity owner" means a direct or indirect owner of a project owner, provided the project owner is a pass-through entity, as determined under applicable state law governing such an entity.

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

(10) "Eligibility certificate" means a certificate issued by the director to each owner of a qualified project under division (D) of this section stating the amount of credit that may be claimed for each year of the credit period.

(11) "Qualified allocation plan" means the plan developed 13368
by the Ohio housing finance agency, as required under section 13369
175.06 of the Revised Code, for evaluating and selecting 13370
projects for the federal credit pursuant to the mandates and 13371
requirements within section 42 of the Internal Revenue Code. 13372

(12) "Internal Revenue Code" has the same meaning as in 13373
section 5747.01 of the Revised Code. 13374

(13) "Designated reporter" means the project owner or one 13375
of the project owner's equity owners designated pursuant to 13376
division ~~(I)~~ ~~(1)~~ (H) (1) of this section. 13377

(14) "Director" means the executive director of the Ohio 13378
housing finance agency. 13379

(B) Except as otherwise provided by this division, the 13380
director, upon allocating a federal credit and issuing a binding 13381
reservation or letter of eligibility, pursuant to the Ohio 13382
housing finance agency's qualified allocation plan, for a 13383
qualified low-income building that is located in this state and 13384
placed in service on or after July 1, 2023, may reserve a tax 13385
credit under this section for the project owners so long as 13386
doing so will not result in exceeding the annual credit cap 13387
prescribed by division (C) of this section. The director shall 13388
not reserve a tax credit under this section after June 30, 2027. 13389

The director shall send written notice of the reservation 13390
to each project owner. The notice shall state the aggregate 13391
credit amount reserved for all years of the qualified project's 13392
credit period and stipulate that receipt of the credit is 13393
contingent upon issuance of an eligibility certificate and 13394
filing the information described in division ~~(I)~~ (H) of this 13395
section. Upon receipt of that notice, the owner shall provide 13396

the identity of the owner's designated reporter to the director. 13397

The director shall determine the credit amount reserved 13398
for each qualified project. The reserved credit amount shall not 13399
exceed the amount necessary, when combined with the federal 13400
credit, to ensure the financial feasibility of the qualified 13401
project. 13402

The director shall reserve credits in a manner that 13403
ensures that a qualified project is creating additional housing 13404
units that would not have otherwise been created with other 13405
state, federal, or private financing. The director may assess 13406
application, processing, and reporting fees to cover the cost of 13407
administering the tax credit authorized under this section. 13408

(C) The aggregate amount of credits reserved by the 13409
director under division (B) of this section in a fiscal year 13410
shall not exceed the sum of (1) one hundred million dollars, (2) 13411
the amount, if any, by which the credit cap prescribed by this 13412
division for the preceding fiscal year exceeds the credits 13413
reserved by the director in that year, and (3) the amount of tax 13414
credits recaptured or otherwise disallowed under division (G) of 13415
this section in the preceding fiscal year. 13416

For the purpose of computing and determining compliance 13417
with the credit cap prescribed by this division, the credit 13418
amount reserved for the project owners of a qualified project is 13419
the full amount for all years of the qualified project's credit 13420
period. 13421

(D) Immediately after approving the final cost 13422
certification for a qualified project for which a tax credit 13423
under this section is reserved, or upon otherwise determining 13424
the qualified basis of the qualified project and the date it was 13425

placed into service as required by section 42(m) of the Internal Revenue Code, the director shall compute the annual credit amount and issue an eligibility certificate to each project owner. The director shall send copies of all eligibility certificates issued each calendar year to the tax commissioner and the superintendent of insurance.

The annual credit amount shall equal the lesser of the following:

(1) The amount of the federal credit that would be awarded to the project owners for the first year of the credit period if not for the adjustment required under section 42(f)(2) of the Internal Revenue Code;

(2) One-tenth of the reserved credit amount stated in the notice issued under division (B) of this section.

(E) Each eligibility certificate shall state the annual credit amount, the years that comprise the credit period, the name, address, and taxpayer identification number of each project owner, each owner's designated reporter, the date the certificate is issued, a unique identifying number, and any additional information prescribed by a rule adopted by the director under division (H) of this section Chapter 119. of the Revised Code. A project owner, if the project owner is a pass-through entity, shall provide a copy of the eligibility certificate and any information described in division ~~(I)~~ (H) of this section to each equity owner that has been allocated a credit under division (F)(2) of this section, if requested.

(F)(1) For each year of a qualified project's credit period, the project owner or an equity owner may claim a nonrefundable credit against the tax imposed by section 5725.18,

5726.02, 5729.03, 5729.06, or 5747.02 of the Revised Code equal 13455
to all or a portion of the annual credit amount stated on the 13456
eligibility certificate. The credit shall be claimed in the 13457
manner prescribed by section 5725.36, 5726.58, 5729.19, or 13458
5747.83 of the Revised Code, as applicable. 13459

(2) If a project owner is a pass-through entity, the 13460
annual credit amount for any year of a qualified project's 13461
credit period may be allocated by the project owner among one or 13462
more equity owners and may be applied by those equity owners 13463
against more than one tax, but the total credits claimed in 13464
connection with that year of the qualified project's credit 13465
period by all project owners and equity owners against all taxes 13466
shall not exceed the annual credit amount stated on the 13467
eligibility certificate. 13468

(3) A project owner or equity owner may claim the credit 13469
authorized by this section after the date the qualified project 13470
is placed into service but not before the director issues the 13471
project owner an eligibility certificate under division (D) of 13472
this section and the applicable report required by division ~~(I)~~ 13473
(H) of this section is filed by the designated reporter. 13474

(4) A project owner or equity owner that claims a tax 13475
credit under division (F)(1) of this section shall submit a copy 13476
of the eligibility certificate with the project owner's or 13477
equity owner's tax return or report. Upon request of the tax 13478
commissioner or the superintendent of insurance, any project 13479
owner or equity owner claiming a tax credit under this section 13480
shall provide the commissioner or superintendent other 13481
documentation that may be necessary to verify that the project 13482
owner or equity owner is entitled to claim the credit. 13483

(5) A project owner that is a pass-through entity may 13484

allocate the credit authorized by this section to its equity 13485
owners under division (F) (2) of this section in any manner 13486
agreed to by such persons regardless of whether such equity 13487
owners are eligible for an allocation of the federal credit, 13488
whether the allocation of the credit under the terms of the 13489
agreement has substantial economic effect within the meaning of 13490
section 704(b) of the Internal Revenue Code, and whether any 13491
such person is deemed a partner of the project owner or equity 13492
owner for federal income tax purposes as long as the equity 13493
owner acquired its ownership interest prior to claiming the 13494
credit. The allocation shall be allowed without regard to any 13495
provision of the Internal Revenue Code, or regulation 13496
promulgated pursuant to it, that may be interpreted as contrary 13497
to the allocation, including, without limitation, the treatment 13498
of the allocation as a disguised sale. 13499

An equity owner may assign all or any part of its interest 13500
in a qualified project, including its interest in the tax 13501
credits authorized by this section, to one or more other equity 13502
owners, and each assignee shall be able to claim the credit so 13503
long as its interest is acquired prior to the filing of its tax 13504
return or report or amended tax return or report claiming the 13505
credit and the assignee's ownership interest is identified in 13506
the report required by division ~~(I)~~(H) of this section. 13507

(6) Nothing in this section or section 5725.36, 5726.58, 13508
5729.19, or 5747.83 of the Revised Code allows the assignment or 13509
transfer of any carryforward of the credit authorized under this 13510
section once the annual credit amount is claimed. 13511

(G) If any portion of the federal credit allocated to a 13512
qualified project is recaptured under section 42(j) of the 13513
Internal Revenue Code or is otherwise disallowed, the director 13514

shall recapture a proportionate amount of the tax credit claimed 13515
pursuant to this section in connection with the same qualified 13516
project. 13517

If the director determines to recapture such a tax credit, 13518
the director shall certify the name of each project owner and 13519
the amount to be recaptured to the tax commissioner and to the 13520
superintendent of insurance. The commissioner or superintendent 13521
shall determine the taxpayer or taxpayers that claimed the 13522
credit, the tax against which the credit was claimed, and the 13523
amount to be recaptured and make an assessment against the 13524
taxpayer or taxpayers under Chapter 5725., 5726., 5729., or 13525
5747. of the Revised Code, as applicable, for the amount of the 13526
tax credit to be recaptured. The time limitations on assessments 13527
under those chapters do not bar an assessment made under this 13528
division. 13529

~~(H) The director, in consultation with the tax-~~ 13530
~~commissioner and superintendent of insurance, shall adopt any-~~ 13531
~~rules necessary to implement this section in accordance with-~~ 13532
~~Chapter 119. of the Revised Code.~~ 13533

~~(I) (1)~~ (H) (1) For each calendar year, a designated reporter 13534
shall provide the tax commissioner, in the form prescribed by 13535
the tax commissioner in consultation with the superintendent of 13536
insurance, all of the following: 13537

(a) The name, address, and taxpayer identification number 13538
of each project owner and equity owner that has been allocated a 13539
portion of the annual credit awarded on the eligibility 13540
certificate for that year; 13541

(b) The amount of the annual credit allocated to each such 13542
project owner and equity owner for such year and the tax against 13543

which the credit will be claimed; 13544

(c) The total of the amounts listed for each project owner 13545
and equity owner under division ~~(I) (1) (b)~~ (H) (1) (b) of this 13546
section, demonstrating that the total does not exceed the amount 13547
listed on the eligibility certificate for that year. 13548

(2) A designated reporter shall notify the tax 13549
commissioner of any changes to the information reported in 13550
division ~~(I) (1)~~ (H) (1) of this section in the time and manner 13551
prescribed by the commissioner. 13552

(3) No credit allocated under this section may be claimed 13553
by a project owner or equity owner for a year unless that owner 13554
and the amount of the credit allocated to that owner appear on 13555
the report required by division ~~(I) (1)~~ (H) (1) of this section for 13556
that year. 13557

The tax commissioner shall provide a copy of the report, 13558
and any subsequent changes to the report, submitted by the 13559
designated reporter under division ~~(I)~~ (H) of this section to the 13560
superintendent of insurance in the time and manner agreed to by 13561
the commissioner and superintendent. 13562

Sec. 175.17. (A) As used in this section: 13563

(1) "Qualified project" means a project to develop single- 13564
family dwellings in this state that satisfies any qualifications 13565
established by the director under division (I) of this section. 13566

(2) "Pass-through entity" has the same meaning as in 13567
section 5733.04 of the Revised Code. 13568

(3) "Reserved credit amount" means the amount determined 13569
by the director and stipulated in the notice sent under division 13570
(B) of this section. 13571

(4) "Annual credit amount" means the amount computed by the director under division (D) of this section before issuing an eligibility certificate. 13572
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(5) "Equity owner" means any person who directly or indirectly, through one or more pass-through entities, is a member, partner, or shareholder of a pass-through entity. 13575
13576
13577

(6) "Person" has the same meaning as in section 5701.01 of the Revised Code. 13578
13579

(7) "Eligibility certificate" means a certificate issued by the director to a project development owner under division (D) of this section. 13580
13581
13582

(8) "Project development owner" means a unit of government that owns a qualified project. 13583
13584

(9) "Affordability period" means the period that commences on the date of sale of a single-family dwelling constructed as part of a qualified project to the initial qualified buyer and continues through subsequent qualified buyers for ten years. 13585
13586
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13588

(10) "Designated reporter" means the project development owner or one of the owner's direct or indirect partners, members, or shareholders, as selected by the owner under division (B) of this section. 13589
13590
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(11) "Project development investor" means any person that contributes capital to a qualified project in exchange for an allocation of a tax credit under this section. 13593
13594
13595

(12) "Credit period" means the ten-year period that begins in the year the eligibility certificate is issued. 13596
13597

(13) "Director" means the executive director of the Ohio housing finance agency. 13598
13599

(14) "Unit of government" means a county, township, 13600
municipal corporation, regional planning commission, community 13601
improvement corporation, economic development corporation, or 13602
county land reutilization corporation organized under Chapter 13603
1724. of the Revised Code, or port authority. 13604

(15) "Project development team" means the group of 13605
entities that develops, constructs, reports, appraises, 13606
finances, and services the associated properties of a qualified 13607
project in partnership with the project development owner. 13608

(B) (1) A project development owner may submit an 13609
application to the director for a credit reservation under this 13610
section on a form and in a manner that the director shall 13611
prescribe. On the application, the project development owner 13612
shall provide all of the following: 13613

(a) The name and address of the project development 13614
owner's designated reporter; 13615

(b) The names and addresses of all members of the project 13616
development team; 13617

(c) An estimate of the qualified project's development 13618
costs; 13619

(d) Any other information as the director may require 13620
pursuant to division (I) of this section. 13621

The director shall competitively evaluate and approve 13622
applications and award tax credit reservations under this 13623
section for a qualified project in accordance with the plan 13624
adopted under division (I) (1) of this section. The director 13625
shall determine the credit amount reserved for each qualified 13626
project, which shall not exceed the difference between the total 13627
estimated development costs included with the application and 13628

the appraised market value of all homes in the finished project, 13629
as estimated by the director. The director shall not reserve a 13630
credit under this section if doing so would exceed the annual 13631
limit prescribed by division (B) (3) of this section. 13632

(2) The director shall send written notice of the tax 13633
credit reservation to the project development owner of an 13634
approved qualified project. The notice shall state the aggregate 13635
credit amount reserved for all years of the qualified project's 13636
credit period and stipulate that receipt of the credit is 13637
contingent upon issuance of an eligibility certificate and 13638
filing the information required by division (H) of this section. 13639

(3) The amount of credits reserved by the director under 13640
division (B) of this section in a fiscal year shall not exceed 13641
the sum of (a) fifty million dollars, (b) the amount, if any, by 13642
which the credit allocation prescribed by this division for the 13643
preceding fiscal year exceeds the credits reserved by the 13644
director in that year, and (c) the amount of tax credits 13645
recaptured, assessed, and collected by the tax commissioner or 13646
superintendent of insurance, and disallowed or subject to 13647
reduction under this section in the preceding fiscal year. For 13648
the purpose of computing and determining compliance with the 13649
credit allocation prescribed by division (B) (3) of this section, 13650
the credit amount reserved for the project development owner is 13651
the full amount for all years of the qualified project's credit 13652
period. 13653

(4) The director shall not reserve a tax credit under this 13654
section after June 30, 2027. 13655

(C) The project development owner shall maintain ownership 13656
of a qualified project and associated single-family dwellings 13657
until the dwellings are sold to qualified buyers. The project 13658

development team shall service the associated properties of a 13659
qualified project for the duration of the applicable 13660
affordability period. 13661

The qualified buyer of a single-family home constructed as 13662
part of a qualified project for which a tax credit was reserved 13663
under this section shall occupy the home as the buyer's primary 13664
residence during the affordability period. 13665

(D) Upon completion of a qualified project for which a tax 13666
credit was reserved under this section, the project development 13667
owner shall notify the director and provide a final development 13668
cost certification for approval. After receipt of this notice, 13669
the director shall appraise the project's dwellings. Immediately 13670
after approving the final cost certification, the director shall 13671
compute the amount of the tax credit that may be claimed in each 13672
year and issue an eligibility certificate to the project 13673
development owner. That annual amount, which shall be stated on 13674
the certificate, shall equal one-tenth of the reserved credit 13675
amount stated in the notice issued under division (B) of this 13676
section, subject to any reduction or increase as the result of 13677
the approval of the final cost certification and the appraisal 13678
conducted under this division. 13679

(E) Each eligibility certificate shall state the annual 13680
credit amount, the years that comprise the credit period, the 13681
name, address, and the taxpayer identification number of the 13682
project development owner, the project development owner's 13683
designated reporter, and all members of the project development 13684
team along with the date the certificate is issued, a unique 13685
identifying number, and any additional information the director 13686
may require by rule. The director shall certify a copy of each 13687
eligibility certificate to the tax commissioner and the 13688

superintendent of insurance. 13689

(F) (1) For each year of a qualified project's credit 13690
period, a project development owner may claim a nonrefundable 13691
credit against the tax imposed by section 5725.18, 5726.02, 13692
5729.03, 5729.06, or 5747.02 of the Revised Code equal to all or 13693
a portion of the annual credit amount listed on the eligibility 13694
certificate. The credit shall be claimed in the manner 13695
prescribed by section 5725.37, 5726.60, 5729.20, or 5747.84 of 13696
the Revised Code. 13697

(2) A project development owner may or, if the owner is 13698
not subject to any tax against which the credit authorized under 13699
this section may be claimed, shall allocate all or a portion of 13700
the annual credit amount for any year of a qualified project's 13701
credit period among one or more project development investors. 13702
Such allocated credits may be applied by those project 13703
development investors or the equity owners of such an investor 13704
that is a pass-through entity against more than one tax, as 13705
applicable, but the total credits claimed for that year of the 13706
qualified project's credit period by all project development 13707
investors and equity owners shall not exceed the annual credit 13708
amount stated on the eligibility certificate. 13709

(3) A project development investor or the equity owner of 13710
such an investor that is a pass-through entity may claim the 13711
credit authorized by this section after the date the director 13712
issues an eligibility certificate under division (D) of this 13713
section and the applicable annual report required by division 13714
(H) of this section is filed by the designated reporter. 13715

(4) A project development investor or equity owner that 13716
claims a tax credit under division (F) (2) of this section shall 13717
submit a copy of the eligibility certificate with the investor's 13718

or equity owner's tax return. Upon request of the tax 13719
commissioner or the superintendent of insurance, any project 13720
development investor or equity owner claiming a tax credit under 13721
that division shall provide the tax commissioner or 13722
superintendent other documentation that may be necessary to 13723
verify that the project development investor or equity owner is 13724
entitled to claim the credit. 13725

(G) The director may disallow or recapture any portion of 13726
a credit if the project development owner or the project 13727
development owner's qualified project does not or ceases to 13728
qualify for the credit. If the director determines to recapture 13729
such a tax credit, the director shall certify the name of the 13730
project development owner, and the amount to be recaptured to 13731
the tax commissioner and to the superintendent of insurance. The 13732
tax commissioner or superintendent shall determine the taxpayer 13733
or taxpayers that claimed the credit, the tax against which the 13734
credit was claimed, and the amount to be recaptured and make an 13735
assessment against the taxpayer or taxpayers under Chapter 13736
5725., 5726., 5729., or 5747. of the Revised Code, as 13737
applicable, for the amount to be recaptured. The time 13738
limitations on assessments under those chapters do not bar an 13739
assessment made under this division. 13740

(H) For each calendar year, a designated reporter shall 13741
provide the following information to the tax commissioner on a 13742
form prescribed by the commissioner in consultation with the 13743
superintendent of insurance: 13744

(1) A list of each project development investor or equity 13745
owner that has been allocated a portion of the annual credit 13746
awarded in an eligibility certificate for that year, including 13747
the investor or owner's name, address, taxpayer identification 13748

number, and the tax against which the credit will be claimed by 13749
each. 13750

(2) For each project development investor or equity owner, 13751
the amount of annual credit that has been allocated for that 13752
year. 13753

(3) An aggregate list of the credit amount allocated for a 13754
qualified project demonstrating that the aggregate annual amount 13755
of the credits allocated does not exceed the aggregate annual 13756
credit awarded in the eligibility certificate. 13757

A designated reporter shall notify the tax commissioner of 13758
any changes to the information reported under division (H) of 13759
this section in the time and manner prescribed by the 13760
commissioner. The commissioner shall provide a copy of the 13761
report, and any subsequent changes to the report, submitted by 13762
the designated reporter under division (H) of this section to 13763
the superintendent of insurance in the time and manner agreed to 13764
by the commissioner and superintendent. 13765

No credits allocated under this section may be claimed 13766
unless the credits are listed on the report required by division 13767
(H) of this section. 13768

(I) (1) The director shall adopt a plan for competitively 13769
awarding tax credits under this section. The plan shall 13770
establish the criteria and metrics under which projects will be 13771
assessed for qualification and may allocate tax credits in a 13772
pooled manner. 13773

(2) The director may assess application, processing, and 13774
reporting fees to cover the cost of administering this section. 13775

(3) The director, in consultation with the tax 13776
commissioner and the superintendent of insurance, shall adopt 13777

~~any rules necessary to implement this section~~ in accordance with 13778
Chapter 119. of the Revised Code. ~~Such rules may include~~ to 13779
address all of the following: 13780

(a) Supplementary definitions as may be necessary to 13781
administer this section. 13782

(b) Underwriting criteria to assess the risk associated 13783
with any application and determine appropriate criteria to deny 13784
an application based upon risk. 13785

(c) Criteria by which a project development owner shall be 13786
responsible for any or all risk associated with a qualified 13787
project such as homeowner abandonment, default, foreclosure, or 13788
other such risks. 13789

(d) Criteria to maintain the affordability of each of a 13790
qualified project's single-family dwellings during the 13791
affordability period, which may include a deed restriction held 13792
by the project development owner for some or all of the amount 13793
of the tax credit or any appreciated value of the property. 13794

(e) Requirements that the project development owner 13795
provide certain capital assets or other investments that 13796
contribute to the affordability of the project. 13797

(f) Criteria to be used in determining whether an 13798
individual is a qualified buyer. 13799

(g) Criteria regarding the purchase, ownership, and sale 13800
of completed qualified project single-family dwellings. 13801

(h) The manner of determining the project's development 13802
costs and the appraised market value of qualified project 13803
single-family dwellings. 13804

(i) Any other qualifications a project must meet to 13805

qualify as a qualified project. 13806

Sec. 184.02. (A) In addition to the powers and duties 13807
under sections 184.10 to 184.20 and 184.37 of the Revised Code, 13808
the third frontier commission may perform any act to ensure the 13809
performance of any function necessary or appropriate to carry 13810
out the purposes of, and exercise the powers granted under, 13811
sections 184.01 and 184.02 of the Revised Code. In addition, the 13812
commission may do any of the following: 13813

~~(1) Adopt, amend, and rescind rules under section 111.15~~ 13814
~~of the Revised Code for the administration of any aspect of its~~ 13815
~~operations;~~ 13816

~~(2)~~ Adopt bylaws governing its operations, including 13817
bylaws that establish procedures and set policies as may be 13818
necessary to assist with the furtherance of its purposes; 13819

~~(3)~~ (2) Appoint and set the compensation of employees 13820
needed to carry out its duties; 13821

~~(4)~~ (3) Contract with, retain the services of, or 13822
designate, and fix the compensation of, such financial 13823
consultants, accountants, other consultants and advisors, and 13824
other independent contractors as may be necessary or desirable 13825
to carry out its duties; 13826

~~(5)~~ (4) Solicit input and comments from specialized 13827
industry, professional, and other relevant interest groups 13828
concerning its purposes; 13829

~~(6)~~ (5) Facilitate alignment of the state's science and 13830
technology programs and activities; 13831

~~(7)~~ (6) Make grants and loans to individuals, public 13832
agencies, private companies or organizations, or joint ventures 13833

for any of the broad range of activities related to its 13834
purposes. 13835

(B) In addition to the powers and duties under sections 13836
184.10 to 184.20 and 184.37 of the Revised Code, the commission 13837
shall do all of the following: 13838

(1) Establish a competitive process for the award of 13839
grants and loans that is designed to fund the most meritorious 13840
proposals and, when appropriate, provide for peer review of 13841
proposals; 13842

(2) On or before the first day of August of each year, 13843
submit to the governor and the general assembly a report of the 13844
activities of the commission during the preceding fiscal year; 13845

(3) With specific application to the biomedical research 13846
and technology transfer trust fund, periodically make strategic 13847
assessments of the types of state investments in biomedical 13848
research and biotechnology in the state that would likely create 13849
jobs and business opportunities in the state and produce the 13850
most beneficial long-term improvements to the public health of 13851
Ohioans, including, but not limited to, biomedical research and 13852
biotechnology initiatives that address tobacco-related illnesses 13853
as may be outlined in any master agreement. The commission shall 13854
adopt rules under section 111.15 of the Revised Code to 13855
establish a process to award grants and loans from the fund- 13856
~~pursuant to a process established under division (B) (1) of this~~ 13857
~~section.~~ 13858

Sec. 184.116. If the third frontier commission utilizes 13859
independent reviewers to review the merits of proposed research 13860
and development projects and to make recommendations to the 13861
commission concerning which projects should be awarded support 13862

under section 184.11 of the Revised Code and the commission 13863
takes one of the following actions, the commission shall provide 13864
a written explanation of the reasons for its action and present 13865
the explanation at one of the commission's regularly scheduled 13866
public meetings: 13867

(A) Awards support for a project that the reviewers do not 13868
recommend; 13869

(B) Refuses to award support for a project the reviewers 13870
do recommend; 13871

(C) Makes a support award that varies substantially from 13872
the reviewers' recommendation. 13873

~~The commission, pursuant to Chapter 119. of the Revised- 13874
Code, shall adopt rules necessary and proper to govern- 13875
explanations required under this section. 13876~~

Sec. 307.05. As used in this section, "emergency medical 13877
service organization" has the same meaning as in section 4765.01 13878
of the Revised Code. 13879

A board of county commissioners may operate an ambulance 13880
service organization or emergency medical service organization, 13881
or, in counties with a population of sixty thousand or less, may 13882
operate a nonemergency patient transport service organization, 13883
or may enter into a contract with one or more counties, 13884
townships, municipal corporations, nonprofit corporations, joint 13885
emergency medical services districts, fire and ambulance 13886
districts, or private ambulance owners, regardless of whether 13887
such counties, townships, municipal corporations, nonprofit 13888
corporations, joint emergency medical services districts, fire 13889
and ambulance districts, or private ambulance owners are located 13890
within or without the state, in order to furnish or obtain the 13891

services of ambulance service organizations, to furnish or 13892
obtain additional services from ambulance service organizations 13893
in times of emergency, to furnish or obtain the services of 13894
emergency medical service organizations, or, in counties with a 13895
population of sixty thousand or less, to furnish or obtain 13896
services of nonemergency patient transport service 13897
organizations, or may enter into a contract with any such entity 13898
to furnish or obtain the interchange of services from ambulance 13899
or emergency medical service organizations, or, within counties 13900
with a population of sixty thousand or less, to furnish or 13901
obtain the interchange of services from nonemergency patient 13902
transport service organizations, within the territories of the 13903
contracting subdivisions. Except in the case of a contract with 13904
a joint emergency medical services district to obtain the 13905
services of emergency medical service organizations, such 13906
contracts shall not be entered into with a public agency or 13907
nonprofit corporation that receives more than half of its 13908
operating funds from governmental entities with the intention of 13909
directly competing with the operation of other ambulance service 13910
organizations, nonemergency patient transport service 13911
organizations, or emergency medical service organizations in the 13912
county unless the public agency or nonprofit corporation is 13913
awarded the contract after submitting the lowest and best bid to 13914
the board of county commissioners. Any county wishing to 13915
commence operation of a nonemergency patient transport service 13916
organization or wishing to enter into a contract for the first 13917
time to furnish or obtain services from a nonemergency patient 13918
transport service organization on or after March 1, 1993, 13919
including a county in which a private provider has been 13920
providing the service, shall demonstrate the need for public 13921
funding for the service to, and obtain approval from, the state 13922
board of emergency medical, fire, and transportation services or 13923

its immediate successor board prior to operating or funding the organization. 13924
13925

When such an organization is operated by the board, the organization may be administered by the board, by the county sheriff, or by another county officer or employee designated by the board. ~~All The board shall adopt rules, including the determining of to determine reasonable rates, necessary for the establishment, operation, and maintenance of such an organization shall be adopted by the board.~~ 13926
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A contract for services of an ambulance service, nonemergency patient transport service, or emergency medical service organization shall include the terms, conditions, and stipulations as agreed to by the parties to the contract. It may provide for a fixed annual charge to be paid at the times agreed upon and stipulated in the contract, or for compensation based upon a stipulated price for each run, call, or emergency or the number of persons or pieces of apparatus employed, or the elapsed time of service required in such run, call, or emergency, or any combination thereof. 13933
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Sec. 321.46. (A) To enhance the background and working knowledge of county treasurers in governmental accounting, portfolio reporting and compliance, investments, cybersecurity, and cash management, the auditor of state and the treasurer of state shall conduct education programs for persons elected for the first time to the office of county treasurer and shall hold biennial continuing education courses for persons who continue to hold the office of county treasurer. 13943
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Initial education programs for newly elected county treasurers shall be held between the first day of December and the first Monday of September next following that person's 13951
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election to the office of county treasurer. Similar initial 13954
education programs may also be provided to any county treasurer 13955
who is appointed to fill a vacancy or who is elected at a 13956
special election. 13957

(B) (1) The auditor of state shall determine the manner and 13958
content of the initial education programs in the subject areas 13959
of governmental accounting and portfolio reporting and 13960
compliance. In those areas, newly elected county treasurers 13961
shall take at least thirteen hours of education before taking 13962
office. 13963

(2) The treasurer of state shall determine the manner and 13964
content of the initial education programs in the subject areas 13965
of investments and cash management. In those areas, newly 13966
elected county treasurers shall take at least thirteen hours of 13967
education before taking office. 13968

(3) (a) After completing one year in office, a county 13969
treasurer shall take not less than twenty-four hours of 13970
continuing education during each biennial cycle. For purposes of 13971
division (B) (3) (a) of this section, a biennial cycle for 13972
continuing education shall be every two calendar years after the 13973
treasurer's first year in office. The treasurer of state shall 13974
determine the manner and content of the continuing education 13975
courses in the subject areas of investments, cash management, 13976
the collection of taxes, ethics, and any other subject area that 13977
the treasurer of state determines is reasonably related to the 13978
duties of the office of the county treasurer. The auditor of 13979
state shall determine the manner and content of the continuing 13980
education courses in the subject areas of governmental 13981
accounting, portfolio reporting and compliance, office 13982
management, cybersecurity, and any other subject area that the 13983

auditor of state determines is reasonably related to the duties 13984
of the office of the county treasurer. 13985

(b) A county treasurer who accumulates more than twenty- 13986
four hours of continuing education in a biennial cycle described 13987
in division (B) (3) (a) of this section may credit the hours in 13988
excess of twenty-four hours to the next biennial cycle. However, 13989
regardless of the total number of hours earned, no more than six 13990
hours in continuing education determined by the treasurer of 13991
state pursuant to division (B) (3) (a) of this section and six 13992
hours in continuing education determined by the auditor of state 13993
pursuant to that division shall be carried over to the next 13994
biennial cycle. 13995

(c) A county treasurer who participates in a training 13996
program or seminar established under section 109.43 of the 13997
Revised Code may apply the three hours of training to the 13998
twenty-four hours of continuing education required in a biennial 13999
cycle under division (B) (3) (a) of this section. 14000

(C) The auditor of state and the treasurer of state may 14001
each charge counties a registration fee that will meet actual 14002
and necessary expenses of the training of county treasurers, 14003
including instructor fees, site acquisition costs, and the cost 14004
of course materials. The necessary personal expenses of county 14005
treasurers as a result of attending the initial education 14006
programs and continuing education courses shall be borne by the 14007
counties the treasurers represent. 14008

(D) The auditor of state and the treasurer of state may 14009
allow any other interested person to attend any of the initial 14010
education programs or continuing education courses held pursuant 14011
to this section, provided that before attending any such program 14012
or course, the interested person shall pay to either the auditor 14013

of state or the treasurer of state, as appropriate, the full 14014
registration fee set for the program or course. 14015

(E) (1) If a county treasurer fails to complete the initial 14016
education programs required by this section before taking 14017
office, the treasurer's authority to invest county funds and to 14018
manage the county portfolio immediately is suspended, and this 14019
authority is transferred to the county's investment advisory 14020
committee until full compliance with the initial education 14021
programs is determined by the treasurer of state. 14022

(2) If a county treasurer fails to complete continuing 14023
education as required by this section, the county treasurer is 14024
subject to divisions (B) to (E) of section 321.47 of the Revised 14025
Code, including possible suspension of the treasurer's authority 14026
to invest county funds and to manage the county portfolio and 14027
transfer of this authority to the county's investment advisory 14028
committee. 14029

(F) (1) Notwithstanding divisions (B) and (E) of this 14030
section, a county treasurer who fails to complete the initial 14031
education programs or continuing education required by this 14032
section shall invest only in the Ohio subdivisions fund pursuant 14033
to division (A) (6) of section 135.35 of the Revised Code, in no 14034
load money market mutual funds pursuant to division (A) (5) of 14035
section 135.35 of the Revised Code, or in time certificates of 14036
deposit or savings or deposit accounts pursuant to division (A) 14037
(3) of section 135.35 of the Revised Code. 14038

(2) A county treasurer who has failed to complete the 14039
initial education programs required by this section and invests 14040
in other than the investments permitted by division (F) (1) of 14041
this section immediately shall have the county treasurer's 14042
authority to invest county funds and to manage the county 14043

portfolio suspended, and this authority shall be transferred to 14044
the county's investment advisory committee until full compliance 14045
with the initial education programs is determined by the 14046
treasurer of state. 14047

(3) If a county treasurer fails to complete continuing 14048
education required by this section and invests in other than the 14049
investments permitted by division (F)(1) of this section, the 14050
county treasurer is subject to divisions (B) to (E) of section 14051
321.47 of the Revised Code, including possible suspension of the 14052
treasurer's authority to invest county funds and to manage the 14053
county portfolio and transfer of this authority to the county's 14054
investment advisory committee. 14055

(G)(1) There is hereby created in the state treasury the 14056
county treasurer education fund, to be used by the treasurer of 14057
state for actual and necessary expenses of initial education 14058
programs and continuing education held pursuant to this section 14059
and section 135.22 of the Revised Code. All registration fees 14060
collected by the treasurer of state under this section and 14061
section 135.22 of the Revised Code shall be paid into that fund. 14062

(2) All registration fees collected by the auditor of 14063
state under this section shall be paid into the auditor of state 14064
training program fund established under section 117.44 of the 14065
Revised Code. 14066

~~(H) The treasurer of state, with the advice and consent of 14067
the auditor of state, may adopt reasonable rules not 14068
inconsistent with this section for the implementation of this 14069
section. 14070~~

Sec. 329.12. (A) A county department of job and family 14071
services may establish an individual development account program 14072

for residents of the county. The program shall provide for 14073
establishment of accounts for participants and acceptance of 14074
contributions from individuals and entities, including the 14075
county department, to be used as matching funds for deposit in 14076
the accounts. 14077

(B) A county department shall select a fiduciary 14078
organization to administer its individual development account 14079
program. In selecting a fiduciary organization, the department 14080
shall consider all of the following regarding the organization: 14081

(1) Its ability to market the program to potential 14082
participants and matching fund contributors; 14083

(2) Its ability to invest money in the accounts in a way 14084
that provides for return with minimal risk of loss; 14085

(3) Its overall administrative capacity, including the 14086
ability to verify eligibility of individuals for participation 14087
in the program, prevent unauthorized use of matching 14088
contributions, and enforce any penalties for unauthorized uses 14089
that may be provided for by rule ~~adopted by the director of job-~~ 14090
~~and family services under section 5101.971 of the Revised Code;~~ 14091

(4) Its ability to provide financial counseling to 14092
participants; 14093

(5) Its affiliation with other activities designed to 14094
increase the independence of individuals and families through 14095
postsecondary education, home ownership, and business 14096
development; 14097

(6) Any other factor the county department considers 14098
appropriate. 14099

(C) At the time it commences the program and on the first 14100

day of each subsequent program year, the county department may 14101
make a grant to the fiduciary organization to pay all or part of 14102
the administrative costs of the program. 14103

(D) The county department shall require the fiduciary 14104
organization to collect and maintain information regarding the 14105
program, including all of the following: 14106

(1) The number of accounts established; 14107

(2) The amount deposited by each participant and the 14108
amount matched by contributions; 14109

(3) The uses of funds withdrawn from the account, 14110
including the number of participants who used funds for 14111
postsecondary educational expenses and the institutions 14112
attended, the number of personal residences purchased, and the 14113
number of participants who used funds for business 14114
capitalization; 14115

(4) The demographics of program participants; 14116

(5) The number of participants who withdrew from the 14117
program and the reasons for withdrawal. 14118

Sec. 340.03. (A) Subject to rules issued by the director 14119
of behavioral health after consultation with relevant 14120
constituencies as required by division (A)(10) of section 14121
5119.21 of the Revised Code, each board of alcohol, drug 14122
addiction, and mental health services shall: 14123

(1) Serve as the community addiction and mental health 14124
planning agency for the county or counties under its 14125
jurisdiction, and in so doing it shall: 14126

(a) Evaluate the need for facility services, addiction 14127
services, mental health services, and recovery supports; 14128

(b) In cooperation with other local and regional planning 14129
and funding bodies and with relevant ethnic organizations, 14130
evaluate strengths and challenges and set priorities for 14131
addiction services, mental health services, and recovery 14132
supports. With respect to setting priorities, all of the 14133
following apply: 14134

(i) A board shall include treatment and prevention 14135
services when setting priorities for addiction services and 14136
mental health services. 14137

(ii) When a board sets priorities for addiction services, 14138
the board shall consult with the county commissioners of the 14139
counties in the board's service district regarding the services 14140
described in section 340.15 of the Revised Code and shall give 14141
priority to those services, except that those services shall not 14142
have a priority over services provided to pregnant women under 14143
programs developed in relation to the mandate established in 14144
section 5119.17 of the Revised Code. 14145

(iii) As part of setting priorities through its community 14146
addiction and mental health plan, a board may consider any local 14147
mechanisms that have been established for determining 14148
eligibility for services and supports. 14149

(c) In accordance with guidelines issued by the director 14150
of behavioral health under division ~~(G)~~(F) of section 5119.22 of 14151
the Revised Code, annually develop and submit to the department 14152
of behavioral health a community addiction and mental health 14153
plan that addresses both of the following: 14154

(i) The needs of all residents of the service district 14155
currently receiving inpatient services in state-operated 14156
hospitals, the needs of other populations as required by state 14157

or federal law or programs, and the needs of all children 14158
subject to a determination made pursuant to section 121.38 of 14159
the Revised Code; 14160

(ii) The department's priorities for facility services, 14161
addiction services, mental health services, and recovery 14162
supports during the period for which the plan will be in effect. 14163
The department shall inform all of the boards of the 14164
department's priorities in a timely manner that enables the 14165
boards to know the department's priorities before the boards 14166
develop and submit the plans. 14167

In alcohol, drug addiction, and mental health service 14168
districts that have separate alcohol and drug addiction services 14169
and community mental health boards, the alcohol and drug 14170
addiction services board shall submit a community addiction plan 14171
and the community mental health board shall submit a community 14172
mental health plan. Each board shall consult with its 14173
counterpart in developing its plan and address the interaction 14174
between the local addiction and mental health systems and 14175
populations with regard to needs and priorities in developing 14176
its plan. 14177

The director shall approve or disapprove the plan, in 14178
whole or in part, in accordance with division ~~(H)~~(G) of section 14179
5119.22 of the Revised Code. Eligibility for state and federal 14180
funding shall be contingent upon an approved plan or relevant 14181
part of a plan. 14182

If a board determines that it is necessary to amend an 14183
approved plan, the board shall submit a proposed amendment to 14184
the director. The director shall approve or disapprove all or 14185
part of the amendment in accordance with division ~~(I)~~(H) of 14186
section 5119.22 of the Revised Code. 14187

The board shall operate in accordance with the plan 14188
approved by the director. 14189

(d) Promote, arrange, and implement working agreements 14190
with social service agencies, both public and private, and with 14191
judicial agencies. 14192

(2) Investigate, or request another agency to investigate, 14193
any complaint alleging abuse or neglect of any person receiving 14194
addiction services, mental health services, or recovery supports 14195
from a community addiction services provider or community mental 14196
health services provider or alleging abuse or neglect of a 14197
resident receiving addiction services or with mental illness or 14198
severe mental disability residing in a residential facility 14199
licensed under section 5119.34 of the Revised Code. If the 14200
person is a resident of a service district other than the 14201
district represented by the board that received the complaint, 14202
the board that received the complaint shall refer the complaint 14203
to the board of the district where the residential facility is 14204
located for that board to investigate the complaint. 14205

If a board's investigation substantiates the charge of 14206
abuse or neglect, the board shall take whatever action it 14207
determines is necessary to correct the situation, including 14208
notification of the appropriate authorities. Upon request, the 14209
board shall provide information about such investigations to the 14210
department. 14211

(3) For the purpose of section 5119.36 of the Revised 14212
Code, cooperate with the director of behavioral health in 14213
visiting and evaluating whether the certifiable services and 14214
supports of a community addiction services provider or community 14215
mental health services provider satisfy the certification 14216
standards established by rules adopted under that section. In 14217

addition, a board may provide input and recommendations to the 14218
department when an application for certification or the renewal 14219
of a certification has been submitted by a provider or when a 14220
provider is being investigated by the department, if the board, 14221
in either of those circumstances, is aware of information that 14222
would be beneficial to the department's consideration of the 14223
matter. 14224

(4) In accordance with criteria established under division 14225
~~(D)~~ (1) (C) (1) of section 5119.22 of the Revised Code, conduct 14226
program audits that review and evaluate the quality, 14227
effectiveness, and efficiency of addiction services, mental 14228
health services, and recovery supports provided by community 14229
addiction services providers and community mental health 14230
services providers under contract with the board and submit the 14231
board's findings and recommendations to the department of 14232
behavioral health; 14233

(5) In accordance with section 5119.34 of the Revised 14234
Code, review an application for a residential facility license 14235
and provide to the department of behavioral health any 14236
information about the applicant or facility that the board would 14237
like the department to consider in reviewing the application; 14238

(6) In accordance with guidelines issued under division 14239
~~(E)~~ (D) of section 5119.22 of the Revised Code and any related 14240
rules adopted under that section, review any annual financial 14241
audit reports that have been submitted to the board regarding 14242
each community addiction services provider and community mental 14243
health services provider with which the board has contracted 14244
under section 340.036 of the Revised Code to provide services 14245
and supports certified under section 5119.36 of the Revised 14246
Code; 14247

- (7) Recruit and promote local financial support for 14248
addiction services, mental health services, and recovery 14249
supports from private and public sources; 14250
- (8) In accordance with guidelines issued by the department 14251
as necessary to comply with state and federal laws pertaining to 14252
financial assistance, approve fee schedules and related charges 14253
or adopt a unit cost schedule or other methods of payment for 14254
addiction services, mental health services, and recovery 14255
supports provided by community addiction services providers and 14256
community mental health services providers that have contracted 14257
with the board under section 340.036 of the Revised Code; 14258
- (9) Submit to the director and the county commissioners of 14259
the county or counties served by the board, and make available 14260
to the public, an annual report of the addiction services, 14261
mental health services, and recovery supports under the 14262
jurisdiction of the board, including a fiscal accounting; 14263
- (10) Establish a method for evaluating referrals for 14264
court-ordered treatment and affidavits filed pursuant to section 14265
5122.11 of the Revised Code in order to assist the probate 14266
division of the court of common pleas in determining whether 14267
there is probable cause that a respondent is subject to court- 14268
ordered treatment and whether alternatives to hospitalization 14269
are available and appropriate; 14270
- (11) Designate the treatment services, provider, facility, 14271
or other placement for each person involuntarily committed to 14272
the board pursuant to Chapter 5122. of the Revised Code. The 14273
board shall provide the least restrictive and most appropriate 14274
alternative that is available for any person involuntarily 14275
committed to it and shall assure that the list of addiction 14276
services, mental health services, and recovery supports 14277

submitted and approved in accordance with division (B) of 14278
section 340.08 of the Revised Code are available to persons with 14279
severe mental disabilities residing within its service district. 14280
The board shall establish the procedure for authorizing payment 14281
for the services and supports, which may include prior 14282
authorization in appropriate circumstances. In accordance with 14283
section 340.037 of the Revised Code, the board may provide 14284
addiction services and mental health services directly to a 14285
person with a severe mental disability when life or safety is 14286
endangered and when no community addiction services provider or 14287
community mental health services provider is available to 14288
provide the service. 14289

(12) Ensure that housing built, subsidized, renovated, 14290
rented, owned, or leased by the board or a community addiction 14291
services provider or community mental health services provider 14292
has been approved as meeting minimum fire safety standards and 14293
that persons residing in the housing have access to appropriate 14294
and necessary services, including culturally relevant services, 14295
from a community addiction services provider or community mental 14296
health services provider. This division does not apply to 14297
residential facilities licensed pursuant to section 5119.34 of 14298
the Revised Code. 14299

(13) Establish a mechanism for obtaining advice and 14300
involvement of persons receiving addiction services, mental 14301
health services, or recovery supports on matters pertaining to 14302
services and supports in the alcohol, drug addiction, and mental 14303
health service district; 14304

(14) Perform the duties required by rules adopted under 14305
section 5119.22 of the Revised Code regarding referrals by the 14306
board or community mental health services providers under 14307

contract with the board of individuals with mental illness or 14308
severe mental disability to class two residential facilities 14309
licensed under section 5119.34 of the Revised Code and effective 14310
arrangements for ongoing mental health services for the 14311
individuals. The board is accountable in the manner specified in 14312
the rules for ensuring that the ongoing mental health services 14313
are effectively arranged for the individuals. 14314

(15) Perform the duties required by section 9.21 of the 14315
Revised Code regarding credit card accounts, including the 14316
requirement to adopt a written policy before first holding a 14317
credit card account. 14318

(B) Each board of alcohol, drug addiction, and mental 14319
health services shall establish such rules, operating 14320
procedures, standards, and bylaws, and shall perform such other 14321
duties, as may be necessary or proper to carry out the purposes 14322
of this chapter. 14323

(C) A board of alcohol, drug addiction, and mental health 14324
services may receive by gift, grant, devise, or bequest any 14325
moneys, lands, or property for the benefit of the purposes for 14326
which the board is established, and may hold and apply it 14327
according to the terms of the gift, grant, or bequest. All money 14328
received, including accrued interest, by gift, grant, or bequest 14329
shall be deposited in the treasury of the county, the treasurer 14330
of which is custodian of the alcohol, drug addiction, and mental 14331
health services funds, to the credit of the board. The money 14332
shall be made available for use by the board for purposes stated 14333
by the donor or grantor. 14334

(D) No member or employee of a board of alcohol, drug 14335
addiction, and mental health services shall be liable for injury 14336
or damages caused by any action or inaction taken within the 14337

scope of the member's official duties or the employee's 14338
employment, whether or not such action or inaction is expressly 14339
authorized by this section or any other section of the Revised 14340
Code, unless such action or inaction constitutes willful or 14341
wanton misconduct. Chapter 2744. of the Revised Code applies to 14342
any action or inaction by a member or employee of a board taken 14343
within the scope of the member's official duties or employee's 14344
employment. For the purposes of this division, the conduct of a 14345
member or employee shall not be considered willful or wanton 14346
misconduct if the member or employee acted in good faith and in 14347
a manner that the member or employee reasonably believed was in 14348
or was not opposed to the best interests of the board and, with 14349
respect to any criminal action or proceeding, had no reasonable 14350
cause to believe the conduct was unlawful. 14351

(E) The meetings held by any committee established by a 14352
board of alcohol, drug addiction, and mental health services 14353
shall be considered to be meetings of a public body subject to 14354
section 121.22 of the Revised Code. 14355

(F) (1) A board of alcohol, drug addiction, and mental 14356
health services may establish a rule, operating procedure, 14357
standard, or bylaw to allow the executive director of the board 14358
to execute both of the following types of contracts valued at 14359
twenty-five thousand dollars or less, as determined by the 14360
board, on behalf of the board without the board's prior 14361
approval: 14362

(a) Emergency contracts for clinical services or recovery 14363
support services; 14364

(b) Standard service contracts pertaining to the board's 14365
operations. 14366

(2) If a board establishes a rule, operating procedure, standard, or bylaw under division (F)(1) of this section, both of the following shall be the case:

(a) The board shall define the scope of contracts described in divisions (F)(1)(a) and (b) of this section in that rule, operating procedure, standard, or bylaw.

(b) The board shall disclose the existence of a contract executed pursuant to the rule, operating procedure, standard, or bylaw at the first board meeting that occurs after the contract was executed and ensure that a record of that disclosure is included in the written minutes of that meeting.

Sec. 340.034. All of the following apply to recovery housing residences required by section 340.033 of the Revised Code to be part of included opioid and co-occurring drug addiction services and recovery supports:

(A) A recovery housing residence shall comply with the requirements of being monitored by the department of behavioral health under sections 5119.39 to 5119.396 of the Revised Code ~~and any rules adopted under section 5119.397 of the Revised Code~~, but the residence is not subject to residential facility licensure by the department under section 5119.34 of the Revised Code.

(B) A recovery housing residence shall not be operated by a board of alcohol, drug addiction, and mental health services unless any of the following applies:

(1) The board operated the recovery housing residence on July 1, 2017.

(2) The board utilizes local funds in the development or operation of the recovery housing residence.

(3) The board determines that there is a need for the board to assume operation of the recovery housing residence, such as when an existing operator of the residence goes out of business and the board considers the assumption of operation of the residence to be in the best interest of the community.

(C) A recovery housing residence shall have protocols for all of the following:

(1) Administrative oversight;

(2) Quality standards;

(3) Policies and procedures, including house rules, for its residents to which the residents must agree to adhere.

(D) Family members of a resident of a recovery housing residence may reside in the residence to the extent permitted by protocols of the residence.

(E) A recovery housing residence shall not limit a resident's duration of stay to an arbitrary or fixed amount of time. Instead, each resident's duration of stay shall be determined by the resident's needs, progress, and willingness to abide by the residence's protocols, in collaboration with the residence's operator, and, if appropriate, in consultation and integration with a community addiction services provider.

(F) A recovery housing residence may permit its residents to receive medication-assisted treatment.

(G) A resident of a recovery housing residence may receive addiction services that are certified by the department under section 5119.36 of the Revised Code.

Sec. 340.08. In accordance with rules or guidelines issued by the director of behavioral health, each board of alcohol,

drug addiction, and mental health services shall do all of the 14424
following: 14425

(A) Submit to the department of behavioral health a 14426
proposed budget of receipts and expenditures for all federal, 14427
state, and local moneys the board expects to receive. 14428

(1) The proposed budget shall identify funds the board has 14429
available for included opioid and co-occurring drug addiction 14430
services and recovery supports. 14431

(2) The proposed budget shall identify funds the board and 14432
public children services agencies in the board's service 14433
district have available to fund jointly the services described 14434
in section 340.15 of the Revised Code. 14435

(3) The board's proposed budget for expenditures of state 14436
and federal funds distributed to the board by the department 14437
shall be deemed an application for funds, and the director shall 14438
approve or disapprove the budget for these expenditures in whole 14439
or in part in accordance with division ~~(H)~~(G) of section 5119.22 14440
of the Revised Code. 14441

If a board determines that it is necessary to amend an 14442
approved budget, the board shall submit a proposed amendment to 14443
the director. The director shall approve or disapprove all or 14444
part of the amendment in accordance with division ~~(I)~~(H) of 14445
section 5119.22 of the Revised Code. 14446

(B) Submit to the department a proposed list of addiction 14447
services, mental health services, and recovery supports the 14448
board intends to make available. The board shall include the 14449
services and supports required by section 340.032 of the Revised 14450
Code to be included in the community-based continuum of care and 14451
the services required by section 340.15 of the Revised Code. The 14452

board shall explain the manner in which the board intends to 14453
make such services and supports available. The list shall be 14454
compatible with the budget submitted pursuant to division (A) of 14455
this section. The director shall approve or disapprove the list 14456
in whole or in part in accordance with division ~~(H)~~(G) of 14457
section 5119.22 of the Revised Code. 14458

If a board determines that it is necessary to amend an 14459
approved list, the board shall submit a proposed amendment to 14460
the director. The director shall approve or disapprove all or 14461
part of the amendment in accordance with division ~~(I)~~(H) of 14462
section 5119.22 of the Revised Code. 14463

(C) Enter into a continuity of care agreement with the 14464
state institution operated by the department of behavioral 14465
health and designated as the institution serving the district 14466
encompassing the board's service district. The continuity of 14467
care agreement shall outline the department's and the board's 14468
responsibilities to plan for and coordinate with each other to 14469
address the needs of board residents who are patients in the 14470
institution, with an emphasis on managing appropriate hospital 14471
bed day use and discharge planning. The continuity of care 14472
agreement shall not require the board to provide addiction 14473
services, mental health services, or recovery supports other 14474
than those on the list of services and supports submitted by the 14475
board pursuant to division (B) of this section and approved by 14476
the director in accordance with division ~~(H)~~(G) of section 14477
5119.22 of the Revised Code. 14478

(D) In conjunction with the department, operate a 14479
coordinated system for tracking and monitoring persons found not 14480
guilty by reason of insanity and committed pursuant to section 14481
2945.40 of the Revised Code who have been granted a conditional 14482

release and persons found incompetent to stand trial and 14483
committed pursuant to section 2945.39 of the Revised Code who 14484
have been granted a conditional release. The system shall do all 14485
of the following: 14486

(1) Centralize responsibility for the tracking of those 14487
persons; 14488

(2) Provide for uniformity in monitoring those persons; 14489

(3) Provide a mechanism to allow prompt rehospitalization, 14490
reinstitutionalization, or detention when a violation of the 14491
conditional release or decompensation occurs. 14492

(E) To ensure the safety of persons seeking or receiving 14493
addiction services, mental health services, or recovery 14494
supports, submit to the department a report summarizing all of 14495
the following: 14496

(1) Complaints and grievances received by the board 14497
concerning the rights of persons seeking or receiving addiction 14498
services, mental health services, or recovery supports; 14499

(2) Investigations of the complaints and grievances; 14500

(3) Outcomes of the investigations. 14501

(F) Provide to the department information to be submitted 14502
to the community behavioral health information system or systems 14503
established by the department under Chapter 5119. of the Revised 14504
Code. 14505

(G) Annually, and upon any change in membership, submit to 14506
the department a list of all current members of the board of 14507
alcohol, drug addiction, and mental health services, including 14508
the appointing authority for each member, and the member's 14509
specific qualification for appointment pursuant to section 14510

340.02 or 340.021 of the Revised Code, if applicable. 14511

(H) Submit to the department other information as is 14512
reasonably required for purposes of the department's operations, 14513
service evaluation, reporting activities, research, system 14514
administration, and oversight. 14515

(I) Annually update and publish on the board's web site a 14516
list of all opioid treatment programs licensed under section 14517
5119.37 of the Revised Code that are operating within the 14518
board's district, based on information obtained from any of the 14519
following: 14520

(1) The federal substance abuse and mental health services 14521
administration's opioid treatment program directory; 14522

(2) A resource directory created by the department of 14523
behavioral health; 14524

(3) The list maintained by the department of behavioral 14525
health pursuant to division (P) of section 5119.37 of the 14526
Revised Code. 14527

Sec. 718.80. (A) A taxpayer may elect to be subject to 14528
sections 718.80 to 718.95 of the Revised Code in lieu of the 14529
provisions set forth in the remainder of this chapter. 14530
Notwithstanding any other provision of this chapter, upon the 14531
taxpayer's election, both of the following shall apply: 14532

(1) The tax commissioner shall serve as the sole 14533
administrator of each municipal income tax for which the 14534
taxpayer is liable for the term of the election; 14535

(2) The commissioner shall administer the tax pursuant to 14536
sections 718.80 to 718.95 of the Revised Code and any applicable 14537
provision of Chapter 5703. of the Revised Code. 14538

(B) (1) A taxpayer shall make the initial election on or 14539
before the fifteenth day of the fourth month after the beginning 14540
of the taxpayer's taxable year by providing to the tax 14541
commissioner a list of all municipal corporations in which the 14542
taxpayer conducted business during the previous taxable year, on 14543
a form prescribed by the tax commissioner. 14544

(2) At least quarterly, the tax commissioner shall notify 14545
each municipal corporation that a taxpayer lists in its election 14546
under division (B) (1) of this section that the taxpayer has made 14547
the election. 14548

(3) (a) The election, once made by the taxpayer, applies to 14549
the taxable year in which the election is made and to each 14550
subsequent taxable year until the taxpayer notifies the tax 14551
commissioner of its termination of the election. 14552

(b) A notification of termination shall be made, on a form 14553
prescribed by the tax commissioner, on or before the fifteenth 14554
day of the fourth month of any taxable year. 14555

(c) Upon a timely and valid termination of the election, 14556
the taxpayer is no longer subject to sections 718.80 to 718.95 14557
of the Revised Code, and is instead subject to the provisions 14558
set forth in the remainder of this chapter. 14559

(d) At least quarterly, the tax commissioner shall notify 14560
each municipal corporation reported on a taxpayer's most recent 14561
return or declaration filed with the commissioner of the 14562
taxpayer's termination of its election. 14563

(4) The tax commissioner shall provide to all municipal 14564
corporations imposing a tax on income on or after January 1, 14565
2018, a list of taxpayers that are subject to sections 718.80 to 14566
718.95 of the Revised Code, including the taxpayers' names, 14567

addresses, and federal employee identification numbers. The list 14568
shall be made available via the portal created under section 14569
718.841 of the Revised Code. 14570

(C) (1) (a) On or before the thirty-first day of January 14571
each year, each municipal corporation imposing a tax on income 14572
shall certify to the tax commissioner the rate of the tax in 14573
effect on the first day of January of that year. 14574

(b) If, after the thirty-first day of January of any year, 14575
a municipal corporation changes the rate of the municipal 14576
corporation's tax on income such that a new rate takes effect 14577
within that year, the municipal corporation shall certify to the 14578
tax commissioner the new rate of tax not less than sixty days 14579
before the effective date of the new rate, after which effective 14580
date the commissioner shall apply the new rate. 14581

(2) A municipal corporation that receives a notification 14582
under division (B) (2) of this section shall submit to the tax 14583
commissioner, on a form prescribed by the commissioner and 14584
within the time prescribed by division (C) (3) of this section, 14585
the following information regarding the taxpayer and any member 14586
of an affiliated group of corporations included on the 14587
taxpayer's consolidated tax return, when applicable: 14588

(a) The amount of any net operating loss that the taxpayer 14589
is entitled to carry forward to a future tax year; 14590

(b) The amount of any net operating loss carryforward 14591
utilized by the taxpayer in prior years; 14592

(c) Any credits granted by the municipal corporation to 14593
which the taxpayer is entitled, the amount of such credits, 14594
whether the credits may be carried forward to future tax years, 14595
and, if the credits may be carried forward, the duration of any 14596

such carryforward; 14597

(d) Any overpayments of tax that the taxpayer has elected 14598
to carry forward to a subsequent tax year; 14599

(e) Any other information the municipal corporation deems 14600
relevant in order to effectuate the tax commissioner's efficient 14601
administration of the tax on the municipal corporation's behalf. 14602

(3) A municipal corporation shall submit the information 14603
required under division (C)(2) of this section to the tax 14604
commissioner within ninety days after the taxpayer files its 14605
final return or within fifteen days after the end of the taxable 14606
year for which the taxpayer made the initial election under 14607
division (B)(1) of this section, whichever occurs first. For the 14608
purposes of this section, "final return" means the return filed 14609
with the municipal corporation for the taxable year immediately 14610
preceding the taxable year for which the taxpayer made the 14611
election under division (B)(1) of this section. 14612

(4) If any municipal corporation fails to timely comply 14613
with division (C)(1), (2), or (3) of this section, the tax 14614
commissioner may notify the director of budget and management, 14615
who, upon receiving such notification, shall withhold a portion 14616
of each payment made to the municipal corporation under section 14617
718.83 of the Revised Code. The commissioner shall specify the 14618
percentage of the payment to be withheld, not to exceed fifty 14619
per cent of the amount of the payment otherwise due to the 14620
municipal corporation under that section. The director shall 14621
compute the withholding on the basis of the tax rate most 14622
recently certified to the tax commissioner until the municipal 14623
corporation complies with divisions (C)(1), (2), and (3) of this 14624
section. 14625

If, after any such withholding, the municipal corporation 14626
complies with divisions (C) (1), (2), and (3) of this section, 14627
the tax commissioner shall notify the director of budget and 14628
management, who shall provide payment to the municipal 14629
corporation under section 718.83 of the Revised Code of such 14630
amounts withheld under this division. 14631

(D) The tax commissioner shall enforce and administer 14632
sections 718.80 to 718.95 of the Revised Code. In addition to 14633
any other powers conferred upon the tax commissioner by law, the 14634
tax commissioner may: 14635

(1) Prescribe all forms necessary to administer those 14636
sections; 14637

~~(2) Adopt such rules as the tax commissioner finds 14638
necessary to carry out those sections; 14639~~

~~(3) Appoint and employ such personnel as are necessary to 14640
carry out the duties imposed upon the tax commissioner by those 14641
sections. 14642~~

(E) No tax administrator shall utilize sections 718.81 to 14643
718.95 of the Revised Code in the administrator's administration 14644
of a municipal income tax, and those sections shall not be 14645
applied to any taxpayer that has not made the election under 14646
this section. 14647

(F) Nothing in this chapter shall be construed to make any 14648
section of this chapter, other than sections 718.01 and 718.80 14649
to 718.95 of the Revised Code, applicable to the tax 14650
commissioner's administration of a municipal income tax or to 14651
any taxpayer that has made the election under this section. 14652

(G) The tax commissioner shall not be considered a tax 14653
administrator, as that term is defined in section 718.01 of the 14654

Revised Code. 14655

Sec. 718.83. (A) On or before the last day of each month, 14656
the tax commissioner shall certify to the director of budget and 14657
management the amount to be paid to each municipal corporation, 14658
based on amounts reported on annual returns and declarations of 14659
estimated tax under sections 718.85 and 718.88 of the Revised 14660
Code, less any amounts previously distributed and net of any 14661
audit adjustments made or refunds granted by the commissioner, 14662
for the calendar month preceding the month in which the 14663
certification is made. Not later than the fifth day of each 14664
month, the director shall provide for payment of the amount 14665
certified to each municipal corporation from the municipal net 14666
profit tax fund, plus a pro rata share of any investment 14667
earnings accruing to the fund since the previous payment under 14668
this section, and minus any reduction required by the 14669
commissioner under division (D) of this section. Each municipal 14670
corporation's share of such earnings shall equal the proportion 14671
that the municipal corporation's certified tax payment is of the 14672
total taxes certified to all municipal corporations in that 14673
quarter. All investment earnings on money in the municipal net 14674
profit tax fund shall be credited to that fund. 14675

(B) If the tax commissioner determines that the amount of 14676
tax paid by a taxpayer and distributed to a municipal 14677
corporation under this section for a taxable year exceeds the 14678
amount payable to that municipal corporation under sections 14679
718.80 to 718.95 of the Revised Code after accounting for 14680
amounts remitted with the annual return and as estimated taxes, 14681
the commissioner shall proceed according to section 5703.77 of 14682
the Revised Code. 14683

(C) If the amount of a municipal corporation's net 14684

distribution computed by the commissioner under division (A) of 14685
this section is less than zero, the commissioner may notify the 14686
municipal corporation of the deficiency. Within thirty days 14687
after receiving such a notice, the municipal corporation shall 14688
pay an amount equal to the deficiency to the treasurer of state. 14689
The treasurer of state shall credit any payment received under 14690
this division to the municipal net profit tax fund. 14691

(D) If a municipal corporation fails to make a timely 14692
payment required under division (C) of this section, the 14693
commissioner may recover the deficiency using any or all of the 14694
following options: 14695

(1) Deduct the amount of the deficiency from the next 14696
distribution to that municipal corporation under division (A) of 14697
this section or, if the amount of the deficiency exceeds the 14698
amount of such distribution, withhold such distributions 14699
entirely until the withheld amount equals the amount of the 14700
municipal corporation's deficiency; 14701

(2) Deduct the amount of the deficiency from the next 14702
payment to that municipal corporation under division (A) of 14703
section 5745.05 of the Revised Code or, if the amount of the 14704
deficiency exceeds the amount of such distribution, withhold 14705
such distributions entirely until the withheld amount equals the 14706
amount of the municipal corporation's deficiency; 14707

(3) Deduct the amount of the deficiency from the municipal 14708
corporation's share of the next payment made by the commissioner 14709
under division (F) of section 321.24 of the Revised Code or, if 14710
the amount of the deficiency exceeds the amount of the municipal 14711
corporation's share of such payment, withhold the municipal 14712
corporation's share of the payments entirely until the withheld 14713
amount equals the amount of the municipal corporation's 14714

deficiency. 14715

(E) The total amount of payments and distributions 14716
withheld from a municipal corporation under division (D) of this 14717
section shall not exceed the unpaid portion of the municipal 14718
corporation's net distribution deficiency. All amounts withheld 14719
under division (D) of this section shall be credited to the 14720
municipal net profit tax fund. 14721

~~(F) The commissioner may adopt rules necessary to 14722
administer this section. 14723~~

Sec. 742.013. The board may, by rule adopted under section 14724
~~742.10-111.15~~ of the Revised Code, establish definitions of 14725
"terminal pay" and "salary" that differ from those in divisions 14726
(K) and (L) of section 742.01 of the Revised Code. In 14727
establishing the definitions, the board may use elements of the 14728
compensation provisions of the United States Internal Revenue 14729
Code and the Internal Revenue Code form W-2, as those provisions 14730
are interpreted by the internal revenue service of the United 14731
States department of treasury. 14732

Sec. 742.10. The board of trustees of the Ohio police and 14733
fire pension fund may sue and be sued, plead and be impleaded, 14734
contract and be contracted with, employ and fix the compensation 14735
of employees, ~~and adopt rules for the proper administration and 14736
management of the fund. 14737~~

Effective ninety days after September 15, 2004, the board 14738
of trustees may not employ a state retirement system investment 14739
officer, as defined in section 1707.01 of the Revised Code, who 14740
does not hold a valid state retirement system investment officer 14741
license issued by the division of securities in the department 14742
of commerce. 14743

If the Ohio retirement study council establishes a uniform 14744
format for any report the board is required to submit to the 14745
council, the board shall submit the report in that format. 14746

The attorney general shall prescribe procedures for the 14747
adoption of rules authorized under this chapter, consistent with 14748
the provisions of section 111.15 of the Revised Code under which 14749
all rules shall be filed in order to be effective. Such 14750
procedures shall establish methods by which notice of proposed 14751
rules is given to interested parties and rules adopted by the 14752
board published and otherwise made available. When it files a 14753
rule with the joint committee on agency rule review pursuant to 14754
section 111.15 of the Revised Code, the board shall submit to 14755
the Ohio retirement study council a copy of the full text of the 14756
rule, and if applicable, a copy of the rule summary and fiscal 14757
analysis required by division (B) of section 106.024 of the 14758
Revised Code. 14759

Sec. 742.102. The board of trustees of the police and fire 14760
pension fund shall do all of the following: 14761

(A) In consultation with the Ohio ethics commission, 14762
review any existing policy regarding the travel and payment of 14763
travel expenses of members of the board of trustees and 14764
employees of the fund and adopt rules in accordance with section 14765
742.10 of the Revised Code establishing a new or revised policy 14766
regarding travel and payment of travel expenses. Not less than 14767
sixty days before adopting a new or revised policy, the board 14768
shall submit the policy to the Ohio retirement study council for 14769
review. 14770

(B) If the board intends to award a bonus to any employee 14771
of the board, adopt rules in accordance with section ~~742.10~~ 14772
111.15 of the Revised Code establishing a policy regarding 14773

employee bonuses; 14774

(C) Provide copies of the rules adopted under divisions 14775
(A) and (B) of this section to each member of the Ohio 14776
retirement study council; 14777

(D) Submit to the Ohio retirement study council a proposed 14778
operating budget, including an administrative budget for the 14779
board, for the next immediate fiscal year and adopt that budget 14780
not earlier than sixty days after it is submitted to the 14781
council; 14782

(E) Submit to the council a plan describing how the board 14783
will improve the dissemination of public information pertaining 14784
to the board. 14785

Sec. 742.161. Following the actuarial investigation 14786
required by division (B) of section 742.14 of the Revised Code 14787
due on November 1, 2017, and following each quinquennial 14788
actuarial investigation thereafter, if, in consultation with its 14789
actuary, the Ohio police and fire pension fund board of trustees 14790
determines that an adjustment to the age and years of service 14791
credit required to receive a pension or benefit under division 14792
(C) of section 742.37 of the Revised Code is appropriate, the 14793
board may, in accordance with rules adopted under section ~~742.10~~ 14794
111.15 of the Revised Code, do either of the following: 14795

(A) If the board's determination is that increasing the 14796
age and years of service requirements is necessary to preserve 14797
the fiscal integrity of the fund, increase the age and years of 14798
service credit required to receive a pension or benefit; 14799

(B) If the board's determination is that reducing the age 14800
and years of service requirements would not materially impair 14801
the fiscal integrity of the fund, reduce the age and years of 14802

service credit required to receive a pension or benefit. 14803

Sec. 742.214. (A) As used in this section, "transferred 14804
service credit" means service credit purchased or obtained under 14805
section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 14806
3309.731 of the Revised Code prior to the date a member 14807
commenced the employment covered by the Ohio police and fire 14808
pension fund for which the member is currently contributing to 14809
the fund. 14810

(B) A member of the Ohio police and fire pension fund who 14811
is in the active service of a police or fire department, has 14812
contributions on deposit with, but is no longer contributing to, 14813
a non-uniform retirement system, and is not a participant in the 14814
deferred retirement option plan established under section 742.43 14815
of the Revised Code shall, in computing years of service, be 14816
given full credit for transferred service credit if a transfer 14817
to the Ohio police and fire pension fund is made under this 14818
section. At the request of a member, the non-uniform system 14819
shall transfer to the Ohio police and fire pension fund the sum 14820
of the following: 14821

(1) An amount equal to the amounts transferred to the non- 14822
uniform system under section 145.295, 145.2913, 3307.761, 14823
3307.765, 3309.73, or 3309.731 of the Revised Code; 14824

(2) Interest, determined as provided in division (E) of 14825
this section, on the amount specified in division (B) (1) of this 14826
section for the period from the last day of the year in which 14827
the transfer under section 145.295, 145.2913, 3307.761, 14828
3307.765, 3309.73, or 3309.731 of the Revised Code was made to 14829
the date a transfer is made under this section. 14830

(C) A member of the fund who is in the active service of a 14831

police or fire department, has received a refund of 14832
contributions to a non-uniform retirement system, and is not a 14833
participant in the deferred retirement option plan established 14834
under section 742.43 of the Revised Code shall, in computing 14835
years of service, be given full credit for transferred service 14836
credit if, for each year of service, the Ohio police and fire 14837
pension fund receives the sum of the following: 14838

(1) An amount, which shall be paid by the member, equal to 14839
the amount refunded by the non-uniform system to the member for 14840
that year for transferred service credit, with interest on that 14841
amount from the date of the refund to the date a payment is made 14842
under this section; 14843

(2) Interest, which shall be transferred by the non- 14844
uniform system, on the amount refunded to the member for the 14845
period from the last day of the year in which the transfer under 14846
section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 14847
3309.731 of the Revised Code was made to the date the refund was 14848
made; 14849

(3) If the non-uniform system retained any portion of the 14850
amount transferred under section 145.295, 145.2913, 3307.761, 14851
3307.765, 3309.73, or 3309.731 of the Revised Code, an amount, 14852
which shall be transferred by the non-uniform system, equal to 14853
the amount retained, with interest on that amount for the period 14854
from the last day of the year in which the transfer under 14855
section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 14856
3309.731 of the Revised Code was made to the date a transfer is 14857
made under this section. 14858

On receipt of payment from the member, the Ohio police and 14859
fire pension fund shall notify the non-uniform system, which, on 14860
receipt of the notice, shall make the transfer required by this 14861

division. Interest shall be determined as provided in division 14862
(E) of this section. 14863

(D) Service credit purchased or obtained under this 14864
section shall be used in computing the pension and benefits 14865
payable under section 742.37 or 742.39 of the Revised Code. A 14866
member may choose to purchase only part of the credit the member 14867
is eligible to purchase under division (C) of this section in 14868
any one payment, subject to rules adopted by the board of 14869
trustees of the Ohio police and fire pension fund. A member is 14870
ineligible to purchase or obtain service credit under this 14871
section for service to be used in the calculation of any 14872
retirement benefit currently being paid or payable to the member 14873
in the future under any other retirement program or for service 14874
credit that may be purchased or obtained under section 742.21 of 14875
the Revised Code. 14876

(E) Interest charged under this section shall be 14877
calculated separately for each year of service credit at the 14878
lesser of the actuarial assumption rate for that year of the 14879
Ohio police and fire pension fund or of the non-uniform 14880
retirement system to which the credit was transferred under 14881
section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 14882
3309.731 of the Revised Code. The interest shall be compounded 14883
annually. 14884

(F) Any amounts transferred or paid under divisions (B) 14885
and (C) of this section that are attributable to contributions 14886
made by the member or to amounts paid to purchase service credit 14887
shall be credited to the police officers' contribution fund or 14888
firefighters' contribution fund created under section 742.59 of 14889
the Revised Code, as applicable. Any remaining amounts shall be 14890
credited to one or more of the funds created under that section 14891

as determined by the board. 14892

(G) At the request of the Ohio police and fire pension 14893
fund, the non-uniform retirement system shall certify to the 14894
fund a copy of the records of the service and contributions of a 14895
member of the fund who seeks service credit under this section. 14896
The non-uniform retirement system shall specify the portions of 14897
the amounts transferred that are attributable to employee 14898
contributions, employer contributions, and interest. 14899

(H) If a member of the fund who is not a current 14900
contributor elects to receive service credit under section 14901
145.2913, 3307.765, or 3309.731 of the Revised Code for 14902
transferred service credit, as defined in those sections, the 14903
fund shall transfer to the non-uniform retirement system, as 14904
applicable, the amount specified in division (B) or (C) of 14905
section 145.2913, division (B) or (C) of section 3307.765, or 14906
division (B) or (C) of section 3309.731 of the Revised Code. 14907

~~(I) The board may adopt rules to implement this section.~~ 14908

Sec. 742.27. (A) As used in this section, "lay off" means 14909
to cease to employ a person pursuant to sections 124.321 to 14910
124.328 of the Revised Code or pursuant to any similar 14911
provisions that apply to the person under any of the following: 14912

(1) A collective bargaining agreement entered into under 14913
Chapter 4117. of the Revised Code; 14914

(2) Any ordinance, resolution, contract, agreement, 14915
policy, or procedure governing employment. 14916

(B) A member of the Ohio police and fire pension fund who, 14917
during employment as a member of a police or fire department, is 14918
removed from active pay status by being laid off by the member's 14919
employer, shall, in computing years of active service under 14920

division (C) of section 742.37 or section 742.39 of the Revised Code, be given full credit for time for which contributions were not made during the period the member was laid off, if all of the following conditions are met:

(1) During the time the member was laid off, the member was not entitled to receive disability benefits from the fund.

(2) During the time the member was laid off, the member did not render any service that is used in the calculation of any public or private retirement benefit, except any federal social security retirement benefit, currently being paid or payable in the future to the member.

(3) The fund receives the amount determined under division (C) of this section from the member, the member's employer, or the member and the employer.

(4) At the time the fund receives the amount described in division (B)(3) of this section, the member is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code.

The total amount of service purchased by any member under this section shall not exceed two years. A member may choose to purchase only part of such credit in any one payment, subject to board rules.

(C) The amount paid for the credit purchased under this section shall be an amount equal to the additional liability to the fund resulting from the purchase of the credit, as determined by an actuary employed by the board of trustees of the fund.

(D) The board shall have final authority to determine and fix the amount of the payment for credit purchased under this

section. The employer may pay all or part of the payment. 14950

~~(E) The board shall adopt rules for the implementation of
this section.~~ 14951
14952

Sec. 742.31. (A) Except as provided in division (B) of 14953
this section, each employee shall contribute an amount equal to 14954
a percentage of the employee's salary to the Ohio police and 14955
fire pension fund according to the following schedule: 14956

(1) For salary earned in pay periods beginning not later 14957
than July 1, 2013, ten per cent; 14958

(2) For salary earned in pay periods beginning not earlier 14959
than July 2, 2013, but not later than July 1, 2014, ten and 14960
three-quarters per cent; 14961

(3) For salary earned in pay periods beginning not earlier 14962
than July 2, 2014, but not later than July 1, 2015, eleven and 14963
one-half per cent; 14964

(4) For salary earned in pay periods beginning not earlier 14965
than July 2, 2015, twelve and one-quarter per cent. 14966

(B) Following the actuarial investigation required by 14967
division (B) of section 742.14 of the Revised Code due on 14968
November 1, 2017, and following each quinquennial actuarial 14969
investigation thereafter, if, in consultation with the board's 14970
actuary, the board determines that an adjustment to the 14971
contribution rate is appropriate, the board may, in accordance 14972
with rules adopted under section ~~742.10~~111.15 of the Revised 14973
Code, do either of the following: 14974

(1) If the board's determination is that an increase in 14975
the contribution rate is necessary to preserve the fiscal 14976
integrity of the fund, increase the contribution rate; 14977

(2) If the board's determination is that a decrease in the contribution rate would not materially impair the fiscal integrity of the fund, decrease the contribution rate.

(C) The amount shall be deducted by the employer from the employee's salary as defined in division (L) of section 742.01 of the Revised Code for each payroll period, irrespective of whether the minimum compensation provided by law for the employee is reduced thereby. Every employee shall be deemed to consent to the deductions, and payment to the employee less the deductions is a complete discharge and acquittance of all claims and demands for the services rendered by the employee during the period covered by such payment.

Sec. 742.3721. The board of trustees of the Ohio police and fire pension fund may establish and maintain a qualified governmental excess benefit arrangement that meets the requirements of division (m) of section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, and any regulations adopted thereunder. If established, the arrangement shall be a separate portion of the fund and be maintained solely for the purpose of providing to retired members that part of a benefit otherwise payable under this chapter that exceeds the limits established by section 415 of the "Internal Revenue Code of 1986," as amended.

Members participating in an arrangement established under this section shall not be permitted to elect to defer compensation to the arrangement. Contributions to and benefits paid under an arrangement shall not be payable from a trust that is part of the fund unless the trust is maintained solely for the purpose of providing such benefits.

~~The board shall adopt rules to administer an arrangement~~

~~established under this section.~~

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Sec. 742.38. (A) (1) The board of trustees of the Ohio police and fire pension fund shall adopt rules establishing minimum medical testing and diagnostic standards or procedures to be incorporated into physical examinations administered to prospective members of the fund. The standards or procedures shall include diagnosis and evaluation of the existence of any heart disease, cardiovascular disease, or respiratory disease. The rules shall specify the form of the examination report and the information to be included in it.

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The board shall notify all employers of the establishment of the minimum standards or procedures and shall include with the notice a copy of the standards or procedures. The board shall notify all employers of any changes made to the standards or procedures. Once the standards or procedures take effect, employers shall cause each prospective member of the fund to submit to a physical examination that incorporates the standards or procedures.

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(2) Division (A) (2) of this section applies to an employee who becomes a member of the fund on or after the date the minimum standards or procedures described in division (A) (1) of this section take effect. For each employee described in division (A) (2) of this section, the employer shall forward to the board a copy of the report of a physical examination that incorporates the standards or procedures described in division (A) (1) of this section. If an employer fails to forward the report in the form required by the board on or before the date that is sixty days after the employee becomes a member of the fund, the board shall assess against the employer a penalty determined under section 742.353 of the Revised Code.

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(B) Application for a disability benefit may be made by a member of the fund or, if the member is incapacitated as defined in rules adopted by the board, by a person acting on the member's behalf. Not later than fourteen days after receiving an application for a disability benefit from a member or a person acting on behalf of a member, the board shall notify the member's employer that an application has been filed. The notice shall state the member's position or rank. Not later than twenty-eight days after receiving the notice or filing an application on behalf of a member, the employer shall forward to the board a statement certifying the member's job description and any other information required by the board to process the application.

If the member applying for a disability benefit became a member of the fund prior to the date the minimum standards or procedures described in division (A) (1) of this section took effect, the board may request from the member's employer a copy of the report of the member's physical examination taken on entry into the police or fire department or, if the employer does not have a copy of the report, a written statement certifying that the employer does not have a copy of the report. If an employer fails to forward the report or statement in the form required by the board on or before the date that is twenty-eight days after the date of the request, the board shall assess against the employer a penalty determined under section 742.353 of the Revised Code.

The board shall maintain the information submitted under this division and division (A) (2) of this section in the member's file.

(C) For purposes of determining under division (D) of this

section whether a member of the fund is disabled, the board 15068
shall adopt rules establishing objective criteria under which 15069
the determination is to be made. The rules shall include 15070
standards that provide for all of the following: 15071

(1) Evaluating a member's illness or injury on which an 15072
application for disability benefits is based; 15073

(2) Defining the occupational duties of a police officer 15074
or firefighter; 15075

(3) Providing for the board to assign competent and 15076
disinterested physicians, advanced practice registered nurses, 15077
physician assistants, and vocational evaluators to conduct 15078
examinations of a member; 15079

(4) Requiring a written report for each disability 15080
application that includes a summary of findings, medical 15081
opinions, including an opinion on whether the illness or injury 15082
upon which the member's application for disability benefits is 15083
based was caused or induced by the actual performance of the 15084
member's official duties, and any recommendations or comments 15085
based on the medical opinions; 15086

(5) Taking into consideration the member's potential for 15087
retraining or reemployment. 15088

(D) The board may grant disability benefits to a member 15089
based solely on a review of an application for disability 15090
benefits and supporting medical documentation or may require the 15091
member to undergo a medical examination, a vocational 15092
evaluation, or both. Any medical examination or vocational 15093
evaluation shall be conducted by a physician, advanced practice 15094
registered nurse, physician assistant, or vocational evaluator 15095
assigned in accordance with rules adopted under division (C) (3) 15096

of this section. If a medical examination is conducted by an 15097
advanced practice registered nurse or physician assistant, the 15098
board shall only accept an examination report if a physician 15099
reviews, approves, and signs the report before the report is 15100
submitted to the board. 15101

As used in this division: 15102

"Totally disabled" means a member of the fund is unable to 15103
perform the duties of any gainful occupation for which the 15104
member is reasonably fitted by training, experience, and 15105
accomplishments. Absolute helplessness is not a prerequisite of 15106
being totally disabled. 15107

"Permanently disabled" means a condition of disability 15108
that is expected to last for a continuous period of not less 15109
than twelve months after an application for disability benefits 15110
is filed and from which there is no present indication of 15111
recovery. 15112

"Hazardous duty" has the same meaning as in 5 C.F.R. 15113
550.902, as amended. 15114

(1) A member of the fund who is permanently and totally 15115
disabled as the result of the performance of the member's 15116
official duties as a member of a police or fire department shall 15117
be paid annual disability benefits in accordance with division 15118
(A) of section 742.39 of the Revised Code. In determining 15119
whether a member of the fund is permanently and totally 15120
disabled, the board shall consider standards adopted under 15121
division (C) of this section applicable to the determination. 15122

(2) A member of the fund who is permanently and partially 15123
disabled as the result of the performance of the member's 15124
official duties as a member of a police or fire department 15125

shall, if the disability prevents the member from performing 15126
those duties and impairs the member's earning capacity, receive 15127
annual disability benefits in accordance with division (B) of 15128
section 742.39 of the Revised Code. In determining whether a 15129
member of the fund is permanently and partially disabled, the 15130
board shall consider standards adopted under division (C) of 15131
this section applicable to the determination. 15132

(3) (a) A member of the fund who is permanently disabled as 15133
a result of heart disease or any cardiovascular or respiratory 15134
disease of a chronic nature, which disease or any evidence of 15135
which disease was not revealed by the physical examination 15136
passed by the member on entry into the department or another 15137
examination specified in rules the board adopts under section 15138
~~742.10~~111.15 of the Revised Code, is presumed to have incurred 15139
the disease while performing the member's official duties, 15140
unless the contrary is shown by competent evidence. The board 15141
may waive the requirement that the absence of disease be 15142
evidenced by a physical examination if competent medical 15143
evidence of a type specified in rules adopted under section 15144
~~742.10~~111.15 of the Revised Code is submitted documenting that 15145
the disease was not evident prior to or at the time of entry 15146
into the department. 15147

(b) A member of the fund who is a member of a fire 15148
department, has been assigned to at least six years of hazardous 15149
duty as a member of a fire department, and is disabled as a 15150
result of cancer, is presumed to have incurred the cancer while 15151
performing the member's official duties if the member was 15152
exposed to an agent classified by the international agency for 15153
research on cancer or its successor agency as a group 1 or 2A 15154
carcinogen. 15155

(c) The presumption described in division (D) (3) (b) of 15156
this section is rebuttable in any of the following situations: 15157

(i) There is evidence that the member incurred the type of 15158
cancer being alleged before becoming a member of the department. 15159

(ii) There is evidence that the member's exposure, outside 15160
the scope of the member's official duties, to cigarettes, 15161
tobacco products, or other conditions presenting an extremely 15162
high risk for the development of the cancer alleged, was 15163
probably a significant factor in the cause or progression of the 15164
cancer. 15165

(iii) There is evidence that shows, by a preponderance of 15166
competent scientific evidence, that exposure to the type of 15167
carcinogen alleged did not or could not have caused the cancer 15168
being alleged. 15169

(iv) There is evidence that the member was not exposed to 15170
an agent classified by the international agency for research on 15171
cancer or its successor agency as a group 1 or 2A carcinogen. 15172

(v) The member is seventy years of age or older. 15173

(d) The presumption described in division (D) (3) (b) of 15174
this section does not apply if it has been more than fifteen 15175
years since the member was last assigned to hazardous duty as a 15176
member of a fire department. 15177

(4) A member of the fund who has five or more years of 15178
service credit and has incurred a permanent disability not 15179
caused or induced by the actual performance of the member's 15180
official duties as a member of the department, or by the 15181
member's own negligence, shall if the disability prevents the 15182
member from performing those duties and impairs the member's 15183
earning capacity, receive annual disability benefits in 15184

accordance with division (C) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(5) The board shall notify a member of its final action awarding a disability benefit to the member within thirty days of the final action. The notice shall be sent by certified mail, return receipt requested. Not later than ninety days after receipt of notice from the board, the member shall elect, on a form provided by the board, either to accept or waive the disability benefit award. If the member elects to waive the disability benefit award or fails to make an election within the time period, the award is rescinded. A member who later seeks a disability benefit award shall be required to make a new application, which shall be dealt with in accordance with the procedures used for original disability benefit applications.

A person is not eligible to apply for or receive disability benefits under this division, section 742.39 of the Revised Code, or division (C) (2), (3), (4), or (5) of former section 742.37 of the Revised Code unless the person is a member of the fund on the date on which the application for disability benefits is submitted to the fund.

With the exception of persons who may make application for increased benefits as provided in division (D) (2) or (4) of this section or division (C) (3) or (5) of former section 742.37 of the Revised Code on or after July 24, 1986, or persons who may make application for benefits as provided in section 742.26 of the Revised Code, no person receiving a pension or benefit under this section or division (C) of former section 742.37 of the Revised Code may apply for any new, changed, or different

benefit. 15215

(E) An advanced practice registered nurse or physician 15216
assistant assigned in accordance with rules adopted under 15217
division (C) (3) of this section to conduct a medical examination 15218
of a member who has applied for disability benefits shall only 15219
conduct an examination that is within the scope and practice 15220
that is permitted under Chapter 4723. or 4730. of the Revised 15221
Code, respectively, and does not exceed the advanced practice 15222
registered nurse's or physician assistant's training. 15223

(F) Notwithstanding the requirement of section 742.41 of 15224
the Revised Code that all medical reports and recommendations 15225
required are privileged, the board shall submit to the 15226
administrator of workers' compensation any data necessary for 15227
the report required under section 4123.86 of the Revised Code. 15228

Sec. 742.43. The board of trustees of the Ohio police and 15229
fire pension fund shall establish and administer a deferred 15230
retirement option plan. In establishing and administering the 15231
plan, the board shall comply with sections 742.44 to 742.446 of 15232
the Revised Code and may do all things necessary to meet the 15233
requirements of section 401(a) of the "Internal Revenue Code of 15234
1986," as amended, applicable to governmental plans. 15235

The board shall adopt rules to ~~implement this section and~~ 15236
~~sections 742.44 to 742.446 of the Revised Code. The rules shall~~ 15237
specify the date of initial implementation of the plan 15238
established under this section. The rules may also specify a 15239
period during which an election made under section 742.44 of the 15240
Revised Code may be rescinded. 15241

Sec. 742.443. (A) During the period beginning on the 15242
effective date of an election to participate in the deferred 15243

retirement option plan and ending on the date participation 15244
ceases, a member's monthly pension amount determined under 15245
section 742.442 of the Revised Code shall accrue to the member's 15246
benefit. If the member is eligible for increases under section 15247
742.3716 of the Revised Code, to this amount shall be added any 15248
benefit increases the member would be eligible for under that 15249
section had the member, on the effective date of the member's 15250
election, retired under division (C)(1) of section 742.37 of the 15251
Revised Code. 15252

(B) (1) The amounts contributed under section 742.31 of the 15253
Revised Code by a member who, before July 2, 2013, elects to 15254
participate in the deferred retirement option plan shall accrue 15255
to the member's benefit as follows: 15256

(a) During the period beginning on the first day of the 15257
first payroll period after the election's effective date and 15258
ending on the earlier of the date that is two years thereafter 15259
or the date the member ceases participation in the plan, fifty 15260
per cent of the member's contributions for that period; 15261

(b) During the period beginning on the date that is two 15262
years and one day after accruals begin under this division and 15263
ending on the earlier of the date that is three years thereafter 15264
or the date the member ceases participation in the plan, 15265
seventy-five per cent of the member's contributions for that 15266
period; 15267

(c) During the period beginning on the date that is three 15268
years and one day after accruals begin under this section and 15269
ending on the date the member ceases participation in the plan, 15270
one hundred per cent of the member's contributions for that 15271
period. 15272

(2) The amounts contributed under section 742.31 of the Revised Code by a member who, on or after July 2, 2013, elects to participate in the deferred retirement option plan shall accrue to the member's benefit as follows:

(a) During the period beginning on the first day of the first payroll period after the election's effective date and ending on the earlier of the date that is three years thereafter or the date the member ceases participation in the plan, fifty per cent of the member's contributions for that period;

(b) During the period beginning on the date that is three years and one day after accruals begin under this division and ending on the earlier of the date that is five years thereafter or the date the member ceases participation in the plan, seventy-five per cent of the member's contributions for that period;

(c) During the period beginning on the date that is five years and one day after accruals begin under this section and ending on the date the member ceases participation in the plan, one hundred per cent of the member's contributions for that period.

(3) The Ohio police and fire pension fund shall credit the portion of a member's contributions that are not accrued to the member's benefit under division (B)(1) or (2) of this section to the police officers' contribution fund or firefighters' contribution fund, as appropriate.

(C) During the period beginning on the election's effective date and ending on the day before the date distributions under division (B)(3) of section 742.444 of the Revised Code are completed, the amounts described in divisions

(A) and (B) (1) of this section shall earn interest at an annual 15302
rate established by the board of trustees of the fund and 15303
compounded annually using a method established by rule adopted 15304
under section ~~742.43~~111.15 of the Revised Code. 15305

Sec. 742.45. (A) The board of trustees of the Ohio police 15306
and fire pension fund may enter into an agreement with insurance 15307
companies, health insuring corporations, or government agencies 15308
authorized to do business in the state for issuance of a policy 15309
or contract of health, medical, hospital, or surgical benefits, 15310
or any combination thereof, for those individuals receiving 15311
service or disability pensions or survivor benefits subscribing 15312
to the plan. Notwithstanding any other provision of this 15313
chapter, the policy or contract may also include coverage for 15314
any eligible individual's spouse and dependent children and for 15315
any of the eligible individual's sponsored dependents as the 15316
board considers appropriate. 15317

If all or any portion of the policy or contract premium is 15318
to be paid by any individual receiving a service, disability, or 15319
survivor pension or benefit, the individual shall, by written 15320
authorization, instruct the board to deduct from the 15321
individual's benefit the premium agreed to be paid by the 15322
individual to the company, corporation, or agency. 15323

The board may contract for coverage on the basis of part 15324
or all of the cost of the coverage to be paid from appropriate 15325
funds of the Ohio police and fire pension fund. The cost paid 15326
from the funds of the Ohio police and fire pension fund shall be 15327
included in the employer's contribution rates provided by 15328
sections 742.33 and 742.34 of the Revised Code. 15329

The board may provide for self-insurance of risk or level 15330
of risk as set forth in the contract with the companies, 15331

corporations, or agencies, and may provide through the self- 15332
insurance method specific benefits as authorized by the rules of 15333
the board. 15334

(B) Except as otherwise provided in this division, the 15335
board shall, beginning the month following receipt of 15336
satisfactory evidence of the payment for coverage, pay monthly 15337
to each recipient of service, disability, or survivor benefits 15338
under the Ohio police and fire pension fund who is eligible for 15339
coverage under part B of the medicare program established under 15340
Title XVIII of "The Social Security Amendments of 1965," 79 15341
Stat. 301 (1965), 42 U.S.C.A. 1395j, as amended, an amount 15342
specified by the board or determined pursuant to a formula 15343
established by the board that is not less than ninety-six 15344
dollars and forty cents, for such coverage, except that the 15345
board shall not pay an amount that exceeds the amount paid by 15346
the recipient for the coverage. 15347

The board shall pay not more than one monthly premium 15348
under this division to an eligible benefit recipient even if the 15349
recipient is receiving more than one monthly benefit from the 15350
fund. The board shall not pay a monthly premium under this 15351
division to an eligible benefit recipient who is receiving 15352
reimbursement for the premium from any other source. 15353

(C) The board shall establish by rule requirements for the 15354
coordination of any coverage, payment, or benefit provided under 15355
this section with any similar coverage, payment, or benefit made 15356
available to the same individual by the public employees 15357
retirement system, state teachers retirement system, school 15358
employees retirement system, or state highway patrol retirement 15359
system. 15360

~~(D) The board shall make all other necessary rules~~ 15361

~~pursuant to the purpose and intent of this section.~~ 15362

Sec. 742.451. The board of trustees of the Ohio police and 15363
fire pension fund may establish a program under which a member 15364
or a member's employer is permitted to make additional deposits 15365
for the purpose of providing funds for the payment of health, 15366
medical, hospital, surgical, dental, or vision care expenses, 15367
including insurance premiums, deductible amounts, or copayments. 15368
The program may be a voluntary employees' beneficiary 15369
association, as described in section 501(c)(9) of the Internal 15370
Revenue Code, 26 U.S.C. 501(c)(9), as amended; an account 15371
described in section 401(h) of the Internal Revenue Code, 26 15372
U.S.C. 401(h), as amended; a medical savings account; or a 15373
similar type of program under which an individual may accumulate 15374
funds for the purpose of paying such expenses. To implement the 15375
program, the board may enter into agreements with insurance 15376
companies or other entities authorized to conduct business in 15377
this state. 15378

~~If the board establishes a program under this section, it 15379
shall adopt rules to administer the program.~~ 15380

Sec. 901.50. (A) "Invasive plant species" means plant 15381
species that are not native to this state whose introduction 15382
causes or is likely to cause economic or environmental harm or 15383
harm to human health as determined by scientific studies. 15384
"Invasive plant species" does not include cultivated plants 15385
grown as food or livestock feed in accordance with generally 15386
accepted agricultural practices, including all plants authorized 15387
by the animal and plant health inspection service in the United 15388
States department of agriculture. 15389

(B) Except as provided in division (C) of this section, 15390
the director of agriculture has sole and exclusive authority to 15391

regulate invasive plant species in this state, including the 15392
identification of invasive plant species and establishment of 15393
prohibited activities regarding them. ~~The director may adopt~~ 15394
~~rules in accordance with Chapter 119. of the Revised Code to~~ 15395
~~administer this section.~~ 15396

(C) Nothing in this section precludes the director of 15397
environmental protection from continuing to consider the 15398
existence of invasive plant species when evaluating applications 15399
and permits for impacts to or mitigation and monitoring of 15400
wetlands that are subject to regulation under Chapter 6111. of 15401
the Revised Code and rules adopted under it, including using a 15402
list of invasive plant species compiled by that director. 15403
~~However, upon the taking effect of any rules adopted by the~~ 15404
~~director of agriculture under division (B) of this section, the~~ 15405
~~director of environmental protection shall use the list of~~ 15406
~~invasive plant species established in those rules when~~ 15407
~~conducting the activities described in this division.~~ 15408

Sec. 901.61. (A) As used in this section: 15409

(1) "Agricultural asset" means agricultural land, 15410
livestock, facilities, buildings, and machinery used for 15411
agricultural production in this state. 15412

(2) "Agricultural land" means land that is composed of 15413
tracts, lots, or parcels totaling not less than ten acres 15414
devoted to agricultural production or totaling less than ten 15415
acres devoted to agricultural production if the land produces an 15416
average yearly gross income of at least two thousand five 15417
hundred dollars from agricultural production. 15418

(3) "Agricultural production" has the same meaning as in 15419
section 929.01 of the Revised Code. 15420

(4) "Beginning farmer" means an individual who has been certified as a beginning farmer by the director of agriculture or a participating land grant college under division (B) of this section or who has received a substantially equivalent certification from the United States department of agriculture. "Beginning farmer" does not include an individual who has previously been certified as a beginning farmer but no longer meets the criteria for certification.

(5) "Owner of agricultural assets" means a person that is the owner in fee of agricultural land or that has legal title to any other agricultural asset. An "owner of agricultural assets" does not include an equipment dealer or comparable entity engaged in the business of selling agricultural assets for profit.

(6) "Share rent agreement" means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined portion of the production of the agricultural products produced from the rented agricultural assets and which provides for sharing production costs or risk of loss.

(7) "Participating land grant college" or "college" means a state university, as defined in section 3345.011 of the Revised Code, that is designated a land grant college under the federal "Morrill Act of 1862," 7 U.S.C. 301 et seq., or the "Agricultural College Act of 1890," 7 U.S.C. 321 et seq., and that elects to participate in certifying individuals as beginning farmers under this section.

(B) For the purposes of the tax credit authorized in division (A) of section 5747.77 of the Revised Code, the director of agriculture and participating land grant colleges

shall certify individuals as beginning farmers. An individual 15451
may apply to the director or college for certification, and the 15452
director or college shall provide the certification if the 15453
director or college determines that the individual meets all of 15454
the requirements of this division. The certification is valid 15455
until the individual no longer meets all of the requirements of 15456
this division. To qualify, the individual must be a resident of 15457
this state and: 15458

(1) Be seeking entry, or have entered within the last ten 15459
years, into farming; 15460

(2) Farm, or intend to farm, land in this state; 15461

(3) Not be a partner, member, shareholder, or trustee of 15462
the owner of the agricultural assets the individual is seeking 15463
to purchase or rent. 15464

(4) Have a total net worth, including the assets and 15465
liabilities of the individual's spouse and dependents, of less 15466
than eight hundred thousand dollars in 2021 and an amount in 15467
subsequent years which is adjusted for inflation by multiplying 15468
that amount by the cumulative inflation rate as determined by 15469
the consumer price index (all items) prepared by the United 15470
States bureau of labor statistics. 15471

(5) Provide the majority of the day-to-day physical labor 15472
for and management of the farm; 15473

(6) Have adequate farming experience or demonstrate 15474
knowledge in the type of farming for which the individual seeks 15475
assistance; 15476

(7) Submit projected earnings statements and demonstrate a 15477
profit potential; 15478

(8) Demonstrate that farming will be a significant source of income for the individual;	15479 15480
(9) Participate in a financial management program approved under division (C) of this section;	15481 15482
(10) Meet any other requirements prescribed by the director.	15483 15484
(C) For the purposes of the tax credit authorized in division (B) of section 5747.77 of the Revised Code, the director of agriculture, in consultation with the participating land grant colleges, shall certify financial management programs that would qualify a beginning farmer for the credit authorized under that division. The director and colleges shall establish a procedure for certifying such programs and shall maintain a list of certified programs on the web site of the department of agriculture.	15485 15486 15487 15488 15489 15490 15491 15492 15493
(D) (1) The owner of agricultural assets who sells agricultural assets to a beginning farmer during the calendar year or who rents agricultural assets to a beginning farmer during the calendar year or in either of the two preceding calendar years may apply to the director of agriculture, on forms prescribed by the director, for a tax credit under division (A) of section 5747.77 of the Revised Code, provided, in the case of a rental, the asset is rented at prevailing community rates, as determined under the rules adopted under division (G) of this section. The application shall identify or include all of the following:	15494 15495 15496 15497 15498 15499 15500 15501 15502 15503 15504
(a) The name of the beginning farmer;	15505
(b) The date the sale was made or the date the lease was entered into;	15506 15507

(c) If applying for the credit on the basis of the sale of an agricultural asset, the sale price of the asset;	15508 15509
(d) If applying for the credit on the basis of renting an agricultural asset:	15510 15511
(i) The duration of the lease;	15512
(ii) Proof that the asset is rented at prevailing community rates;	15513 15514
(iii) The amount, in cash equivalent, of the gross rental income received during the taxable year for which the credit is sought;	15515 15516 15517
(iv) Whether the asset is rented pursuant to a share rent agreement.	15518 15519
(2) The director shall approve an application received under this section if the director determines that the applicant is eligible for the credit and if awarding the credit would not cause the limit described in division (F) of this section to be exceeded. The director shall issue a tax credit certificate to an approved applicant listing the amount of the credit the applicant is authorized to claim under division (A) of section 5747.77 of the Revised Code, which shall equal three and ninety-nine one-hundredths per cent of one of the following:	15520 15521 15522 15523 15524 15525 15526 15527 15528
(a) The sale price of the agricultural asset;	15529
(b) The gross rental income received during the calendar year pursuant to a rental agreement, provided the agreement was entered into on or after the first day of the second preceding calendar year;	15530 15531 15532 15533
(c) The gross rental income received during the taxable year pursuant to a share rent agreement, provided the agreement	15534 15535

was entered into on or after the first day of the second 15536
preceding calendar year. 15537

(E) A beginning farmer may apply to the director of 15538
agriculture, on forms prescribed by the director, for a tax 15539
credit under division (B) of section 5747.77 of the Revised Code 15540
equal to the cost the individual incurred during the calendar 15541
year for participating in a financial management program 15542
approved under division (C) of this section or a substantially 15543
equivalent financial management program approved by the United 15544
States department of agriculture. The application shall include 15545
all of the following: 15546

(1) The name and address of the financial management 15547
program; 15548

(2) The costs the individual incurs for participating in 15549
that program; 15550

(3) The date or dates the individual participated in that 15551
program. 15552

The director shall approve an application received under 15553
this section if the director determines that the applicant is 15554
eligible for the credit and if awarding the credit would not 15555
cause the limit described in division (F) of this section to be 15556
exceeded. The director shall issue a tax credit certificate to 15557
an approved applicant listing the amount of the credit the 15558
applicant is authorized to claim under division (B) of section 15559
5747.77 of the Revised Code. 15560

(F) The director may not issue more than ten million 15561
dollars in tax credit certificates under divisions (D) and (E) 15562
of this section. The director may not issue tax credit 15563
certificates under this section on or after the first day of 15564

January of the sixth calendar year beginning after the effective 15565
date of this section. 15566

(G) The director of agriculture, in consultation with the 15567
tax commissioner, may adopt ~~any rules necessary to administer~~ 15568
~~this section, including~~ a rule prescribing the method for 15569
determining prevailing community rental rates. 15570

Sec. 901.70. As used in sections 901.70 to 901.76 of the 15571
Revised Code: 15572

(A) "Exhibition" means any of the following: 15573

(1) A show or sale of livestock at a fair or elsewhere 15574
that is sponsored by or under the control of a county or 15575
independent agricultural society organized under section 1711.01 15576
or 1711.02 of the Revised Code; 15577

(2) A show or sale of livestock at the Ohio state fair; 15578

(3) A livestock show at a fair or elsewhere or a livestock 15579
sale at or associated with a fair or livestock show that is 15580
assembled for any length of time; 15581

(4) A livestock show at a fair or elsewhere or a livestock 15582
sale at or associated with a fair or livestock show that 15583
includes livestock with origins outside this state; 15584

~~(5) Any show or sale of livestock at a fair or elsewhere~~ 15585
~~that is specified by rule of the director of agriculture adopted~~ 15586
~~under section 901.72 of the Revised Code.~~ 15587

(B) "Livestock" means any animal generally used for food 15588
or in the production of food, including cattle, sheep, goats, 15589
rabbits, poultry, swine, ~~and any other animal included by the~~ 15590
~~director by rules adopted under section 901.72 of the Revised~~ 15591
~~Code,~~ alpacas, and llamas. 15592

(C) "Sponsor" means any of the following:	15593
(1) A county or independent agricultural society organized under section 1711.01 or 1711.02 of the Revised Code;	15594 15595
(2) The Ohio state fair;	15596
(3) Any other public or private entity sponsoring an exhibition.	15597 15598
Sec. 901.72. (A) The director of agriculture, in accordance with Chapter 119. of the Revised Code, may adopt rules for the governance and administration of exhibitions, and to provide for related food safety and the health, safety, and welfare of livestock <u>related to exhibitions</u> , and may adopt by reference rules adopted by other public or private agencies such as the Ohio farm animal care commission. Rules of the director may specify those grooming, commercial, or medical practices that are generally accepted within the community of persons exhibiting livestock and may specify false, deceptive, misleading, unethical, or unprofessional practices that constitute grounds for disciplinary action under section 901.74 of the Revised Code.	15599 15600 15601 15602 15603 15604 15605 15606 15607 15608 15609 15610 15611
(B) Rules of the director that apply to exhibition-related food safety and the health, safety, and welfare of livestock shall apply to every exhibition operated within this state and to every sponsor. A sponsor may exempt itself from any other rules adopted by the director under this section that do not apply to food safety or the health, safety, or welfare of livestock, including, without limitation, rules for the governance and administration of exhibitions, by, not later than thirty days before the commencement of its exhibition, filing with the director, on a form prescribed and provided by the	15612 15613 15614 15615 15616 15617 15618 15619 15620 15621

director, a list of the rules that shall not apply to its 15622
exhibition. 15623

(C) The director may provide mediation, dispute 15624
resolution, and arbitration services in any dispute involving an 15625
alleged violation of a rule adopted under division (A) of this 15626
section from which the sponsor could have exempted itself under 15627
division (B) of this section, but chose not to. 15628

(D) Nothing in this section or in sections 901.73 or 15629
901.74 of the Revised Code precludes any sponsor from doing any 15630
of the following: 15631

(1) adopting rules or written policies for the governance 15632
and administration of its own exhibition, including, without 15633
limitation the adoption of any rule by reference to a rule 15634
adopted by other public or private agencies; 15635

(2) Adopting rules or written policies providing for 15636
appeals regarding alleged violations of rules or written 15637
policies adopted by the sponsor; 15638

(3) Taking any disciplinary action established in the 15639
rules or written policies adopted by the sponsor in connection 15640
with violations of the sponsor's rules or written policies for 15641
the governance and administration of its exhibition. Any such 15642
disciplinary action taken by a sponsor in regard to its own 15643
exhibition is in addition to any disciplinary action taken by 15644
the director under section 901.74 of the Revised Code. 15645

(4) Establishing by rule or written policy criteria and 15646
procedures for the reinstatement of any person disqualified from 15647
participation in the sponsor's exhibition by a disciplinary 15648
action taken by the sponsor and for deciding requests for 15649
reinstatement submitted under those rules. 15650

Sec. 903.10. The director of agriculture may adopt rules	15651
in accordance with Chapter 119. of the Revised Code that do all	15652
of the following:	15653
(A) Establish all of the following concerning permits to	15654
install and permits to operate:	15655
(1) A description of what constitutes a modification of a	15656
concentrated animal feeding facility;	15657
(2) A description of what constitutes a major operational	15658
change at a concentrated animal feeding facility;	15659
(3) The amount of the fee that must be submitted with each	15660
permit application and each application for a permit	15661
modification;	15662
(4) Information that must be included in the designs and	15663
plans required to be submitted with an application for a permit	15664
to install and criteria for approving, disapproving, or	15665
requiring modification of the designs and plans;	15666
(5) Information that must be included in a manure	15667
management plan required to be submitted with an application for	15668
a permit to operate;	15669
(6) Information that must be included in an application	15670
for the modification of an installation permit, a permit to	15671
install, or a permit to operate;	15672
(7) Information that must be included in an application	15673
for approval of a major operational change at a concentrated	15674
animal feeding facility;	15675
(8) Any additional information that must be included with	15676
a permit application;	15677

~~(9)~~ Procedures for the issuance, denial, modification, transfer, suspension, and revocation of permits to install and permits to operate, including general permits; 15678
15679
15680

~~(10)~~(9) Procedures for the approval or denial of an application for approval of a major operational change at a concentrated animal feeding facility; 15681
15682
15683

~~(11)~~(10) Grounds for the denial, modification, suspension, or revocation of permits to install and permits to operate in addition to the grounds established in division (D) of section 903.02 and division (D) of section 903.03 of the Revised Code; 15684
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~~(12)~~(11) Grounds for the denial of an application for approval of a major operational change at a concentrated animal feeding facility; 15688
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~~(13)~~(12) A requirement that a person that is required to obtain both a permit to install and a permit to operate submit applications for those permits simultaneously; 15691
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~~(14)~~(13) A definition of "general permit to operate" that establishes categories of concentrated animal feeding facilities to be covered under such a permit and a definition of "individual permit to operate" together with the criteria for issuing a general permit to operate and the criteria for determining a person's eligibility to operate under a general permit to operate. 15694
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(B) Establish best management practices that minimize water pollution, odors, insects, and rodents, that govern the land application of manure that originated at a concentrated animal feeding facility, and that govern all of the following activities that occur at a concentrated animal feeding facility: 15701
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(1) Manure management, including the storage, handling, 15706

transportation, and land application of manure. Rules adopted 15707
under division (B) (1) of this section shall include practices 15708
that prevent surface and ground water contamination caused by 15709
the storage of manure or the land application of manure and 15710
prevent the contamination of water in drainage tiles that may be 15711
caused by that application. 15712

(2) Disposal of dead livestock; 15713

(3) Production of biodiesel, biomass energy, electric or 15714
heat energy, and biologically derived methane gas as those terms 15715
are defined in section 5713.30 of the Revised Code; 15716

~~(4) Any other activity that the director considers~~ 15717
~~appropriate.~~ 15718

Best management practices established in rules adopted 15719
under division (B) of this section shall not conflict with best 15720
management practices established in rules that have been adopted 15721
under any other section of the Revised Code. The rules adopted 15722
under division (B) of this section shall establish guidelines 15723
that require owners or operators of concentrated animal feeding 15724
facilities to consult with and work with local officials, 15725
including boards of county commissioners and boards of township 15726
trustees, in addressing issues related to local government 15727
infrastructure needs and the financing of that infrastructure. 15728

(C) Establish all of the following concerning insect and 15729
rodent control plans required under section 903.06 of the 15730
Revised Code: 15731

(1) The information to be included in an insect and rodent 15732
control plan; 15733

(2) Criteria for approving, disapproving, or requiring 15734
modification of an insect and rodent control plan; 15735

(3) Criteria for determining compliance with or violation of an insect and rodent control plan;	15736 15737
(4) Procedures and standards for monitoring insect and rodent control plans;	15738 15739
(5) Procedures and standards for enforcing insect and rodent control plans at concentrated animal feeding facilities at which insects or rodents constitute a nuisance or adversely affect public health;	15740 15741 15742 15743
(6) The amount of civil penalties for violation of an insect and rodent control plan assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code, provided that the rules adopted under division (C) (6) of this section shall not establish a civil penalty of more than ten thousand dollars for a violation involving a concentrated animal feeding facility that is not a major concentrated animal feeding facility and shall not establish a civil penalty of more than twenty-five thousand dollars for a violation involving a major concentrated animal feeding facility;	15744 15745 15746 15747 15748 15749 15750 15751 15752 15753
(7) The time period within which the director must approve or deny an insect and rodent control plan after receiving it;	15754 15755
(8) Any other provisions necessary to administer and enforce section 903.12 of the Revised Code.	15756 15757
(D) Establish all of the following concerning livestock manager certifications required under section 903.07 of the Revised Code:	15758 15759 15760
(1) The information to be included in an application for a livestock manager certification and the amount of the application fee;	15761 15762 15763

(2) The content of the training required to be completed 15764
and of the examination required to be passed by an applicant for 15765
a livestock manager certification. The training shall include 15766
and the examination shall test the applicant's knowledge of 15767
information on topics that include calculating nutrient values 15768
in manure, devising and implementing a plan for the land 15769
application of manure, removing manure held in a manure storage 15770
or treatment facility, and following best management practices 15771
established in rules for disposal of dead animals and manure 15772
management, including practices that control odor and protect 15773
the environment. The director may specify other types of 15774
recognized training programs that, if completed, are considered 15775
to satisfy the training and examination requirement. 15776

(3) Criteria and procedures for the issuance, denial, 15777
suspension, revocation, or reinstatement of a livestock manager 15778
certification; 15779

(4) The length of time during which livestock manager 15780
certifications will be valid and procedures for their renewal; 15781

(5) The volume of manure that must be transported and land 15782
applied annually or the volume of manure that must be bought, 15783
sold, or land applied annually by a person in order for the 15784
person to be required to obtain a livestock manager 15785
certification under division (A) (2) of section 903.07 of the 15786
Revised Code; 15787

(6) Requirements governing the management and handling of 15788
manure, including the land application of manure; 15789

(7) Requirements governing the keeping of records 15790
regarding the handling of manure, including the land application 15791
of manure; 15792

(8) Any other provisions necessary to administer and	15793
enforce section 903.07 of the Revised Code.	15794
(E) Establish all of the following concerning NPDES	15795
permits:	15796
(1) The designation of concentrated animal feeding	15797
operations that are subject to NPDES permit requirements under	15798
section 903.08 of the Revised Code;	15799
(2) Effluent limitations governing discharges into waters	15800
of the state that are authorized by permits;	15801
(3) Variances from effluent limitations and other permit	15802
requirements to the extent that the variances are consistent	15803
with the Federal Water Pollution Control Act;	15804
(4) Terms and conditions to be included in a permit,	15805
including, as applicable, best management practices;	15806
installation of discharge or water quality monitoring methods or	15807
equipment; creation and retention of records; submission of	15808
periodic reports; schedules of compliance; net volume, net	15809
weight, and, where necessary, concentration and mass loading	15810
limits of manure that may be discharged into waters of the	15811
state; and authorized duration and frequency of any discharges	15812
into waters of the state;	15813
(5) Procedures for the submission of applications for	15814
permits and notices of intent to be covered by general permits,	15815
including information that must be included in the applications	15816
and notices;	15817
(6) The amount of the fee that must be submitted with an	15818
application for a permit;	15819
(7) Procedures for processing permit applications,	15820

including public notice and participation requirements;	15821
(8) Procedures for notifying the United States	15822
environmental protection agency of the submission of permit	15823
applications, the director's action on those applications, and	15824
any other reasonable and relevant information;	15825
(9) Procedures for notifying and receiving and responding	15826
to recommendations from other states whose waters may be	15827
affected by the issuance of a permit;	15828
(10) Procedures for the transfer of permits to new owners	15829
or operators;	15830
(11) Grounds and procedures for the issuance, denial,	15831
modification, suspension, or revocation of permits, including	15832
general permits;	15833
(12) A definition of "general NPDES permit" that	15834
establishes categories of point sources to be covered under such	15835
a permit and a definition of "individual NPDES permit" together	15836
with the criteria for issuing a general NPDES permit and the	15837
criteria for determining a person's eligibility to discharge	15838
under a general NPDES permit.	15839
The rules adopted under division (E) of this section shall	15840
be consistent with the requirements of the Federal Water	15841
Pollution Control Act.	15842
(F) Establish public notice and participation	15843
requirements, in addition to the procedures established in rules	15844
adopted under division (E) (7) of this section, for the issuance,	15845
denial, modification, transfer, suspension, and revocation of	15846
permits to install, permits to operate, and NPDES permits	15847
consistent with section 903.09 of the Revised Code, including a	15848
definition of what constitutes significant public interest for	15849

the purposes of divisions (A) and (F) of section 903.09 of the Revised Code and procedures for public meetings. The rules shall require that information that is presented at such a public meeting be limited to the criteria that are applicable to the permit application that is the subject of the public meeting.

(G) Establish the amount of civil penalties assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code for violation of the terms and conditions of a permit to install or permit to operate, provided that the rules adopted under this division shall not establish a civil penalty of more than ten thousand dollars per day for each violation;

(H) Establish procedures for the protection of trade secrets from public disclosure. The procedures shall authorize the release of trade secrets to officers, employees, or authorized representatives of the state, another state, or the United States when necessary for an enforcement action brought under this chapter or when otherwise required by the Federal Water Pollution Control Act. The rules shall require at least ten days' written notice to the person to whom a trade secret applies prior to the release of the trade secret. Rules adopted under this division do not apply to any information that is contained in applications, including attachments, for NPDES permits and that is required to be submitted under section 903.08 of the Revised Code or rules adopted under division (E) of this section.

~~(I) Establish any other provisions necessary to administer and enforce this chapter.~~

Sec. 903.16. (A) The director of agriculture may propose to require corrective actions and assess a civil penalty against

an owner or operator of a concentrated animal feeding facility 15880
if the director or the director's authorized representative 15881
determines that the owner or operator is not in compliance with 15882
section 903.02 or 903.03 or division (A) of section 903.07 of 15883
the Revised Code, the terms and conditions of a permit to 15884
install or permit to operate issued for the concentrated animal 15885
feeding facility, including the requirements established under 15886
division (C) of section 903.06 of the Revised Code, or rules 15887
adopted under division (A), (B), (C), or (D), ~~or~~ (I) of section 15888
903.10 of the Revised Code. However, the director may impose a 15889
civil penalty only if all of the following occur: 15890

(1) The owner or operator is notified in writing of the 15891
deficiencies resulting in noncompliance, the actions that the 15892
owner or operator must take to correct the deficiencies, and the 15893
time period within which the owner or operator must correct the 15894
deficiencies and attain compliance. 15895

(2) After the time period specified in the notice has 15896
elapsed, the director or the director's duly authorized 15897
representative has inspected the concentrated animal feeding 15898
facility, determined that the owner or operator is still not in 15899
compliance, and issued a notice of an adjudication hearing. 15900

(3) The director affords the owner or operator an 15901
opportunity for an adjudication hearing under Chapter 119. of 15902
the Revised Code to challenge the director's determination that 15903
the owner or operator is not in compliance or the imposition of 15904
the civil penalty, or both. However, the owner or operator may 15905
waive the right to an adjudication hearing. 15906

(B) If the opportunity for an adjudication hearing is 15907
waived or if, after an adjudication hearing, the director 15908
determines that a violation has occurred or is occurring, the 15909

director may issue an order requiring compliance and assess the 15910
civil penalty. The order and the assessment of the civil penalty 15911
may be appealed in accordance with section 119.12 of the Revised 15912
Code. 15913

Civil penalties shall be assessed under this division as 15914
follows: 15915

(1) A person who has violated section 903.02 or 903.03 of 15916
the Revised Code, the terms and conditions of a permit to 15917
install or permit to operate, or rules adopted under division 15918
(A), (B), (C), or (D), ~~or (I)~~ of section 903.10 of the Revised 15919
Code shall pay a civil penalty in an amount established in rules 15920
unless the violation is of the requirements established under 15921
division (C) of section 903.06 or division (A) of section 903.07 15922
of the Revised Code. 15923

(2) A person who has violated the requirements established 15924
under division (C) of section 903.06 of the Revised Code shall 15925
pay a civil penalty in an amount established in rules for each 15926
violation. Each seven-day period during which a violation 15927
continues constitutes a separate violation. 15928

(3) A person who has violated the requirements established 15929
under division (A) of section 903.07 of the Revised Code shall 15930
pay a civil penalty of not more than ten thousand dollars for 15931
each violation. Each thirty-day period during which a violation 15932
continues constitutes a separate violation. 15933

(C) The attorney general, upon the written request of the 15934
director, shall bring an action for an injunction in any court 15935
of competent jurisdiction against any person violating or 15936
threatening to violate section 903.02 or 903.03 or division (A) 15937
of section 903.07 of the Revised Code; the terms and conditions 15938

of a permit to install or permit to operate, including the 15939
requirements established under division (C) of section 903.06 of 15940
the Revised Code; rules adopted under division (A), (B), (C), or 15941
(D), ~~or (I)~~ of section 903.10 of the Revised Code; or an order 15942
issued under division (B) of this section or division (B) of 15943
section 903.07 of the Revised Code. 15944

(D) (1) In lieu of seeking civil penalties under division 15945
(A) of this section, the director may request the attorney 15946
general, in writing, to bring an action for a civil penalty in a 15947
court of competent jurisdiction against any person that has 15948
violated or is violating division (A) of section 903.07 of the 15949
Revised Code or the terms and conditions of a permit to install 15950
or permit to operate, including the requirements established 15951
under division (C) of section 903.06 of the Revised Code. 15952

(2) The director may request the attorney general, in 15953
writing, to bring an action for a civil penalty in a court of 15954
competent jurisdiction against any person that has violated or 15955
is violating section 903.02 or 903.03 of the Revised Code, rules 15956
adopted under division (A), (B), (C), or (D), ~~or (I)~~ of section 15957
903.10 of the Revised Code, or an order issued under division 15958
(B) of this section or division (B) of section 903.07 of the 15959
Revised Code. 15960

(3) A person who has committed a violation for which the 15961
attorney general may bring an action for a civil penalty under 15962
division (D) (1) or (2) of this section shall pay a civil penalty 15963
of not more than ten thousand dollars per violation. Each day 15964
that a violation continues constitutes a separate violation. 15965

(E) In addition to any other penalties imposed under this 15966
section, the director may impose an administrative penalty 15967
against an owner or operator of a concentrated animal feeding 15968

facility if the director or the director's authorized representative determines that the owner or operator is not in compliance with best management practices that are established in rules adopted under division (B) or (C) of section 903.10 of the Revised Code or in the permit to install or permit to operate issued for the facility. The administrative penalty shall not exceed five thousand dollars.

The director shall afford the owner or operator an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination under this division, the director's imposition of an administrative penalty under this division, or both. The director's determination and the imposition of the administrative penalty may be appealed in accordance with section 119.12 of the Revised Code.

Sec. 904.03. (A) The Ohio livestock care standards board shall adopt rules in accordance with Chapter 119. of the Revised Code governing the care and well-being of livestock in this state. In adopting those rules, the board shall consider the following factors:

- (1) Best management practices for the care and well-being of livestock;
- (2) Biosecurity;
- (3) The prevention of disease;
- (4) Animal morbidity and mortality data;
- (5) Food safety practices;
- (6) The protection of local, affordable food supplies for consumers;

(7) Generally accepted veterinary medical practices, 15997
livestock practice standards, and ethical standards established 15998
by the American veterinary medical association. 15999

~~(8) Any other factors that the board considers necessary 16000
for the proper care and well-being of livestock in this state. 16001~~

With regard to organic producers that are certified by the 16002
United States department of agriculture under the national 16003
organic program, if there is a conflict between the rules 16004
adopted under this section and the standards established by the 16005
United States department of agriculture under the national 16006
organic program, the standards established under the national 16007
organic program shall prevail. 16008

(B) The board shall adopt rules in accordance with Chapter 16009
119. of the Revised Code that establish the amount of civil 16010
penalties to be assessed against persons who violate the rules 16011
adopted under division (A) of this section. 16012

(C) The rules adopted under this section do not apply to 16013
animals that are used in agricultural, biological, or biomedical 16014
research or confined in research or medical facilities that 16015
operate in accordance with "The Guide for the Care and Use of 16016
Agricultural Animals in Research and Teaching" published by the 16017
federation of animal science societies or "The Guide for the 16018
Care and Use of Laboratory Animals" published by the national 16019
academy of sciences. 16020

Sec. 905.01. As used in sections 905.01 to 905.11 of the 16021
Revised Code: 16022

(A) "Distributor" means a person who offers for sale, 16023
sells, trades, or supplies an agricultural additive. 16024

(B) "Manufacturer" means a person who mines, extracts, 16025

processes, refines, blends, or mixes an agricultural additive. 16026

(C) "Registrant" means the manufacturer who registers an 16027
agricultural additive under sections 905.01 to 905.11 of the 16028
Revised Code. 16029

(D) "Agricultural additive" means any substance or mixture 16030
that is intended to improve for agricultural production purposes 16031
the physical, chemical, or biological characteristics of soil or 16032
other growth medium or to improve otherwise crop production, 16033
plant growth, product quality, or yield prior to harvest, but 16034
excludes fertilizers, agricultural liming materials, pesticides, 16035
fertilizer pesticide mixtures, rhizobial inoculants, peat, peat 16036
moss, pine bark, gypsum, perlite, sand, unmanipulated animal or 16037
vegetable manures, and mulches, ~~and any other substances or~~ 16038
~~mixtures that are excluded from this definition by rule of the~~ 16039
~~director of agriculture.~~ 16040

(E) "Active ingredient" means any ingredient from which an 16041
agricultural additive derives all or part of its value or 16042
effectiveness and that is defined in the current edition of 16043
Merck's Chemical Index or recorded in Chemical Abstracts. 16044

(F) "Inert ingredient" means an ingredient that is not 16045
active. 16046

Sec. 905.07. The director of agriculture or ~~his~~the 16047
director's duly authorized representative may enter any 16048
property, public or private, in order to make inspections to 16049
determine whether or not there is compliance with sections 16050
905.01 to 905.11 of the Revised Code or if any agricultural 16051
additive is useful for agricultural production in this state. If 16052
refused entry, ~~he~~the director or the director's authorized 16053
representative may apply for and the court of common pleas may 16054

issue an appropriate warrant. 16055

The director may suspend or revoke the registration of an 16056
agricultural additive ~~if he finds~~after finding that the additive 16057
does not produce the results or effects shown on its label or 16058
that the distributor or manufacturer has violated any provision 16059
of sections 905.01 to 905.11 of the Revised Code ~~or any rule~~ 16060
~~adopted thereunder~~. Before ~~he suspends~~suspending or 16061
~~revokes~~revoking the registration of an agricultural additive, 16062
~~he~~the director shall afford the registrant the opportunity of an 16063
adjudication hearing in accordance with Chapter 119. of the 16064
Revised Code. However, ~~he~~the director may suspend the 16065
registration before such a hearing if ~~he~~the director believes 16066
that the use of the additive in this state endangers the public 16067
health or safety or constitutes an imminent and substantial 16068
threat to agricultural production or the public welfare. 16069

Sec. 905.51. As used in sections 905.51 to 905.65 of the 16070
Revised Code: 16071

(A) "Liming material" means all materials, the calcium and 16072
magnesium content of which is used to neutralize soil acidity, 16073
and includes the oxide, hydrate, carbonate, and silicate forms, ~~—~~ 16074
~~as defined by rule,~~ or combinations of those forms. "Liming 16075
material" includes materials such as the following: 16076

(1) Limestone; 16077

(2) Hydrated lime; 16078

(3) Burnt lime; 16079

(4) Industrial by-product; 16080

(5) Marl and shell. 16081

(B) "Bulk" means in a nonpackaged form. 16082

- (C) "Label" means any written or printed matter on the package, or tag attached thereto. 16083
16084
- (D) "Manufacture" means to process, crush, grind, pelletize, or blend. 16085
16086
- (E) "Person" means any partnership, association, firm, or corporation, company, society, individual or combination of individuals, institution, park, or public agency administered by the state or any subdivision of the state. 16087
16088
16089
16090
- (F) "Product name" means a coined or specific designation applied to an individual liming material. 16091
16092
- (G) "Sale" means an exchange or offer to exchange ownership, or a transfer or offer to transfer custody. 16093
16094
- (H) "Ton" means a net weight of two thousand pounds. 16095
- (I) "Metric ton" means a measure of weight equal to one thousand kilograms. 16096
16097
- (J) "Pelletized lime" means a finely ground limestone product or manufactured material that is held together in a granulated form by a water soluble binding agent and that is capable of neutralizing soil acidity. 16098
16099
16100
16101
- (K) "Water treatment lime sludge" means lime sludge generated during the process of treating water supplies having levels of heavy metals at or below the levels permitted in standards adopted by the director of environmental protection governing the land application of lime sludge so generated. 16102
16103
16104
16105
16106
- (L) "Distribute" means to offer for sale, sell, barter, or otherwise supply liming material in this state. 16107
16108
- (M) "Official sample" means any sample of liming material 16109

taken and designated as "official" by the director of 16110
agriculture or the director's designee. 16111

(N) "Effective neutralizing power" means the neutralizing 16112
value of liming material based on the total neutralizing power 16113
and fineness that is expressed as a dry weight percentage. 16114

(O) "Fineness index" means the percentage by weight of a 16115
liming material that will pass designated sieves, calculated to 16116
account for particle size distribution by adding the amounts 16117
arrived at under divisions (O) (1), (2), and (3) of this section 16118
as follows: 16119

(1) Two-tenths multiplied by the percentage of material 16120
passing a number eight United States standard sieve minus the 16121
percentage of material passing a number twenty United States 16122
standard sieve. 16123

(2) Six-tenths multiplied by the percentage of material 16124
passing a number twenty United States standard sieve minus the 16125
percentage of material passing a number sixty United States 16126
standard sieve. 16127

(3) One multiplied by the percentage of material passing a 16128
number sixty United States standard sieve. 16129

Sec. 905.59. (A) The director of agriculture may inspect, 16130
sample, and analyze any liming material utilized within the 16131
state to such extent as the director considers necessary to 16132
determine whether the liming material is in compliance with 16133
sections 905.51 to 905.65 of the Revised Code, ~~and the rules~~ 16134
~~adopted under such sections.~~ The director may enter into an 16135
agreement with a person that is not a department of agriculture 16136
employee that authorizes that person to perform the inspections, 16137
sampling, and analysis of liming material. If the director 16138

enters into an agreement, the director shall annually audit the 16139
records relating to the inspections, sampling, and analysis 16140
performed by the person. 16141

(B) The director or a person who has entered into an 16142
agreement with the director under division (A) of this section 16143
may enter upon any public or private premises or means of 16144
conveyance at any reasonable time to have access to liming 16145
material subject to sections 905.51 to 905.65 of the Revised 16146
Code, ~~and the rules adopted under such sections.~~ 16147

(C) The methods of sampling and analysis of liming 16148
materials shall be those adopted by the association of official 16149
analytical chemists or as prescribed by the director. 16150

(D) The results of the official analysis of any sample of 16151
liming material that is found to be in violation of sections 16152
905.51 to 905.65 of the Revised Code, or any regulation adopted 16153
under such sections, shall be forwarded to the licensee. A 16154
licensee may request a portion of any such sample if the request 16155
is made not more than thirty days after the date of the analysis 16156
report. 16157

(E) Analytical tolerances shall be governed by rules 16158
adopted by the director, subject to Chapter 119. of the Revised 16159
Code. 16160

Sec. 905.63. (A) The director of agriculture may order the 16161
owner or custodian of any lot of liming material to hold it at a 16162
designated place when the director has found the liming material 16163
to have been offered or exposed for sale in violation of 16164
sections 905.51 to 905.65 of the Revised Code ~~or any rule~~ 16165
~~adopted thereunder.~~ 16166

(B) Such liming material shall be held until the director 16167

releases it in writing. A release shall not be issued until 16168
sections 905.51 to 905.65 of the Revised Code ~~and the rules~~ 16169
~~adopted under those sections~~ are complied with and until all 16170
expenses incurred by the department of agriculture in connection 16171
with the violation have been paid by the manufacturer, seller, 16172
or distributor. 16173

Sec. 905.64. Any lot of liming material not in compliance 16174
with sections 905.51 to 905.65 of the Revised Code, ~~or any rules~~ 16175
~~adopted under those sections,~~ is subject to seizure on the 16176
complaint of the director of agriculture to a court of competent 16177
jurisdiction in the county in which the liming material is 16178
located. If the court finds that the liming material is in 16179
violation of sections 905.51 to 905.65 of the Revised Code ~~or~~ 16180
~~any rule adopted under those sections,~~ it shall order the 16181
condemnation of the liming material. The court shall not order 16182
the condemnation of the liming material without first giving the 16183
manufacturer, seller, or distributor an opportunity to reprocess 16184
or relabel the liming material to bring it into compliance with 16185
sections 905.51 to 905.65 of the Revised Code ~~and the rules~~ 16186
~~adopted under those sections.~~ 16187

Sec. 907.10. The director of agriculture shall do all of 16188
the following: 16189

(A) Sample, inspect, analyze, and test agricultural, 16190
vegetable, and flower seed sold for sowing purposes, at such 16191
times and places and to such extent as the director regards 16192
necessary to determine whether the seed complies with sections 16193
907.01 to 907.17 of the Revised Code and notify promptly the 16194
person who sold the seed of any violation; 16195

(B) Adopt rules in accordance with Chapter 119. of the 16196
Revised Code that do all of the following: 16197

- (1) Govern the methods of sampling, inspecting, analyzing, testing, and examining agricultural, vegetable, and flower seed and the tolerances to be followed. The rules shall be in general accord with officially prescribed practice in interstate commerce applied in analyzing and testing the seed. 16198
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16200
16201
16202
- (2) Establish prohibited and restricted noxious-weed seed lists and provide for additions to them and deletions from them; 16203
16204
- (3) Establish standards for items including, but not limited to, germination and purity for vegetable seed and flower seed; 16205
16206
16207
- (4) Adopt any labeling requirements additional to those of section 907.03 of the Revised Code that may be necessary to maintain the identification of seed in hermetically sealed packages or containers; 16208
16209
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16211
- (5) Establish the species of native grass that are to be included in the definition of "native grass" for purposes of sections 907.01 to 907.17 of the Revised Code; 16212
16213
16214
- (6) Identify native grass seed that characteristically exhibits high inert matter; 16215
16216
- (7) Establish the tolerance for agricultural, vegetable, and flower seed that is sold in this state; 16217
16218
- (8) Establish the information that an applicant must provide on an application for a seed labeler permit that is filed under section 907.13 of the Revised Code; 16219
16220
16221
- ~~(9) Establish any other provisions that are necessary to clarify or administer the labeling requirements established in sections 907.01 to 907.17 of the Revised Code. 16222
16223
16224~~
- (C) Establish and maintain seed testing facilities or 16225

enter into agreements under which other persons are responsible 16226
for performing seed testing, employ qualified persons, and incur 16227
expenses that are necessary to comply with this section and 16228
section 907.11 of the Revised Code; 16229

(D) Provide for making purity analyses and germination 16230
tests of seeds for any person in this state; 16231

(E) Regulate the number of samples that may be analyzed or 16232
tests that may be made for any person free of charge; 16233

(F) Prescribe the period of time during the year when 16234
analyses and tests will be made free of charge; 16235

(G) Establish a schedule of fees for making analyses and 16236
tests; 16237

(H) Cooperate with the United States department of 16238
agriculture in enforcing federal seed laws. 16239

Sec. 907.43. The director of agriculture, subject to 16240
sections 119.01 to 119.13, inclusive, of the Revised Code, shall 16241
promulgate rules and regulations establishing standards or 16242
specifications or both for the coloring or dyeing of grain, and 16243
seed treatment materials, ~~and adopt and enforce such other rules~~ 16244
~~or regulations as he may deem necessary to carry into effect~~ 16245
~~sections 907.41 to 907.47, inclusive, of the Revised Code.~~ 16246

Sec. 909.03. ~~The director of agriculture may make and~~ 16247
~~enforce such rules and orders as in his judgment are necessary~~ 16248
~~to control, eradicate, or prevent the introduction, spread, or~~ 16249
~~dissemination of any bee diseases or Africanized honey bees. No~~ 16250
~~person shall fail to comply with the rules adopted under this~~ 16251
~~section.~~ 16252

In the control or eradication of serious bee diseases, the 16253

director or ~~his~~the director's authorized representative shall 16254
diagnose the disease and recommend approved control options for 16255
it to the beekeeper. If a control is available to the beekeeper 16256
for the disease diagnosed but no attempt is made to implement a 16257
control within an appropriate time frame as determined by 16258
~~rule~~the director, the director may destroy by burning or 16259
otherwise any diseased bees, hives, honey, Africanized honey 16260
bees, or equipment that ~~he~~the director considers necessary for 16261
such control or eradication, without remuneration to the owner. 16262
Such diseased bees, hives, honey, Africanized honey bees, and 16263
equipment are a public nuisance. 16264

Sec. 909.04. Under sections 909.01 to 909.18 of the 16265
Revised Code, the director of agriculture may establish and 16266
maintain quarantine orders prohibiting the shipment into or 16267
within the state, or any subdivision thereof, of any bees, queen 16268
bees, used hives or any part thereof, used equipment, or any 16269
material capable of transmitting any bee diseases, or 16270
Africanized honey bees for such periods and under such 16271
conditions as ~~he~~the director considers necessary to control, 16272
eradicate, or prevent the introduction, spread, or dissemination 16273
of any bee diseases or Africanized honey bees, giving such 16274
notice thereof as is prescribed by ~~him~~the director. During the 16275
existence of such order, no person shall remove or ship from 16276
such area any such material except by special permission or 16277
order of the director; provided that before the director 16278
promulgates the order of quarantine as provided in this section, 16279
and after due notice to interested persons, ~~he~~the director shall 16280
give a public hearing ~~under such rules as he prescribes~~, at 16281
which hearing any interested person may appear and be heard, 16282
either in person or by attorney. 16283

Sec. 909.10. (A) No person shall ship or move bee colonies 16284

or any used beekeeping equipment into this state from any other 16285
state or country without an inspection certificate issued by an 16286
authorized inspector from the state or country wherein shipment 16287
or movement originated. The certificate shall identify all 16288
pathogens and parasites diagnosed and any controls that were 16289
implemented. 16290

In the absence of inspection facilities in another state 16291
or country, the director of agriculture may issue a permit 16292
authorizing the shipment or movement of the bee colonies or used 16293
beekeeping equipment into this state, provided that upon entry 16294
the bees or equipment is inspected by the department of 16295
agriculture. The cost of the inspection shall be paid upon 16296
~~completion in an amount determined by rule of the director.~~ The 16297
inspection fees shall be paid to the director and deposited by 16298
the director with the treasurer of state to the credit of the 16299
plant pest program fund created in section 927.54 of the Revised 16300
Code. 16301

If any serious bee diseases are diagnosed, appropriate 16302
controls and eradication measures immediately shall be 16303
implemented by the person shipping or owning the bee colonies or 16304
used beekeeping equipment. If the person shipping or owning the 16305
bee colonies or equipment does not implement any controls or 16306
eradication measures within forty-eight hours from the 16307
inspection, the bee colonies or equipment shall be removed from 16308
this state at the cost of the person shipping or owning them. 16309

(B) Any person selling, shipping, or moving into this 16310
state any queen bees or packaged bees shall submit to the 16311
director an inspection report issued by an authorized inspector 16312
from the state or country wherein shipment or movement 16313
originated. One such report shall be submitted annually thirty 16314

days prior to the initial sale, shipment, or movement of queen 16315
bees or packaged bees of that year. The report shall identify 16316
any pathogens and parasites diagnosed and any controls that were 16317
implemented. If any serious bee diseases have not been 16318
controlled or if inspection reports are not provided as required 16319
under this section, such shipments shall be prohibited from 16320
entering this state. 16321

(C) The director may deny entry of the bee colonies or 16322
used equipment if the director determines they are a threat to 16323
the bee population of this state. 16324

(D) No person shall ship or move into this state any 16325
Africanized honey bees. 16326

Sec. 909.13. The director of agriculture, in accordance 16327
with sections 119.01 to 119.13 of the Revised Code, may suspend 16328
or revoke any registration, certificate, or permit issued under 16329
this chapter, or a compliance agreement entered into under this 16330
chapter, for cause, including any violation of this chapter or 16331
nonconformity with any ~~rule or order promulgated~~ issued under 16332
this chapter. There shall be no revocation of a compliance 16333
agreement, registration, certificate, or permit until the 16334
compliance agreement holder, registrant, or certificate or 16335
permit holder first is given an opportunity for a hearing by the 16336
director in regard thereto in accordance with sections 119.01 to 16337
119.13 of the Revised Code. An appeal may be taken from the 16338
action of the director in revocation of a compliance agreement, 16339
registration, certificate, or permit to the court of common 16340
pleas as provided in section 119.12 of the Revised Code. 16341

Sec. 909.14. The director of agriculture may publish an 16342
annual report and such other information concerning the 16343
inspection of bees, or bee diseases, as ~~hethe~~ the director deems 16344

necessary to the carrying out of sections 909.01 to 909.18, 16345
inclusive, of the Revised Code. ~~He~~The director shall, from time 16346
to time, publish all ~~rules or orders promulgated~~issued under 16347
such section. 16348

Sec. 909.18. No person shall violate sections 909.01 to 16349
909.18, inclusive, of the Revised Code, or any ~~rule or order~~ of 16350
the director of agriculture ~~promulgated~~issued under such 16351
sections in accordance with sections 119.01 to 119.13, 16352
inclusive, of the Revised Code. 16353

Sec. 909.99. (A) (1) Whoever violates ~~sections 909.03 and~~ 16354
section 909.10 of the Revised Code is guilty of a misdemeanor of 16355
the third degree on a first offense; on each subsequent offense, 16356
the person is guilty of a misdemeanor of the second degree. 16357

(2) Any person who violates division (D) of section 909.10 16358
of the Revised Code also shall not be remunerated for the 16359
eradication of ~~his~~the person's Africanized honey bees. 16360

(B) Whoever violates any section of Chapter 909. of the 16361
Revised Code for which no penalty otherwise is provided is 16362
guilty of a misdemeanor of the fourth degree on a first offense; 16363
on each subsequent offense, the person is guilty of a 16364
misdemeanor of the third degree. 16365

Sec. 911.06. The director of agriculture may, by rule, 16366
establish such exemptions as may be necessary to facilitate the 16367
sale of any accumulated or unsold stocks of wholesome bakery 16368
products, ~~and may establish exemptions in other cases not~~ 16369
~~inconsistent with sections 911.01 to 911.20, inclusive, of the~~ 16370
~~Revised Code.~~ 16371

Sec. 911.19. ~~The~~For purposes of section 911.18 of the 16372
Revised Code, the director of agriculture shall ~~prescribe such~~ 16373

~~rules and regulations as are necessary to enforce section 911.18~~ 16374
~~of the Revised Code, including~~ adopt rules establishing 16375
reasonable tolerances or variations within which all weights 16376
shall be kept. The tolerances or variations shall not exceed one 16377
ounce per pound under the standard unit for single loaves. The 16378
tolerance permitted in the weighing of twenty-five or more 16379
loaves shall not exceed one-half ounce per pound. The director, 16380
and ~~under his~~ the direction of the director, the local sealers of 16381
weights and measures, shall enforce this section. Before any 16382
prosecution is begun under this section, the parties against 16383
whom the complaint is made shall be notified and be given an 16384
opportunity to be heard by the director. 16385

Sec. 911.34. (A) The director of agriculture shall enforce 16386
sections 911.31 to 911.35, inclusive, of the Revised Code, and 16387
shall make, amend, or rescind ~~rules, regulations, and orders~~ for 16388
the efficient enforcement of such sections. 16389

(B) Whenever the vitamin and mineral requirements of such 16390
sections no longer conform with the legally established 16391
standards governing the interstate shipment of enriched flour 16392
and enriched white bread or enriched rolls, the director, in 16393
order to maintain uniformity between intrastate and interstate 16394
vitamin and mineral requirements for the foods within such 16395
sections, shall modify or revise such requirements to conform 16396
with amended standards governing interstate shipments. The 16397
director shall report any revisions in vitamin and mineral 16398
requirements to the legislature. 16399

(C) If the director finds there is an existing or imminent 16400
shortage of any ingredient required by sections 911.31 to 16401
911.35, inclusive, of the Revised Code, and that because of such 16402
shortage the sale and distribution of flour, white bread, or 16403

rolls may be impeded by the enforcement of such sections, ~~he~~the 16404
director shall issue an order, to be effective immediately, 16405
permitting the omission of such ingredient from flour, white 16406
bread, or rolls; if it is necessary or appropriate, ~~he~~the 16407
director may except such foods from labeling requirements until 16408
the further order of the director. Any such findings may be made 16409
without a hearing, on the basis of an order or of factual 16410
information supplied by the appropriate federal agency or 16411
officer. In the absence of any such order of the appropriate 16412
federal agency or factual information supplied by it, the 16413
director on ~~his~~the director's own motion may, and upon receiving 16414
the sworn statements of ten or more persons subject to such 16415
sections that such persons believe such a shortage exists or is 16416
imminent, the director shall, within twenty days, hold a public 16417
hearing with respect to such shortage at which hearing any 16418
interested person may present evidence. The director shall make 16419
findings based upon the evidence presented. The director shall 16420
publish notice of any such hearing at least ten days prior to 16421
the hearing. 16422

If the director believes that such shortage no longer 16423
exists, ~~he~~the director shall hold a public hearing, after at 16424
least ten days' notice has been given, at which any interested 16425
person may present evidence, and the director shall make 16426
findings based upon the evidence so presented. ~~If he finds~~After 16427
finding that such shortage no longer exists, ~~he~~the director 16428
shall issue an order to become effective not less than thirty 16429
days after publication of such order, revoking the previous 16430
order. Undisposed flour stocks of flour on hand at the effective 16431
date of such revocation order, or flour manufactured prior to 16432
such effective date, for sale in this state, may be sold or 16433
disposed of after such effective date. 16434

(D) All orders, ~~rules, and regulations adopted~~ issued by the director under sections 911.31 to 911.35, ~~inclusive,~~ of the Revised Code, shall be published in the manner prescribed in division (E) of this section, and, within the limits specified by such sections, shall become effective upon the date fixed by the director.

(E) Whenever publication of any notice, or order, ~~rule, or regulation~~ is required by such sections, such publication shall be made at least three times in at least one daily newspaper of general circulation printed and published in this state.

(F) The director, or such officers or employees ~~under his supervision~~ of the department of agriculture as he the director designates, may take samples for analysis and conduct examinations and investigations, and enter, at reasonable times, any factory, mill, bakery, warehouse, shop, or establishment where flour, white bread, or rolls are manufactured, processed, packed, sold, or held, or any vehicle being used for the transportation of such products, and inspect any such place or vehicle, any flour, white bread, or rolls in such place or vehicle, and all pertinent equipment, materials, containers, and labeling.

Sec. 913.28. The director of agriculture shall enforce sections 913.01 to 913.05 and 913.22 to 913.26 of the Revised Code, ~~and the director shall adopt rules as the director considers necessary for the administration and enforcement of such sections.~~

Sec. 913.99. (A) Whoever violates sections 913.01 to 913.05 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates sections 913.22 to ~~913.28~~ 913.27 of 16464
the Revised Code shall be fined not more than one hundred 16465
dollars for a first offense; for a subsequent offense such 16466
person shall be fined not more than one hundred dollars or 16467
imprisoned not more than ninety days, or both; for a third 16468
offense such person's license shall be revoked. 16469

(C) Whoever violates section 913.41 of the Revised Code 16470
shall be fined not less than fifty nor more than two hundred 16471
dollars for a first offense; for each subsequent offense such 16472
person shall be fined not less than one hundred nor more than 16473
three hundred dollars or imprisoned not less than thirty nor 16474
more than one hundred days, or both. 16475

Sec. 915.12. The director of agriculture shall enforce 16476
sections 915.01 to 915.12, inclusive, of the Revised Code, ~~and~~ 16477
~~shall make all rules and regulations necessary for the~~ 16478
~~enforcement of such sections.~~ 16479

Sec. 915.16. The license fee for an establishment is two 16480
hundred dollars. Any operator operating in connection with a 16481
cold-storage warehouse holding a license under section 915.02 of 16482
the Revised Code is not required to secure an additional license 16483
under section 915.15 of the Revised Code so long as the operator 16484
continues to be licensed as a cold-storage warehouse; but the 16485
operator shall comply with sections 915.14 to 915.24 of the 16486
Revised Code, ~~and all rules and regulations promulgated~~ 16487
~~thereunder.~~ The license issued shall be in such form as the 16488
department of agriculture prescribes. Licenses shall be valid 16489
until the last day of November following initial issuance or 16490
renewal and shall become invalid on that date unless renewed. 16491
The original license or a certified copy thereof shall be 16492
conspicuously displayed by the operator in the establishment. 16493

Sec. 915.17. Upon receipt of the application for a license 16494
accompanied by the required fee, the department of agriculture 16495
shall inspect the establishment to be licensed and if it finds 16496
that such establishment, its equipment, facilities, surrounding 16497
premises, and operations comply with sections 915.14 to 915.24 16498
of the Revised Code ~~and the applicable rules adopted thereunder,~~ 16499
and that the establishment is being operated under proper 16500
sanitary conditions and in conformity with sanitary regulations 16501
adopted by the director of agriculture under authority of 16502
section 3715.02 of the Revised Code, the department shall issue 16503
such license. The persons designated by the department to make 16504
such inspection shall be persons having practical knowledge of 16505
the operation of cold-storage plants and establishments and the 16506
storage of food therein, and shall be thoroughly familiar with 16507
such sections ~~and the applicable rules of the department.~~ The 16508
department shall inspect all licensed establishments at least 16509
once each six months and may make such additional inspections as 16510
the department deems necessary. The director and ~~his~~the 16511
director's representatives shall have access to establishments 16512
at all reasonable times for the purpose of making such 16513
inspections. 16514

Sec. 915.23. The department of agriculture, after notice 16515
and hearing, held in accordance with the provisions of sections 16516
119.01 to 119.13, inclusive, of the Revised Code may refuse to 16517
issue or may revoke the license for any establishment, or the 16518
authority for any establishment to operate as such by virtue of 16519
holding a cold-storage warehouse license under sections 915.02 16520
of the Revised Code, for failure to comply with sections 915.14 16521
to 915.24, inclusive, of the Revised Code, ~~or any rule or~~ 16522
~~regulation of the department.~~ Before refusing to issue or 16523
revoking any license the department shall send the licensee 16524

notice of such hearing by registered or certified mail not less 16525
than ten days before the hearing and shall afford such licensee 16526
an opportunity to be heard in person or by attorney with respect 16527
thereto at a time and place specified in such notice. 16528

In event any license is revoked, the department may permit 16529
the continued operation of the establishment involved upon such 16530
conditions or under such supervision as the department may 16531
prescribe for a period of not to exceed six months, in order to 16532
enable patrons to remove any food stored therein, but during 16533
such period no additional food shall be received or stored in 16534
such establishment. 16535

Sec. 918.04. The director of agriculture shall, in 16536
accordance with Chapter 119. of the Revised Code, adopt and 16537
enforce rules ~~that are necessary to administer for purposes of~~ 16538
sections 918.01 to 918.11 of the Revised Code. ~~The rules shall~~ 16539
~~that meet or exceed~~ the federal standards for meat inspection 16540
established in Title 9 of the Code of Federal Regulations. 16541

Sec. 918.12. (A) An establishment, as defined in section 16542
918.01 of the Revised Code, that slaughters or otherwise 16543
prepares meat of bison, cervidea, other bovidea, camelidae and 16544
hybrids thereof, ratites, domestic rabbits, monitored captive 16545
deer, captive deer with status, or captive deer with certified 16546
chronic wasting disease status as defined in section 943.01 of 16547
the Revised Code, domestic deer as defined in section 1531.01 of 16548
the Revised Code, or other animals determined by the director of 16549
agriculture by rule for human food purposes may receive 16550
voluntary state inspection, as defined in division (B) of 16551
section 918.01 of the Revised Code, if the establishment 16552
complies with sections 918.01 to 918.11 of the Revised Code and 16553
the rules adopted under those sections for establishments that 16554

slaughter or otherwise prepare for food purposes other animals 16555
and if the establishment complies with division (C) of this 16556
section. 16557

(B) The owner of an establishment, as defined in section 16558
918.21 of the Revised Code, who slaughters or otherwise prepares 16559
the meat of pheasant, quail, partridge, peafowl, grouse, captive 16560
raised wild turkey, captive raised waterfowl, or other poultry 16561
determined by the director by rule may receive voluntary state 16562
inspection as defined in division (I) of section 918.21 of the 16563
Revised Code and the rules adopted under those sections for 16564
establishments that slaughter or otherwise prepare for food 16565
purposes other poultry and if the establishment complies with 16566
division (C) of this section and sections 918.21 to 918.28 of 16567
the Revised Code. 16568

(C) An establishment that receives voluntary state 16569
inspection under division (A) or (B) of this section shall pay 16570
the costs of the inspection at a rate and under terms as 16571
established by rule of the director of agriculture adopted in 16572
accordance with ~~section 918.04~~ Chapter 119. of the Revised Code. 16573

Sec. 918.25. The director of agriculture shall, in 16574
accordance with Chapter 119. of the Revised Code, adopt and 16575
enforce rules ~~as necessary for the implementation,~~ 16576
~~administration, and enforcement~~ for purposes of sections 918.21 16577
to 918.31 of the Revised Code. ~~The rules shall that meet or~~ 16578
~~exceed~~ the federal standards for meat inspection established in 16579
Title 9 of the Code of Federal Regulations. ~~The rules adopted~~ 16580
~~under this section shall and that~~ provide for the protection of 16581
the public health, safety, and welfare and for maximum 16582
coordination and cooperation between state and federal programs 16583
for regulation of poultry and poultry products, and may include 16584

the following: 16585

(A) Exemption of certain products as "poultry products" 16586
under the definition in section 918.21 of the Revised Code; 16587

(B) Provision for the retention, identification, and 16588
disposal of condemned poultry and poultry products and for the 16589
identification of approved products; 16590

(C) Sanitary requirements for premises, facilities, and 16591
equipment, for the operation thereof, and for the storage and 16592
handling of poultry and poultry products in establishments 16593
licensed under section 918.28 of the Revised Code. The rules 16594
pertaining to sanitary conditions shall conform with the 16595
sanitation standard operating procedures in Title 9 of the Code 16596
of Federal Regulations and shall require that an establishment 16597
be evaluated by determining its compliance with those 16598
procedures. 16599

(D) Requirements for maintenance of records under section 16600
918.24 of the Revised Code; 16601

(E) Procedures for application and licensing, and the 16602
revocation and suspension of licenses; 16603

(F) Requirements for marking and attaching the information 16604
required by section 918.31 of the Revised Code, including 16605
specific styles, legibility and size of type, method of 16606
affixing, variations, and exemptions; 16607

(G) ~~Such other rules as are necessary for the proper~~ 16608
~~administration, implementation, and enforcement of sections~~ 16609
~~918.21 to 918.31 of the Revised Code, including rules~~ Rules 16610
requiring that an inspection of an establishment's slaughter and 16611
processing operations be conducted in accordance with the 16612
establishment's hazard analysis critical control point plan. In 16613

addition, the rules shall require that if an establishment does 16614
not have a plan for a particular production process under its 16615
hazard analysis critical control point plan as required in 16616
rules, the poultry product of the process may be considered to 16617
be adulterated and shall be retained pending a production 16618
process review and not allowed to be labeled with an official 16619
mark. 16620

Sec. 918.42. If the director of agriculture decides to 16621
establish a state acceptance service, ~~he~~the director shall adopt 16622
~~and enforce and may amend and rescind rules, in accordance with~~ 16623
~~Chapter 119. of the Revised Code necessary for the~~ 16624
~~implementation, administration, and enforcement of this section~~ 16625
~~and sections 918.41 and 918.43 of the Revised Code. The rules~~ 16626
~~shall to~~ provide for the efficient operation of the state 16627
acceptance service~~and~~. The rules may include the following: 16628

(A) The fees and rates to be charged to the vendors and 16629
establishments for the state acceptance service. The charges 16630
shall be established on an hourly basis, and the time chargeable 16631
to a vendor or establishment shall include the travel time of 16632
the state acceptor as well as the time spent doing acceptance 16633
work at the establishment. Mileage, per diem, and laboratory 16634
sampling charges also may be assessed as necessary. The charges 16635
shall be established in an amount sufficient to defray the cost 16636
of employing state acceptors and administering the state 16637
acceptance program. 16638

(B) The conditions under which vendors or authorized 16639
representatives at establishments shall present meat products 16640
and poultry products, as defined in sections 918.01 and 918.21 16641
of the Revised Code, for examination by a state acceptor; 16642

(C) Provision for a means of random sampling and analyzing 16643

of meat products and poultry products supplied under state purchase contracts; 16644
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(D) Procedures for investigating complaints from the staff and clientele of state institutions about meat products and poultry products purchased under state purchase contracts and for removal from the approved meat and poultry vendors list of any vendor, or for the suspension or revocation of the license of any establishment, that supplies meat products or poultry products that do not comply with state purchase contract specifications or are unwholesome as defined in section 918.21 of the Revised Code, adulterated or misbranded as defined in section 918.01 of the Revised Code, or who do not pay state acceptance service charges within thirty days after receipt of written notice that the charges are due; 16646
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(E) A code of conduct for state acceptors. 16658

Sec. 918.44. (A) The director of agriculture may enter into an agreement with the United States department of agriculture authorizing employees of the department of agriculture to provide the federal meat grading and certification service to grade and certify meat, poultry, meat products, and poultry products in the state. The agreement shall comply with sections 125.111 and 126.07 of the Revised Code. 16659
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(B) If the director enters into an agreement pursuant to division (A) of this section, ~~he~~the director shall appoint the employees of the department of agriculture to be trained and licensed by the United States department of agriculture as meat graders. The director ~~may~~shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as he determines necessary for the effective administration of this section. The rules shall include that establish~~ the duties and responsibilities required 16666
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of the graders, the method of assessing fees and collecting 16674
payments for the services provided, requirements for supervision 16675
of the graders, the maintenance of records of receipts from work 16676
performed by the graders and any other records necessary to 16677
maintain, and procedures for suspending and revoking a grader's 16678
license. 16679

Sec. 918.99. (A) Whoever violates division (D) or (F) of 16680
section 918.02, division (A) or (B) of section 918.11, or 16681
section 918.03, 918.05, 918.06, 918.08, 918.12, 918.24, 918.26, 16682
918.30, or 918.31 of the Revised Code, or any rules adopted 16683
under section 918.04, ~~918.11~~, or 918.25 of the Revised Code is 16684
guilty of a misdemeanor of the fourth degree; on a second 16685
offense and each subsequent offense, such person is guilty of a 16686
misdemeanor of the second degree. 16687

(B) Whoever violates division (C) of section 918.11 or 16688
division (C) of section 918.31 of the Revised Code is guilty of 16689
a felony of the fifth degree. 16690

Sec. 921.16. (A) The director of agriculture shall adopt 16691
rules ~~the director determines necessary for the effective~~ 16692
~~enforcement and administration of this chapter. The rules may~~ 16693
~~that relate to, but are not limited to,~~ the time, place, manner, 16694
and methods of application, materials, and amounts and 16695
concentrations of application of pesticides~~7~~. The director may 16696
adopt rules that restrict or prohibit the use of pesticides in 16697
designated areas during specified periods of time, ~~and shall~~ 16698
~~encompass all reasonable factors that the director determines~~ 16699
~~necessary to minimize or prevent damage to the environment.~~ In 16700
addition, the rules shall establish the deadlines and time 16701
periods for registration, registration renewal, late 16702
registration renewal, and failure to register under section 16703

921.02 of the Revised Code; the fees for registration, 16704
registration renewal, late registration renewal, and failure to 16705
register under section 921.02 of the Revised Code that shall 16706
apply until the fees that are established under that section 16707
take effect on January 1, 2007; and the fees, deadlines, and 16708
time periods for licensure and license renewal under sections 16709
921.06, 921.09, 921.11, and 921.13 of the Revised Code. 16710

(B) The director shall adopt rules that establish a 16711
schedule of civil penalties for violations of this chapter, or 16712
any rule or order adopted or issued under it, provided that the 16713
civil penalty for a first violation shall not exceed five 16714
thousand dollars and the civil penalty for each subsequent 16715
violation shall not exceed ten thousand dollars. In determining 16716
the amount of a civil penalty for a violation, the director 16717
shall consider factors relevant to the severity of the 16718
violation, including past violations and the amount of actual or 16719
potential damage to the environment or to human beings. All 16720
money collected under this division shall be credited to the 16721
pesticide, fertilizer, and lime program fund created in section 16722
921.22 of the Revised Code. 16723

(C) The director shall adopt rules that set forth the 16724
conditions under which the director: 16725

(1) Requires that notice or posting be given of a proposed 16726
application of a pesticide; 16727

(2) Requires inspection, condemnation, or repair of 16728
equipment used to apply a pesticide; 16729

(3) Will suspend, revoke, or refuse to issue any pesticide 16730
registration for a violation of this chapter; 16731

(4) Requires safe handling, transportation, storage, 16732

display, distribution, and disposal of pesticides and their 16733
containers; 16734

(5) Ensures the protection of the health and safety of 16735
agricultural workers storing, handling, or applying pesticides, 16736
and all residents of agricultural labor camps, as that term is 16737
defined in section 3733.41 of the Revised Code, who are living 16738
or working in the vicinity of pesticide-treated areas; 16739

(6) Requires a record to be kept of all pesticide 16740
applications made by each commercial applicator and of all 16741
general use applications made by any trained serviceperson 16742
acting under the commercial applicator's direct supervision and 16743
of all restricted use pesticide applications made by each 16744
private applicator as required under section 921.14 of the 16745
Revised Code; 16746

(7) Determines the pesticide-use categories of diagnostic 16747
inspections that must be conducted by a commercial applicator; 16748

(8) Requires a record to be kept of all diagnostic 16749
inspections conducted by each commercial applicator and by any 16750
trained service person. 16751

(D) The director shall prescribe standards for the 16752
licensure of applicators of pesticides consistent with those 16753
prescribed by the federal act and the regulations adopted under 16754
it or prescribe standards that are more restrictive than those 16755
prescribed by the federal act and the regulations adopted under 16756
it. The standards may relate to the use of a pesticide or to an 16757
individual's pesticide-use category. 16758

The director shall take into consideration standards of 16759
the United States environmental protection agency. 16760

(E) The director may adopt rules setting forth the 16761

conditions under which the director will: 16762

(1) Collect and examine samples of pesticides or devices; 16763

(2) Specify classes of devices that shall be subject to 16764
this chapter; 16765

(3) Prescribe other necessary registration information. 16766

(F) The director may adopt rules that do either or both of 16767
the following: 16768

(1) Designate, in addition to those restricted uses so 16769
classified by the administrator of the United States 16770
environmental protection agency, restricted uses of pesticides 16771
for the state or for designated areas within the state and, if 16772
the director considers it necessary, to further restrict such 16773
use; 16774

(2) Define what constitutes "acting under the instructions 16775
and control of a commercial applicator" as used in the 16776
definition of "direct supervision" in division (Q) of section 16777
921.01 of the Revised Code. In adopting a rule under division 16778
(F) (2) of this section, the director shall consider the factors 16779
associated with the use of pesticide in the various pesticide- 16780
use categories. Based on consideration of the factors, the 16781
director may define "acting under the instructions and control 16782
of a commercial applicator" to include communications between a 16783
commercial applicator and a trained serviceperson that are 16784
conducted via landline telephone or a means of wireless 16785
communication. Any rules adopted under division (F) (2) of this 16786
section shall be drafted in consultation with representatives of 16787
the pesticide industry. 16788

(G) Except as provided in division (D) of this section, 16789
the director shall not adopt any rule under this chapter that is 16790

inconsistent with the requirements of the federal act and 16791
regulations adopted thereunder. 16792

(H) The director, after notice and opportunity for 16793
hearing, may declare as a pest any form of plant or animal life, 16794
other than human beings and other than bacteria, viruses, and 16795
other microorganisms on or in living human beings or other 16796
living animals, that is injurious to health or the environment. 16797

(I) The director may make reports to the United States 16798
environmental protection agency, in the form and containing the 16799
information the agency may require. 16800

(J) The director shall adopt rules for the application, 16801
use, storage, and disposal of pesticides if, in the director's 16802
judgment, existing programs of the United States environmental 16803
protection agency necessitate such rules or pesticide labels do 16804
not sufficiently address issues or situations identified by the 16805
department of agriculture or interested state agencies. 16806

(K) The director shall adopt rules establishing all of the 16807
following: 16808

(1) Standards, requirements, and procedures for the 16809
examination and re-examination of commercial applicators and 16810
private applicators; 16811

(2) With respect to training programs that the director 16812
may require commercial applicators and private applicators to 16813
complete: 16814

(a) Standards and requirements that a training program 16815
must satisfy in order to be offered by the director or the 16816
director's representative or in order to be approved by the 16817
director if a third party wishes to offer it; 16818

(b) Eligibility standards and requirements that must be satisfied by third parties who wish to provide the training programs;

(c) Procedures that third parties must follow in order to submit a proposed training program to the director for approval;

(d) Criteria that the director must consider when determining whether to authorize a commercial applicator or private applicator to participate in a training program instead of being required to pass a re-examination.

(3) Training requirements for a trained serviceperson.

(L) The director shall adopt all rules under this chapter in accordance with Chapter 119. of the Revised Code.

Sec. 921.26. (A) The penalties provided for violations of this chapter do not apply to any of the following:

(1) Any carrier while lawfully engaged in transporting a pesticide or device within this state, if that carrier, upon request, permits the director of agriculture to copy all records showing the transactions in the movement of the pesticides or devices;

(2) Public officials of this state and the federal government, other than commercial applicators employed by the federal government, the state, or a political subdivision, while engaged in the performance of their official duties in administering state or federal pesticide laws or rules, or while engaged in pesticide research;

(3) The manufacturer or shipper of a pesticide for experimental use only by or under supervision of an agency of this state or of the federal government authorized by law to

conduct research in the field of pesticides, provided that the 16847
manufacturer or shipper is not required to obtain an 16848
experimental use permit from the United States environmental 16849
protection agency; 16850

(4) The manufacturer or shipper of a substance being 16851
tested in which its purpose only is to determine its value for 16852
pesticide purposes or to determine its toxicity or other 16853
properties, and from which the user does not expect to receive 16854
any benefit in pest control from its use; 16855

(5) Persons conducting laboratory research involving 16856
pesticides; 16857

(6) Persons who incidentally use pesticides. The 16858
incidental use shall involve only the application of general use 16859
pesticides. If a person incidentally uses a pesticide, the 16860
pesticide shall be applied in strict accordance with the 16861
manufacturer's label for general use purposes. If further 16862
applications are necessary following the incidental use 16863
application, a pesticide applicator shall apply the pesticide. 16864

(B) No pesticide or device shall be considered in 16865
violation of this chapter when intended solely for export to a 16866
foreign country, and when prepared or packed according to the 16867
specifications or directions of the purchaser. If the pesticide 16868
or device is not so exported, this chapter applies. 16869

(C) (1) No person who is licensed, regulated, or registered 16870
under section 921.02, 921.03, 921.06, 921.09, 921.11, or 921.13 16871
of the Revised Code shall be required to obtain a license or 16872
permit to operate or to be otherwise regulated in such capacity 16873
by any local ordinance, or to meet any other condition except as 16874
otherwise provided by statute or rule of the United States or of 16875

this state. 16876

(2) No political subdivision shall regulate or ban the 16877
packaging, registration, labeling, sale, storage, distribution, 16878
use, or application of a pesticide registered under section 16879
921.02 of the Revised Code on private property, including 16880
private property that is open to the public. As used in this 16881
section, "political subdivision" has the same meaning as in 16882
section 905.503 of the Revised Code. 16883

(D) Section 921.09 of the Revised Code does not apply to 16884
an individual who uses only ground equipment for the individual 16885
or for the individual's neighbors, provided that the individual 16886
meets all of the following requirements: 16887

(1) Is licensed under section 921.11 of the Revised Code; 16888

(2) Operates farm property and operates and maintains 16889
pesticide application equipment primarily for the individual's 16890
own use; 16891

(3) Is not regularly engaged in the business of applying 16892
pesticides for hire or does not publicly hold oneself out as a 16893
pesticide applicator; 16894

~~(4) Meets any other requirement established by rule. 16895~~

(E) Section 921.06 of the Revised Code relating to 16896
licenses and requirements for their issuance does not apply to 16897
licensed physicians or veterinarians applying pesticides to 16898
human beings or other animals during the normal course of their 16899
practice, provided that they are not regularly engaged in the 16900
business of applying pesticides for hire amounting to a 16901
principal or regular occupation or do not publicly hold 16902
themselves out as commercial applicators. 16903

(F) Division (S) of section 921.24 of the Revised Code 16904
does not apply to a pesticide dealer who distributes restricted 16905
use pesticides to a nonresident who is licensed in another state 16906
having a state plan approved by the United States environmental 16907
protection agency. 16908

Sec. 923.43. (A) Except as otherwise provided in division 16909
(B) of this section for a customer-formula feed, a commercial 16910
feed distributed in this state shall be labeled with the 16911
following information: 16912

(1) Net weight of contents, which may be stated in metric 16913
units in addition to avoirdupois weight; 16914

(2) Product name, and brand name if any, under which the 16915
feed is distributed; 16916

(3) Name and principal address of the manufacturer or 16917
distributor; 16918

(4) Guaranteed analysis of the feed stated in terms that 16919
the director of agriculture, by rule, determines are required to 16920
advise the user of the composition of the feed or to support 16921
claims made in the labeling. In all cases, the substances or 16922
elements shall be determinable by laboratory methods published 16923
by the association of official analytical chemists. 16924

(5) Common name of each ingredient used in the manufacture 16925
of the feed. The director, by rule, may permit the use of a 16926
collective term for a group of ingredients all of which perform 16927
the same function or eliminate the listing of feed ingredients 16928
when it no longer serves a useful purpose. 16929

(6) Directions for the safe and effective use of any feed 16930
that contains any drug and for any other feed that the director, 16931
by rule, determines to require such directions; 16932

~~(7) Any precautionary statements that the director, by rule, determines are necessary for the safe and effective use of the feed.~~ 16933
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(B) A customer-formula feed distributed in this state shall be labeled with the following information: 16936
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(1) Name and principal address of the manufacturer; 16938

(2) Name and address of the purchaser; 16939

(3) Date of delivery; 16940

(4) Product name, and brand name if any, of each commercial feed and all other ingredients used in the mixture; 16941
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(5) Net weight of each commercial feed used and of any other feed ingredient used; 16943
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(6) Directions for the safe and effective use of any customer-formula feed that contains any drug and for any other customer-formula feed that the director, by rule, determines to require such directions; 16945
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(7) If a drug-containing product is used, a statement of the purpose of the drug, the established name of each active drug ingredient, and the amount of each drug used in the final mixture; 16949
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~~(8) Any precautionary statements that the director, by rule, determines are necessary for the safe and effective use of the customer-formula feed.~~ 16953
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(C) Upon the request of the director, each manufacturer or distributor shall furnish the director with the label for any commercial feed ~~he~~ the manufacturer or distributor distributes in this state. 16956
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Sec. 923.50. ~~(A) The director of agriculture shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the purposes of this chapter.~~ 16960
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~~(B) The director, by reference, may adopt in accordance with Chapter 119. of the Revised Code:~~ 16964
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~~(1) (A) The official definitions of feed ingredients and official feed terms adopted and published by the association of American feed control officials;~~ 16966
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~~(2) (B) Rules promulgated pursuant to the federal act.~~ 16969

Sec. 924.02. The director of agriculture, subject to 16970
sections 924.01 to 924.16 and Chapter 119. of the Revised Code, 16971
shall do all of the following: 16972

(A) Establish procedures by which producers of Ohio 16973
agricultural commodities may propose, develop, and operate 16974
marketing programs to: 16975

(1) Promote the sale and use of their products; 16976

(2) Develop new uses and markets for such products; 16977

(3) Improve the methods of distributing such products to 16978
consumers; 16979

(4) Standardize the quality of such products for specific 16980
uses. 16981

~~(B) Adopt and enforce rules to put into effect the intent of sections 924.01 to 924.16 of the Revised Code;~~ 16982
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~~(C) Except as provided in section 924.06 of the Revised Code, determine the eligibility of producers to participate in referendums and other procedures that may be required to~~ 16984
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16986

establish marketing programs for agricultural commodities. 16987

Sec. 924.20. As used in sections 924.20 to 924.30 of the 16988
Revised Code: 16989

(A) "Grain" means wheat, barley, rye, or oats. 16990

(B) "Handler" means a person who is in the business of 16991
agricultural commodity handling, as defined in section 926.01 of 16992
the Revised Code, of grain. 16993

(C) "Producer" means a person who is in the business of 16994
producing, or causing to be produced, grain for commercial sale. 16995

~~(D) "Rule" means a rule adopted under section 924.25 of 16996
the Revised Code. 16997~~

Sec. 924.21. There is hereby established a grain marketing 16998
program. The program shall be administered in accordance with 16999
sections 924.20 to 924.30 of the Revised Code ~~and rules.~~ 17000

Sec. 924.211. (A) There is hereby established the soybean 17001
marketing program. Except as provided under divisions (B) and 17002
(C) of this section, the procedures, requirements, and other 17003
provisions that are established under sections 924.20 to 924.30 17004
of the Revised Code ~~and rules~~ that apply to the grain marketing 17005
program shall apply to the soybean marketing program. For 17006
purposes of that application, references in those sections to 17007
"grain" are deemed to be replaced with references to "soybeans." 17008

(B) The soybean marketing program operating committee 17009
shall consist of eighteen members. Fourteen of those members 17010
shall be elected in accordance with section 924.22 of the 17011
Revised Code. The director of agriculture shall appoint the 17012
remaining four members, who shall be from the united soybean 17013
board from this state. The appointed members of the board shall 17014

be voting members of the committee. 17015

(C) With regard to the levying of assessments under 17016
section 924.26 of the Revised Code, the assessment on soybeans 17017
shall be one-half of one per cent of the per-bushel price of 17018
soybeans at the first point of sale. However, if assessments are 17019
levied under the national soybean checkoff program created by 17020
the "Soybean Promotion, Research, and Consumer Information Act," 17021
104 Stat. 3881 (1990), 7 U.S.C. 6301 et seq., no assessments 17022
shall be levied for purposes of the soybean marketing program 17023
established under this section. 17024

Sec. 924.22. (A) For the purposes of sections 924.20 to 17025
924.30 of the Revised Code, the director of agriculture shall 17026
hold an election to determine the membership of a grain 17027
marketing program operating committee in accordance with rules_ 17028
adopted under division (F) of this section. The election shall 17029
be for nine members of the operating committee. 17030

(B) Not later than one hundred twenty days after ~~the~~ 17031
~~effective date of this section~~March 24, 2008, the director shall 17032
accept the names of persons as nominees to serve on the 17033
operating committee. In accepting nominations and placing names 17034
on the ballot, the director shall follow the procedures 17035
established in rules adopted under division (F) of this section. 17036

(C) Not later than one hundred eighty days after ~~the~~ 17037
~~effective date of this section~~March 24, 2008, the director shall 17038
hold an election to determine the membership of the operating 17039
committee. In the election, eligible producers may cast votes in 17040
person at or mail ballots to polling places designated by the 17041
director. The director shall establish a three-day period during 17042
which eligible producers may vote in person during normal 17043
business hours at the designated polling places. The director or 17044

another appropriate person shall send a ballot by ordinary 17045
first-class mail to an eligible producer who requests one by 17046
calling the toll-free telephone number or submitting the ballot 17047
request form provided for in division (D) of this section, by 17048
calling one of the designated polling places, or by any 17049
additional method that the director may provide. A ballot 17050
returned by mail is not valid if it is postmarked later than the 17051
third day of the election period established by the director. 17052

(D) For the purposes of an election of members of the 17053
grain marketing program operating committee, the director shall 17054
cause a ballot request form to be published at least thirty days 17055
before the beginning of the election period established in 17056
accordance with division (C) of this section in at least two 17057
appropriate periodicals designated by the director and shall 17058
make the form available for reproduction to any interested group 17059
or association. The director also shall provide a toll-free 17060
telephone number that producers may call to request a ballot. 17061

(E) Following the election of the initial members of the 17062
operating committee, the director shall hold subsequent 17063
elections in order to maintain the membership of the operating 17064
committee as provided in rules adopted under division (F) of 17065
this section. The elections shall be held in the manner 17066
established in this section and rules for the election of 17067
initial members. 17068

~~(F) Persons elected to the grain marketing program~~ 17069
~~operating committee shall hold office in accordance with~~ The 17070
director shall adopt rules in accordance with Chapter 119. of 17071
the Revised Code governing all of the following: 17072

(1) The procedures to determine the membership of a grain 17073
marketing program operating committee; 17074

<u>(2) The procedures for accepting nominations and placing names on the ballot;</u>	17075 17076
<u>(3) The procedures for holding subsequent elections in order to maintain the membership of the operating committee;</u>	17077 17078
<u>(4) The duties of any persons elected to the grain marketing program operating committee.</u>	17079 17080
Sec. 924.24. (A) The grain marketing program operating committee shall do all of the following:	17081 17082
(1) Hire personnel and contract for services that are necessary for the operation of the grain marketing program;	17083 17084
(2) Promote the sale of grain for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for grain, and inform the public of the uses and benefits of grain;	17085 17086 17087 17088
(3) Establish requirements and procedures for the collection of assessments that the operating committee is required to levy under section 924.26 of the Revised Code, including the method and frequency of collection;	17089 17090 17091 17092
(4) Establish procedures to be used by a person who wishes to file for a refund of the person's assessment that is levied under section 924.26 of the Revised Code;	17093 17094 17095
(5) Perform all acts and exercise all powers incidental to, in connection with, or considered reasonably necessary, proper, or advisable to effectuate the purposes of sections 924.20 to 924.30 of the Revised Code.	17096 17097 17098 17099
(B) The operating committee may do any or all of the following:	17100 17101

- (1) Conduct, and contract with others to conduct, research, including the study, analysis, dissemination, and accumulation of information obtained from the research or elsewhere, concerning the marketing and distribution of grain, the storage, processing, and transportation of grain, and the production and product development of grain; 17102
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- (2) Provide the wholesale and retail grain trade with information relative to proper methods of handling and selling grain; 17108
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- (3) Conduct, and contract with others to conduct, market surveys and analyses, undertake any other similar activities that it determines are appropriate for the maintenance and expansion of present markets and the creation of new and larger markets for grain, and enter into contracts, in the name of the committee, to render service in formulating and conducting plans and programs and other contracts or agreements that the committee considers necessary for the promotion of the sale of grain; 17111
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- (4) Publish and distribute to producers and others information relating to the grain industry; 17120
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- ~~(5) Propose to the director of agriculture rules and amendments to rules that are necessary for the exercise of its powers and the performance of its duties;~~ 17122
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- ~~(6)~~ Establish priorities and prepare and approve a budget consistent with estimated resources and the scope of the grain marketing program; 17125
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- ~~(7)~~(6) Receive and investigate, or cause to be investigated, complaints concerning and violations of the grain marketing program. The operating committee shall refer any 17128
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violations to the director for action under section 924.29 of 17131
the Revised Code. 17132

Sec. 924.25. ~~(A)~~—The director of agriculture shall monitor 17133
the activities of the grain marketing program operating 17134
committee to ensure all of the following: 17135

~~(1)~~ (A) The grain marketing program is self-supporting. 17136

~~(2)~~ (B) The operating committee keeps all records that are 17137
required for agencies of the state. 17138

~~(3)~~ (C) The program's operations comply with ~~all~~ both of 17139
the following: 17140

~~(a)~~ (1) The provisions of the program; 17141

~~(b)~~ Rules; 17142

~~(c)~~ (2) Sections 924.20 to 924.30 of the Revised Code. 17143

~~(4)~~ (3) Administrative activities of the committee are 17144
coordinated with those of the department of agriculture. 17145

~~(B)~~ ~~The director may adopt rules in accordance with~~ 17146
~~Chapter 119. of the Revised Code that are necessary to carry out~~ 17147
~~the purposes of sections 924.20 to 924.30 of the Revised Code.~~ 17148

Sec. 924.29. The director of agriculture may institute an 17149
action at law or in equity that appears necessary to enforce 17150
compliance with sections 924.20 to 924.30 of the Revised Code, 17151
~~rules,~~ or the grain marketing program that is established in 17152
compliance with those sections ~~and rules.~~ 17153

Sec. 924.41. A marketing agreement that is executed in 17154
compliance with and pursuant to sections 924.40 to 924.45 of the 17155
Revised Code for the purpose of the voluntary participation of 17156
persons who are signatories to the agreement may provide for the 17157

establishment and regulation of one or more of the following: 17158

(A) Standards of production for an agricultural commodity, 17159
including growing and handling practices, provided that the 17160
standards are equivalent to or more stringent than standards of 17161
production for that agricultural commodity that are established 17162
in the laws of this state or federal law; 17163

(B) Standards for the establishment and use of a logo, 17164
trademark, or brand associated with an agricultural commodity, 17165
provided that the standards do not violate the laws of this 17166
state or federal law; 17167

(C) Collection of fees for services provided pursuant to 17168
the marketing agreement; 17169

~~(D) Any other topic that the director of agriculture may~~ 17170
~~allow by rule.~~ 17171

Sec. 924.42. (A) Producers of an agricultural commodity in 17172
this state may present to the director of agriculture a petition 17173
signed by at least two hundred or twenty-five per cent of all 17174
the producers of that agricultural commodity in this state, 17175
whichever is less, requesting the director to approve a 17176
marketing agreement for that agricultural commodity. 17177

(B) A petition submitted under division (A) of this 17178
section shall include all of the following: 17179

(1) A document that creates and identifies a provisional 17180
board of directors for the purpose of facilitating the execution 17181
of the proposed marketing agreement, which shall consist of at 17182
least three, but not more than five producers of the 17183
agricultural commodity that is the subject of the proposed 17184
marketing agreement; 17185

(2) A proposed marketing agreement that at a minimum contains a description of all of the following:	17186 17187
(a) The affected agricultural commodity or the region of the state concerning the agricultural commodity that is the subject of the proposed marketing agreement;	17188 17189 17190
(b) Any standards that will be adopted under the proposed marketing agreement;	17191 17192
(c) Procedures by which the proposed marketing agreement may be amended;	17193 17194
(d) The length of time that the proposed marketing agreement will be in effect;	17195 17196
(e) The size and composition of a board of directors that will be established under the marketing agreement for the purpose of administering the agreement;	17197 17198 17199
(f) The method by which the members of the board of directors that will be established under the marketing agreement will be elected;	17200 17201 17202
(g) The estimated costs to and rate of assessment to be made on each person who is a signatory to the marketing agreement for purposes of membership, inspections, or other services provided by the board of directors under the marketing agreement in conjunction with the person's participation in the marketing agreement;	17203 17204 17205 17206 17207 17208
(h) The minimum number of producers that are necessary for the marketing agreement to be financially self-supporting;	17209 17210
(i) Any other information that the director may require by rule.	17211 17212

(3) An unbiased and accurate summary of the proposed 17213
marketing agreement. 17214

(C) The petitioners shall include with the petition 17215
submitted under division (A) of this section all of the 17216
following: 17217

(1) A current list of producers of the agricultural 17218
commodity or in the region of the state concerning the 17219
agricultural commodity that is the subject of the proposed 17220
marketing agreement. The list may be created from existing 17221
records or records that are available from any reliable source. 17222

(2) An administration fee of five hundred dollars or 17223
another amount that the director determines is necessary to pay 17224
the costs of the director of notifying all known producers of 17225
the affected agricultural commodity or in the region of the 17226
state concerning the agricultural commodity that is the subject 17227
of the proposed marketing agreement and the costs of conducting 17228
the public meeting that is required in section 924.43 of the 17229
Revised Code concerning the proposed marketing agreement; 17230

(3) Information that demonstrates that the producers of 17231
the agricultural commodity or in the region of the state 17232
concerning the agricultural commodity that is the subject of the 17233
proposed marketing agreement have sufficient money to pay the 17234
costs of a board of directors to administer the marketing 17235
agreement and to pay the costs of administration and enforcement 17236
of the marketing agreement. 17237

Sec. 924.44. A marketing agreement submitted by a 17238
provisional board of directors under section 924.43 of the 17239
Revised Code at a minimum shall contain terms that establish all 17240
of the following: 17241

(A) The identification of the agricultural commodity or of the region of the state concerning the agricultural commodity that is the subject of the marketing agreement;	17242 17243 17244
(B) Standards, if any, of production for the agricultural commodity or of marketing that will apply to each producer that signs the marketing agreement;	17245 17246 17247
(C) Standards for the use of a logo, trademark, or brand associated with the agricultural commodity;	17248 17249
(D) The length of time that the marketing agreement will be in effect, whether the marketing agreement may be renewed, and, if so, procedures for renewal;	17250 17251 17252
(E) Procedures by which the marketing agreement may be amended. The procedures shall require the approval of the director of agriculture and of at least a majority of the producers that are signatories to the marketing agreement in order for an amendment to be effective.	17253 17254 17255 17256 17257
(F) The size and composition of a board of directors that will administer the marketing agreement;	17258 17259
(G) Procedures for the election of members of the board of directors;	17260 17261
(H) The lengths of terms of members of the board of directors and conditions, if any, for reelection;	17262 17263
(I) Procedures for the removal of a member of the board of directors for misfeasance, malfeasance, or nonfeasance;	17264 17265
(J) The costs to and rate of assessment to be made on each person who is a signatory to the marketing agreement for purposes of membership, inspections, or other services provided by the board of directors under the marketing agreement in	17266 17267 17268 17269

conjunction with the person's participation in the marketing agreement; 17270
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(K) Procedures by which producers of the agricultural commodity may become signatories to the marketing agreement after the agreement takes effect; 17272
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(L) Procedures by which producers who are signatories to the marketing agreement may be removed from the marketing agreement; 17275
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(M) Procedures by which producers that are signatories to the marketing agreement may terminate the marketing agreement; 17278
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~~(N) Any other procedures or requirements that the director of agriculture requires by rule.~~ 17280
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Sec. 924.45. (A) (1) After a marketing agreement takes effect, a board of directors that will administer the marketing agreement shall be established in accordance with the terms of the marketing agreement. Except for the director of agriculture or the director's designee who shall serve as an ex officio member of the board of directors, members of the board shall be selected only from individuals who are producers that signed the marketing agreement. 17282
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(2) The provisional board of directors created pursuant to division (B) (1) of section 924.42 of the Revised Code shall verify that the board of directors is established in accordance with the terms of the marketing agreement. If the provisional board of directors determines that the board of directors was not established in accordance with the terms of the marketing agreement, the provisional board shall notify the director who shall take appropriate actions to ensure that the board of directors is established in accordance with the terms of the 17290
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marketing agreement. If the provisional board of directors 17299
determines that the board of directors was established in 17300
accordance with the terms of the marketing agreement, the 17301
provisional board shall cease to exist. 17302

(B) A board of directors that is established to administer 17303
a marketing agreement shall do all of the following: 17304

(1) Establish priorities of the board that are consistent 17305
with the estimated financial resources that will be generated 17306
under the terms of the marketing agreement and with the scope of 17307
the marketing agreement; 17308

(2) Prepare a budget that is consistent with the estimated 17309
financial resources that will be generated under the terms of 17310
the marketing agreement and with the scope of the marketing 17311
agreement; 17312

(3) Deposit all money collected pursuant to the marketing 17313
agreement with a bank as defined in section 1101.01 of the 17314
Revised Code. The board shall use the money only to pay the 17315
costs of the board in administering the marketing agreement and 17316
of the activities authorized under the marketing agreement and 17317
under sections 924.40 to 924.45 of the Revised Code. 17318

(4) Establish a fiscal year for purposes of marketing 17319
activities performed under the terms of the marketing agreement; 17320

(5) Publish an activity and financial report not later 17321
than sixty days after the end of a fiscal year. The board shall 17322
make the report available to each producer that signed the 17323
marketing agreement and to other interested parties. 17324

(6) Provide annually to the director of agriculture and to 17325
each producer that signed the marketing agreement a financial 17326
statement that is prepared by a person who holds a current 17327

certificate as a certified public accountant issued under 17328
Chapter 4701. of the Revised Code. The board shall provide the 17329
financial statement to the director not later than sixty days 17330
after the end of a fiscal year. 17331

(7) Reimburse the department of agriculture for actual 17332
administrative costs incurred by the department in the 17333
administration of sections 924.40 to 924.45 of the Revised Code. 17334
However, the amount reimbursed in a fiscal year shall not exceed 17335
ten per cent of the total amount of money collected in that 17336
fiscal year by the board of directors under the authority of the 17337
marketing agreement. 17338

(8) Perform all other acts and exercise all other powers 17339
that are reasonably necessary, proper, or advisable to 17340
effectuate the purposes of sections 924.40 to 924.45 of the 17341
Revised Code. 17342

(C) A board of directors that is established to administer 17343
a marketing agreement may do all of the following: 17344

~~(1) Propose to the director rules that are necessary for~~ 17345
~~the board to perform its duties under the requirements of the~~ 17346
~~marketing agreement and under sections 924.40 to 924.45 of the~~ 17347
~~Revised Code;~~ 17348

~~(2)~~ Hire personnel and contract for services that are 17349
necessary for the implementation and administration of the 17350
marketing agreement; 17351

~~(3)~~(2) Receive and investigate, or cause to be 17352
investigated, a complaint concerning an alleged violation of a 17353
term of the marketing agreement. If the board determines that 17354
such a violation has occurred, the board shall refer the matter 17355
to the director for enforcement. 17356

~~(4)~~(3) Amend the marketing agreement in accordance with 17357
the terms of the marketing agreement and with sections 924.40 to 17358
924.45 of the Revised Code; 17359

~~(5)~~(4) Terminate the marketing agreement with the approval 17360
of a majority of the participating producers that are 17361
signatories to the marketing agreement. If the marketing 17362
agreement is terminated, the board shall distribute any 17363
remaining unobligated money collected under the authority of the 17364
marketing agreement to each participating producer in the same 17365
proportion that the producer paid assessments under the 17366
marketing agreement. 17367

Sec. 924.52. (A) The Ohio grape industries committee may: 17368

(1) Conduct, and contract with others to conduct, 17369
research, including the study, analysis, dissemination, and 17370
accumulation of information obtained from the research or 17371
elsewhere, concerning the marketing and distribution of grapes 17372
and grape products, the storage, refrigeration, processing, and 17373
transportation of them, and the production and product 17374
development of grapes and grape products. The committee shall 17375
expend for these activities no more than seventy per cent of all 17376
money it receives from the Ohio grape industries fund created 17377
under section 924.54 of the Revised Code. 17378

(2) Provide the wholesale and retail trade with 17379
information relative to proper methods of handling and selling 17380
grapes and grape products; 17381

(3) Make or contract for market surveys and analyses, 17382
undertake any other similar activities that it determines are 17383
appropriate for the maintenance and expansion of present markets 17384
and the creation of new and larger markets for grapes and grape 17385

products, and make, in the name of the committee, contracts to 17386
render service in formulating and conducting plans and programs 17387
and such other contracts or agreements as the committee 17388
considers necessary for the promotion of the sale of grapes and 17389
grape products. The committee shall expend for these activities 17390
no more than seventy per cent of all money it receives from the 17391
fund. 17392

(4) Publish and distribute to producers and others 17393
information relating to the grape and grape product industries; 17394

~~(5) Propose to the director of agriculture for adoption, 17395
rescission, or amendment, pursuant to Chapter 119. of the 17396
Revised Code, rules necessary for the exercise of its powers and 17397
the performance of its duties; 17398~~

~~(6)~~ Advertise for, post notices seeking, or otherwise 17399
solicit applicants to serve in administrative positions in the 17400
department of agriculture as employees who support the 17401
administrative functions of the committee. Applications shall be 17402
submitted to the committee. The committee shall select 17403
applicants that it wishes to recommend for employment and shall 17404
submit a list of the recommended applicants to the director. 17405

~~(7)~~ (6) For the purpose of promoting the grape industry, 17406
provide to producers and persons that grow grapes in this state 17407
grape plants, grape vines, equipment, and material to assist in 17408
the production of grapes and grape products. 17409

(B) The committee shall: 17410

(1) Promote the sale of grapes and grape products for the 17411
purpose of maintaining and expanding present markets and 17412
creating new and larger intrastate, interstate, and foreign 17413
markets for grapes and grape products, and inform the public of 17414

the uses and benefits of grapes and grape products; 17415

(2) Perform all acts and exercise all powers incidental 17416
to, in connection with, or considered reasonably necessary, 17417
proper, or advisable to effectuate the purposes of this section. 17418

Sec. 924.53. (A) The director of agriculture shall monitor 17419
the conduct of the Ohio grape industries committee to ensure 17420
that: 17421

(1) The committee is operating within the requirements of 17422
sections 924.51 to 924.55 of the Revised Code; 17423

(2) The committee's program is self-supporting; 17424

(3) The committee keeps all records that are required by 17425
agencies of the state. 17426

~~(B) The director may, in accordance with Chapter 119. of~~ 17427
~~the Revised Code, adopt, rescind, or amend rules necessary to~~ 17428
~~carry out the purposes of this section.~~ 17429

~~(C) The director shall accomplish an audit of the books~~ 17430
~~and records of the committee prior to the thirtieth day of~~ 17431
~~September each year.~~ 17432

Sec. 925.07. In the administration of sections 925.01 to 17433
925.13 of the Revised Code, the director of agriculture or 17434
~~his~~ the director's designee, on any business day and during 17435
normal business hours, may enter and inspect any premises where 17436
shell eggs are produced, processed, stored, or sold, offered for 17437
sale, or exposed for sale as is necessary to determine 17438
compliance with sections 925.02 to 925.13 ~~and applicable rules~~ 17439
~~adopted under section 925.06~~ of the Revised Code. 17440

Sec. 925.08. No person shall fail to comply with sections 17441
925.01 to 925.13 of the Revised Code ~~or an applicable rule~~ 17442

~~adopted under section 925.06 of the Revised Code.~~ Each day of 17443
violation constitutes a separate offense. 17444

Sec. 926.01. As used in this chapter: 17445

(A) "Agricultural commodity" means corn, soybeans, wheat, 17446
or any other agricultural crop that the director of agriculture 17447
may designate by rule in accordance with Chapter 119. of the 17448
Revised Code. "Agricultural commodity" does not mean any grain 17449
that is purchased for sale as seed. 17450

(B) "Agricultural commodity handling" or "handling" means 17451
any of the following: 17452

(1) Engaging in or participating in the business of 17453
purchasing from producers agricultural commodities for any use 17454
in excess of thirty thousand bushels annually; 17455

(2) Operating a warehouse as a bailee for the receiving, 17456
storing, shipping, or conditioning of an agricultural commodity; 17457

(3) Receiving into a warehouse an agricultural commodity 17458
purchased under a delayed price agreement; 17459

(4) Providing marketing functions, including storage, 17460
delayed price marketing, deferred payment, feed agreements, or 17461
any other marketing transaction whereby control is exerted over 17462
the monetary proceeds of a producer's agricultural commodities 17463
by a person other than the producer. 17464

(C) "Agricultural commodity handler" or "handler" means 17465
any person who is engaged in the business of agricultural 17466
commodity handling. 17467

(D) "Depositor" means: 17468

(1) Any person who delivers an agricultural commodity to a 17469

licensed handler for storage, conditioning, shipment, or sale;	17470
(2) Any owner or legal holder of a ticket or receipt	17471
issued for an agricultural commodity who is a creditor of the	17472
licensed handler for the value of the agricultural commodity;	17473
(3) Any licensed handler storing an agricultural commodity	17474
that the licensed handler owns solely, jointly, or in common	17475
with others in a warehouse owned or controlled by the licensed	17476
handler or any other licensed handler.	17477
(E) "Receipt" means a warehouse receipt issued by a	17478
licensed handler.	17479
(F) "Nonnegotiable receipt" means a receipt on which it is	17480
stated that the agricultural commodity received will be	17481
delivered to the depositor or to the order of any other person	17482
named in the receipt.	17483
(G) "Negotiable receipt" means a receipt on which it is	17484
stated that the agricultural commodity received will be	17485
delivered to the bearer or to the order of any person named in	17486
the receipt.	17487
(H) "Ticket" means a scale weight ticket, a load slip, or	17488
any evidence, other than a receipt, given to a depositor by a	17489
licensed handler upon delivery of an agricultural commodity to	17490
the handler.	17491
(I) "Warehouse" means any building, bin, protected	17492
enclosure, or similar premises under the control of a licensed	17493
or unlicensed handler used for receiving, storing, shipping, or	17494
handling an agricultural commodity.	17495
(J) "Storage" means the deposit of an agricultural	17496
commodity into a warehouse either for the account of the	17497

licensed handler operating the warehouse or for the account of a depositor. "Storage" includes unapplied and hold grain tickets. 17498
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(K) "Producer" means any person who grows an agricultural commodity on land that the person owns or leases. 17500
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(L) "Agent" means any person, other than a producer, who delivers an agricultural commodity to a licensed handler, either for sale or for storage, for the account of the producer. 17502
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(M) "Agricultural commodity tester" or "tester" means a person who operates a moisture meter and other quality testing devices to determine the quality of an agricultural commodity. 17505
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(N) "Federally licensed grain inspector" means a person who is licensed by the United States department of agriculture under the "United States Grain Standards Act," 39 Stat. 482 (1916), 7 U.S.C. 71, as amended, to test and grade grain, as "grain" is defined in that act. 17508
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(O) "Bailee" means a person to whom an agricultural commodity is delivered in trust for storage in a warehouse with title remaining in the name of the depositor. 17513
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(P) "Bailor" means a person who delivers an agricultural commodity to a bailee in trust for storage in a warehouse with title remaining in the name of the depositor. 17516
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(Q) "Bailment agreement" means a bailor-bailee agreement between a depositor and a licensed handler as stated in the terms of a receipt that is issued for an agricultural commodity in storage and subject to the requirements of this chapter governing the use of a receipt. 17519
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(R) "Delayed price agreement" means a written executory contract executed by and between a licensed handler and a 17524
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depositor that covers the sale and transfer of title of an 17526
agricultural commodity and states in its written terms the 17527
service charges and the method for pricing the commodity at a 17528
later date. 17529

(S) "Delayed price marketing" means the sale and transfer 17530
of title of an agricultural commodity with the price to be 17531
established at a later date according to the terms of a delayed 17532
price agreement. 17533

(T) "Deferred payment" means the deferral of payment to a 17534
depositor by a licensed handler for an agricultural commodity to 17535
which the licensed handler has taken title, for the purpose of 17536
deferring income of the depositor from one tax year to another. 17537

(U) "Feed agreement" means a written contract executed by 17538
and between a licensed handler and a producer or depositor who 17539
delivers an agricultural commodity to the licensed handler for 17540
storage whereby each of the following applies: 17541

(1) The producer or depositor transfers title to the 17542
agricultural commodity to the licensed handler in exchange for a 17543
nominal sum; 17544

(2) The producer, upon delivery of the agricultural 17545
commodity to the licensed handler, becomes a creditor of the 17546
licensed handler due to the lien that arises under section 17547
926.021 of the Revised Code; 17548

(3) All or part of the agricultural commodity is returned 17549
to the producer at a later date and used for feed purposes. 17550

(V) Notwithstanding section 1.02 of the Revised Code, 17551
"and" shall not be read "or" and "or" shall not be read "and." 17552

(W) "Grain bank" means the storage of an agricultural 17553

commodity under a bailment agreement with the commodity normally 17554
returned to the bailor at a later date as an ingredient of a 17555
processed feed. "Grain bank" as defined in this division has the 17556
same meaning for purposes of agricultural commodity 17557
transactions. 17558

(X) "Regular price bid" means the current basis bid or 17559
cash price of a handler licensed under this chapter. 17560

Sec. 926.02. The director of agriculture shall administer 17561
this chapter and may, in addition to any other powers conferred 17562
by it: 17563

(A) Inspect, or cause to be inspected, any warehouse, or 17564
premises suspected of being a warehouse, at any reasonable time; 17565

(B) Require the filing of reports describing any warehouse 17566
or the operation thereof; 17567

(C) Determine whether warehouses are suitable for the 17568
storing, shipping, and conditioning of agricultural commodities; 17569

(D) Petition the court of common pleas of the county in 17570
which the principal place of business of a licensed or 17571
unlicensed handler is situated to enforce compliance by the 17572
handler with this chapter, ~~or any rule adopted by the director~~ 17573
~~under it,~~ by restraining order or mandatory injunction 17574
notwithstanding the existence of an adequate remedy at law; 17575

(E) Prescribe all forms, within the limitations set forth 17576
in this chapter, including receipts, tickets, contracts, 17577
licenses, reports, and applications for licenses used by 17578
licensed handlers; 17579

(F) Impound receipts, tickets, or other records when a 17580
handler's license is under suspension; 17581

~~(G) Promulgate, adopt, and enforce rules under Chapter 119. of the Revised Code for carrying out this chapter.~~ 17582
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Sec. 926.05. (A) Each person desiring to obtain or renew a handler's license shall file an application annually with the director of agriculture at such times, on such forms, and containing such information as the director prescribes, including, if applicable, the appointment of a statutory agent under section 926.051 of the Revised Code. 17584
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(B) Each application for a license or license renewal shall be accompanied by an application fee of two hundred dollars for the first facility operated by the applicant plus one hundred dollars for each additional facility operated by the same applicant and by an examination fee, ~~established which the director shall establish by rule of the director pursuant to section 926.02~~ in accordance with Chapter 119. of the Revised Code, for each facility operated by the applicant. "Facility" means all warehouse storage located on one premises, including any additional warehouse storage located within one thousand yards of that premises. The director may charge fees for examinations in an amount not to exceed those fees charged by the United States department of agriculture for comparable examinations. 17590
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The director shall deposit all fees collected under this section in the commodity handler regulatory program fund created in section 926.19 of the Revised Code. 17604
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(C) The director shall approve or reject each application for a license within fifteen days after receipt thereof, provided that such application is in proper form and contains the information required under division (A) of this section. A rejection of an application shall be accompanied by a statement 17607
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from the director of the additional requirements necessary for a 17612
license. The applicant may resubmit the application without 17613
payment of any additional fee. 17614

(D) The director shall adopt rules in accordance with 17615
Chapter 119. of the Revised Code to prescribe the expiration 17616
date of a handler's license. A handler's license shall expire on 17617
the date prescribed by such rule ~~of the director~~. Whenever the 17618
director considers it advisable to cancel the unexpired portion 17619
of an outstanding license in order to renew it according to a 17620
new or existing system of expiration dates, the director shall 17621
refund to the handler the unexpired portion of the fees paid 17622
under division (B) of this section. Whenever the director issues 17623
an initial license on a date that does not conform to the 17624
existing system, the director shall issue the license for a 17625
period of time, not less than six nor more than eighteen months, 17626
that makes the date conform to the existing system. The 17627
application fee for that initial license shall be proportionate 17628
to the fee for a one-year license. 17629

(E) An application for renewal of a handler's license 17630
shall be filed with the director not later than thirty days 17631
before the current license expires. An applicant who fails to 17632
file a renewal application in time shall pay a late fee of one 17633
dollar for each day the application is late or fifteen dollars, 17634
whichever is greater. A renewal license shall not be issued 17635
until a late fee that is due has been paid. 17636

(F) The director, with the approval of the commodity 17637
advisory commission, may, except as provided in division (G) of 17638
this section, revoke or refuse to issue or renew a handler's 17639
license if any of the following occurred within five years 17640
before the application for the license or renewal was filed: 17641

(1) The applicant, or the spouse, parent, sibling, or child of the applicant, or a manager employed by the applicant, or any other individual materially involved in the agricultural commodity handling business of the applicant was a principal in a receivership or insolvency that resulted in losses to creditors or to the agricultural commodity depositors fund established in section 926.16 of the Revised Code;

(2) The applicant pled guilty to or was convicted of any felony or charge of embezzlement under the laws of this state, any other state, or of the United States;

(3) The applicant made a delivery of commodities not authorized under this chapter;

(4) The applicant's license under the "United States Warehouse Act," 39 Stat. 486 (1916), 7 U.S.C. 241, as amended, was revoked or canceled due to a violation of that act.

(G) The director shall not refuse to issue a handler's license because an applicant was convicted of or pleaded guilty to an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

Sec. 926.16. (A) There is hereby created in the state treasury the agricultural commodity depositors fund. The state shall not be held liable for any claims presented against the fund under section 926.18 of the Revised Code. The fund shall consist of a per-bushel fee remitted by licensed handlers under this section, any sums that the director of agriculture may collect by any legal action on behalf of the fund, and any property or securities acquired through the use of moneys in the fund. All investment earnings of the fund shall be credited to the fund. The moneys in the fund shall be used exclusively to

indemnify depositors as provided in section 926.18 of the Revised Code and to pay the examination and administrative costs of this chapter as provided in division (E) of this section.

(B) All licensed handlers shall remit the fee determined by the director in accordance with section 926.17 of the Revised Code on:

(1) All agricultural commodities delivered to them for storage under a bailment agreement or for sale, exchange, or negotiation or solicitation of sale by depositors who produced them or caused them to be produced;

(2) All agricultural commodities delivered to them for storage under a bailment agreement, regardless of who produced the commodities, if a receipt is to be issued for the commodities;

(3) All agricultural commodities that are being stored by licensed handlers who own them solely, jointly, or in common with others and who are issuing a receipt for them in accordance with section 926.25 of the Revised Code. The maximum number of bushels on which a licensed handler shall be required to pay the fee under division (B)(3) of this section between the first day of July and the thirtieth day of June of any marketing year shall be the greatest number of bushels of all commodities for which receipts are outstanding at any one time during that period.

(4) All agricultural commodities that are not involved in a transaction described in division (B)(1), (2), or (3) of this section and the monetary proceeds of which are controlled by a handler who is not involved in the production of the commodities and who serves as an intermediary between the producer and a

handler receiving the commodities. In such a situation, the 17700
handler responsible for paying the producer shall remit the fee. 17701

(C) The director shall adopt rules in accordance with 17702
Chapter 119. of the Revised Code to establish the manner and 17703
prescribe forms governing the accounting and remittance of money 17704
from licensed handlers. All licensed handlers shall account for 17705
and remit moneys under division (B) of this section to the 17706
director in such manner and using such forms as ~~the director~~ 17707
~~shall prescribe~~ prescribed by such rule. 17708

(D) All disbursements from the fund shall be paid by the 17709
treasurer of state pursuant to vouchers authorized by the 17710
director. 17711

(E) At the request of the director of agriculture, the 17712
director of budget and management shall transfer not more than 17713
five hundred thousand dollars per fiscal year from the 17714
agricultural commodity depositors fund to the commodity handler 17715
regulatory program fund created in section 926.19 of the Revised 17716
Code to pay the examination and administrative costs of this 17717
chapter. 17718

Sec. 926.19. (A) There is hereby created in the state 17719
treasury the commodity handler regulatory program fund. The 17720
moneys in the fund shall be used to pay the examination and 17721
administrative costs of this chapter and shall consist of: 17722

(1) All revenues collected by the director of agriculture 17723
from distribution of the receipt forms under division (B) of 17724
section 926.20 of the Revised Code and such other forms and 17725
registration books as the director may require by rule for the 17726
administration of this chapter; 17727

(2) The application and examination fees collected under 17728

division (B) of section 926.05 of the Revised Code; 17729

(3) Any moneys transferred from the agricultural commodity 17730
depositors fund under section 926.16 of the Revised Code; 17731

(4) All fines, penalties, and costs, except court costs, 17732
that are collected under section 926.99 of the Revised Code in 17733
consequence of a violation of this chapter; 17734

(5) All sums collected by the director of agriculture 17735
under a contract described in section 926.36 of the Revised 17736
Code. 17737

(B) The examination and administrative costs of this 17738
chapter shall be computed by the director not later than the 17739
thirty-first day of December of each even-numbered year to cover 17740
the biennium that begins on the following first day of July. The 17741
commodity advisory commission created in section 926.32 of the 17742
Revised Code shall approve, and may amend, the examination and 17743
administrative costs. The commission's decision shall be binding 17744
on the director. The commission also at any time may approve for 17745
presentation to the controlling board a request to increase or 17746
decrease the appropriation authority for the biennial 17747
examination and administrative costs if it determines that an 17748
increase or decrease in the cost is necessary to carry out the 17749
purpose of this chapter. 17750

(C) If at any time the moneys deposited in the fund, 17751
including moneys transferred from the agricultural commodity 17752
depositors fund under section 926.16 of the Revised Code, are 17753
not sufficient to pay the examination and administrative costs 17754
of this chapter, the director shall request an appropriation 17755
from the general revenue fund to pay those costs. 17756

(D) The director may adopt rules in accordance with 17757

Chapter 119. of the Revised Code to require forms and 17758
registration books for the administration of this chapter. 17759

Sec. 926.20. (A) Upon the request of a depositor, a 17760
licensed handler shall issue a receipt for any agricultural 17761
commodity that the handler has received from the depositor for 17762
storage under a bailment agreement. Even if the depositor has 17763
not requested that a receipt be issued, the agricultural 17764
commodity delivered for storage under a bailment agreement shall 17765
be considered to be in "open storage," and the responsibility of 17766
the bailee to the bailor shall remain the same as if a 17767
nonnegotiable receipt had been issued upon deposit of the 17768
commodity into the handler's warehouse. 17769

No licensed handler shall receive an agricultural 17770
commodity for storage under a bailment agreement until the 17771
handler has weighed, inspected, and graded the commodity. 17772

(B) The director of agriculture shall provide and print on 17773
distinctive paper, paper warehouse receipts. If the director 17774
considers it necessary, the director may authorize electronic 17775
warehouse receipts. The director may adopt rules in accordance 17776
with Chapter 119. of the Revised Code to establish guidelines 17777
~~established in rules adopted under section 926.02 of the Revised~~ 17778
~~Code~~ for the authorization of electronic warehouse receipts. Each 17779
receipt, paper or electronic, shall contain within its printed 17780
terms spaces for at least the following information: 17781

(1) The location of the warehouse where the agricultural 17782
commodity is stored; 17783

(2) The date of issuance of the receipt; 17784

(3) The rate of storage charges or the basis for the 17785
charges; 17786

(4) The net weight, the percentage of dockage or foreign material, and the grade of the commodity;	17787 17788
(5) "Negotiable" or "nonnegotiable" according to the nature of the receipt, conspicuously indicated on it;	17789 17790
(6) The signature of the licensed handler or the handler's authorized agent;	17791 17792
(7) A statement of the amount of advances made or liability incurred for which the handler claims a lien or, if the precise amount of advances made or liabilities incurred at the time of issuance of the receipt is unknown to the handler or to the agent who issues it, a statement of the fact that advances have been made or liabilities incurred;	17793 17794 17795 17796 17797 17798
(8) If the receipt is for a commodity that the handler owns, either wholly, jointly, or in common with others, the facts about the ownership;	17799 17800 17801
(9) Any other information that the director may require by rule.	17802 17803
The director shall cause receipt forms to be distributed to licensed handlers at cost. The revenue from the distribution shall be remitted to the director and credited to the commodity handler regulatory program fund created in division (A) of section 926.19 of the Revised Code in the same manner as other fees collected under that division.	17804 17805 17806 17807 17808 17809
(C) All receipts issued by a licensed handler shall be numbered and issued consecutively.	17810 17811
(D) Before issuing any receipt, a licensed handler shall file with the director a certified copy of the handler's signature and the signature of any person the handler has	17812 17813 17814

authorized to issue receipts. 17815

(E) No licensed handler shall fail to return to the 17816
director all receipts and tickets remaining unused on the date 17817
of revocation or termination of the handler's license. 17818

(F) No person shall issue a receipt for any agricultural 17819
commodity except upon a receipt form furnished or authorized by 17820
the director under this section. 17821

(G) No person, with intent to defraud, shall falsely make, 17822
alter, forge, counterfeit, or photograph a receipt. 17823

Sec. 926.22. (A) No licensed handler shall issue a receipt 17824
except upon the actual delivery of an agricultural commodity 17825
into storage in the warehouse from which the receipt is to be 17826
issued. No licensed handler shall issue a receipt for a quantity 17827
of a commodity greater than that which was contained in the lot 17828
or parcel received for storage or issue more than one receipt 17829
for the same lot of a commodity unless a receipt for a part of 17830
the lot is desired, in which case the aggregate receipts issued 17831
for a particular lot shall cover only that lot. 17832

(B) If a licensed handler delivers out of storage a part 17833
of a lot of an agricultural commodity for which ~~the handler~~ 17834
has issued a negotiable receipt, ~~the handler~~ shall cancel the 17835
original receipt and issue a new receipt in accordance with 17836
rules adopted by the director of agriculture for the undelivered 17837
portion of the commodity that is still in storage. The new 17838
receipt shall show the date of its issuance and the number and 17839
date of the original receipt. The director shall adopt such 17840
rules in accordance with Chapter 119. of the Revised Code. 17841

(C) If one receipt is divided into two or more receipts or 17842
two or more receipts are consolidated into one receipt, the 17843

original receipt or receipts shall be canceled in the same 17844
manner as if the agricultural commodity had been delivered from 17845
storage. The new receipt or receipts shall indicate whether the 17846
new receipt or receipts represent a part of another receipt or 17847
the consolidation of other receipts. The number and date of the 17848
original receipt or receipts shall also appear on the new 17849
receipt or receipts. No person shall consolidate receipts that 17850
were issued more than thirty days apart. 17851

(D) The date of issuance of an original receipt shall be 17852
the date used for determining the oldest receipt for the 17853
purposes of division (B) of section 926.13 of the Revised Code. 17854
The date of any consolidation, replacement, or renewal receipt 17855
shall not be considered. 17856

(E) All receipts issued for agricultural commodities 17857
stored in special bins for the purpose of preserving identity 17858
shall bear the number of the bin and the notation "Special Bin." 17859
All divisions or consolidations of receipt shall bear the bin 17860
number of the original receipt or receipts and the notation 17861
"Special Bin." 17862

Sec. 926.26. (A) If an agricultural commodity is delivered 17863
to a licensed handler by the owner or by a person whose act in 17864
conveying the title to the purchaser in good faith for value 17865
would bind the owner, and a negotiable receipt is issued for it, 17866
the commodity cannot, while in the possession of the handler, be 17867
attached by garnishment or otherwise or be levied under an 17868
execution unless the receipt is first surrendered to the handler 17869
or its negotiation is enjoined. The handler shall in no case be 17870
compelled to deliver the actual possession of the commodity 17871
until the receipt is surrendered to the handler or impounded by 17872
the court. A handler's claim for a lien that has arisen under 17873

section 1307.209 of the Revised Code and that has come due shall 17874
be satisfied as follows: 17875

(1) The handler shall give a written notice to the person 17876
on whose account the commodity is held and to any other person 17877
known by the handler to claim an interest in the commodity. The 17878
notice shall be delivered in person or by certified mail 17879
addressed to the last known place of business or residence of 17880
the person to be notified. The notice shall contain: 17881

(a) An itemized statement of the handler's claim showing 17882
the sum due at the time of the notice and the date that it 17883
became due; 17884

(b) A brief description of the commodity against which the 17885
lien exists; 17886

(c) A demand that the amount of the claim as stated in the 17887
notice, and of any further claim accruing, shall be paid on or 17888
before the date specified in the notice, which shall be not 17889
fewer than ten days from the delivery of the notice if it is 17890
personally delivered or from the time when the notice reaches 17891
its destination if it is sent by mail; 17892

(d) A statement that, unless the claim is paid within the 17893
time specified, the commodity will be advertised for sale and 17894
sold at an auction at a specified time and place. 17895

(2) In accordance with the terms of a notice so given, a 17896
sale of the commodity at auction may be had to satisfy any valid 17897
claim of the handler under which the handler has a lien on the 17898
commodity. The sale shall be held in the place where the 17899
commodity is held or, if that place is manifestly unsuitable for 17900
the purpose, at the nearest suitable place. After the time for 17901
the payment of claims that is specified in the notice to the 17902

depositor has elapsed, an advertisement of the sale, describing 17903
the commodity to be sold and stating the name of the owner or 17904
person on whose account the commodity is held and the time and 17905
place of the sale, shall be published once a week for two 17906
consecutive weeks in a newspaper of general circulation 17907
published in the place where the sale is to be held or, if no 17908
newspaper is published in that place, in a newspaper of general 17909
circulation published in the county in which the sale is to take 17910
place. No sale shall be held before fifteen days from the date 17911
of the first publication. 17912

(B) At any time before the agricultural commodity is sold, 17913
any person claiming a right of property or possession in it may 17914
pay the licensed handler the amount necessary to satisfy the 17915
handler's lien and pay the reasonable expenses and liabilities 17916
incurred in advertising and preparing for the sale up to the 17917
time of payment. The handler shall deliver the commodity to the 17918
person making payment only if the person is a person entitled 17919
under this chapter to the possession of the commodity on payment 17920
of the existing charges. 17921

(C) After the agricultural commodity has been lawfully 17922
sold to satisfy a lien arising under section 1307.209 of the 17923
Revised Code or has been lawfully sold or disposed of for any 17924
other reason, neither the licensed handler nor the agricultural 17925
commodity depositors fund created in section 926.16 of the 17926
Revised Code shall be liable for failure to deliver the 17927
commodity to the depositor or owner of the commodity or to the 17928
holder of a receipt given for the commodity when it was 17929
deposited even if the receipt was negotiable. The proceeds of 17930
the sale, after deducting the amount of any lawful lien, shall 17931
be held in accordance with this section for the benefit of the 17932
owner or the holder of the receipt. The proceeds shall be 17933

considered full satisfaction of any receipt issued for the 17934
commodity so sold and of any bailment agreement between the 17935
handler and the depositor. 17936

(D) After the licensed handler has satisfied the handler's 17937
lien and after the handler's expenses for advertising have been 17938
met, the handler shall forward to the director of agriculture 17939
the remaining proceeds of the sale, together with such 17940
information concerning the sale and outstanding receipt or 17941
receipts as the director requires by rule. The director shall 17942
adopt rules in accordance with Chapter 119. of the Revised Code 17943
specifying any required information concerning the sale and 17944
outstanding receipt or receipts for which the licensed handler 17945
shall forward to the director with the remaining proceeds of the 17946
sale. Upon the payment of the proceeds to the director, the 17947
handler shall be relieved of further responsibility for the 17948
safekeeping of them and shall be held harmless by the state for 17949
any liabilities for any claim arising out of the transfer of the 17950
proceeds to the director. The director shall deposit the 17951
proceeds into the state treasury to be held for the benefit of 17952
the person who would be rightfully entitled to possession of the 17953
commodity had it not been sold under this section. 17954

(E) Any person claiming an interest in proceeds delivered 17955
to the director under this chapter may file a claim for them on 17956
a form prescribed by the director. The director shall consider 17957
any claim filed under this section and render a decision in 17958
writing, stating the substance of any evidence considered and 17959
the reasons for allowance or disallowance of the claim. If the 17960
claim is allowed, the director shall provide for payment of the 17961
claim from the agricultural commodity depositors fund. 17962

(F) The remedy for enforcing a lien provided in this 17963

section does not preclude any other remedies allowed by law for 17964
the enforcement of a lien or bar the handler's right to recover 17965
any amount of the handler's claim that is not paid by the 17966
proceeds of the sale held under this section. 17967

Sec. 926.29. (A) A delayed price agreement is an executory 17968
contract that shall be in such a form and contain such terms as 17969
the director of agriculture shall adopt by rule under Chapter 17970
119. of the Revised Code. The agreement shall be executed by and 17971
between the licensed handler and the depositor or by their 17972
authorized representatives not later than fifteen days after the 17973
first delivery of an agricultural commodity is received for 17974
delayed pricing under the agreement. The handler shall maintain 17975
a file of executed agreements that are available for inspection 17976
at any reasonable time by the director or the director's 17977
designated representative. The handler also shall keep records 17978
and ledgers the director considers necessary to document the 17979
handler's obligation to the depositor under a delayed price 17980
agreement. The handler also shall provide reports, forms, and 17981
other evidence the director shall adopt by rule in accordance 17982
with Chapter 119. of the Revised Code to document the storage 17983
and marketing of commodities under the delayed price agreement. 17984

(B) Subject to the lien that attaches under section 17985
926.021 of the Revised Code and except as otherwise provided in 17986
division (C) of this section, a licensed handler who purchases 17987
any agricultural commodity under a delayed price agreement at 17988
all times shall maintain the commodity, rights in the commodity, 17989
proceeds from the sale of the commodity, or a combination of the 17990
commodity, rights, and proceeds equal to at least ninety per 17991
cent of the value of the handler's obligation for all 17992
commodities that the handler has purchased that are not priced 17993
under delayed price agreements. The obligation shall be secured 17994

or represented by one or more of the following:	17995
(1) Maintenance of the commodity in storage in the handler's warehouse;	17996 17997
(2) Rights in commodities as evidenced by a receipt or ticket for storage of the commodities under a bailment agreement in another warehouse approved by the director;	17998 17999 18000
(3) Proceeds from the sale of commodities as evidenced or represented by one or more of the following:	18001 18002
(a) Cash on hand or held on account in a state or federally licensed financial institution or a lending agency of the farm credit administration;	18003 18004 18005
(b) Short-term investments held in time accounts with state or federally licensed financial institutions or a lending agency of the farm credit administration;	18006 18007 18008
(c) Balances in commodity margin accounts;	18009
(d) Commodities sold and shipped by the handler under delayed price agreements that have not been priced less any payments or advances that have been received by the handler;	18010 18011 18012
(e) Such other evidence of unencumbered assets as may be acceptable to the director, including an irrevocable letter of credit.	18013 18014 18015
(C) In addition to the lien that attaches under section 926.021 of the Revised Code, a depositor who sells an agricultural commodity to a licensed handler under a delayed price agreement, upon giving notice to the handler either at or prior to the time of delivery, may demand as security for payment for the commodity an amount that, at the time of delivery, is equal to one hundred per cent of the national loan	18016 18017 18018 18019 18020 18021 18022

rate value of the commodity under the United States department 18023
of agriculture price support program, or seventy-five per cent 18024
of the average price being paid for the commodity in the state 18025
on the date of demand as published by the market news service of 18026
the department of agriculture, whichever is less. The handler 18027
shall satisfy a demand for security on a commodity sold under a 18028
delayed price agreement at the handler's option by one of the 18029
following: 18030

(1) Payment to the depositor by cash or draft on the 18031
account of the handler; 18032

(2) Causing an irrevocable letter of credit to be issued 18033
to the depositor by a financial institution designated by the 18034
handler securing payment in the specified amount. The letter of 18035
credit shall be subject to Chapter 1305. of the Revised Code and 18036
rules adopted by the director pursuant to Chapter 119. of the 18037
Revised Code. 18038

Sec. 926.32. (A) There is hereby created the commodity 18039
advisory commission consisting of seven members to be appointed 18040
by the director of agriculture. Not later than January 1, 1983, 18041
the director shall make appointments to the commission. Of the 18042
initial appointments, three shall be for terms ending January 1, 18043
1984, two shall be for terms ending January 1, 1985, and two 18044
shall be for terms ending January 1, 1986. Thereafter, terms of 18045
office shall be for three years, each term ending on the same 18046
day of the same month of the year as did the term that it 18047
succeeds. Each member shall hold office from the date of 18048
appointment until the end of the term for which the member was 18049
appointed. Any member appointed to fill a vacancy occurring 18050
prior to the expiration of the term for which the member's 18051
predecessor was appointed shall hold office for the remainder of 18052

the term. Any member shall continue in office subsequent to the 18053
expiration date of the member's term until the member's 18054
successor takes office or until a period of sixty days has 18055
elapsed, whichever occurs first. 18056

(B) The commission shall at all times be composed of three 18057
farmers who are engaged primarily in the production of 18058
agricultural commodities, one licensed handler who is the 18059
manager of a farmers cooperative, one licensed handler who is 18060
the owner and operator of a warehouse located in a rural area, 18061
one licensed handler representing a warehouse located at a major 18062
agricultural commodity transportation center, and one banker who 18063
is an officer of a rural bank. The director shall designate 18064
annually one member of the commission to serve as its 18065
chairperson and, after notice and public hearing, may remove any 18066
member only for neglect of duty or malfeasance in office. 18067

(C) A vacancy on the commission shall not impair the right 18068
of the other members to exercise all of the commission's powers. 18069
Four members shall constitute a quorum for the conduct of 18070
business of the commission. 18071

(D) The commission shall meet at least three times 18072
annually at times that the commission shall set by rule and may 18073
meet at other times that the chairperson or a majority of the 18074
commission members considers appropriate, provided that no 18075
meeting shall be held on the call of the chairperson unless at 18076
least seven days' written notice is first given to all members 18077
of the commission. 18078

(E) Each member shall be reimbursed for the member's 18079
actual and necessary expenses incurred in the discharge of 18080
duties as a commission member. 18081

(F) The commission may adopt, amend, or rescind rules or procedures governing the conduct of its internal affairs. 18082
18083

(G) The commission may request from the director, and the director shall provide, meeting space, assistance, services, and data to enable it to carry out its functions. 18084
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(H) All costs of the commission, including all of the expenses of its members and consultants authorized in this section, shall be paid from the commodity handler regulatory program fund created in section 926.19 of the Revised Code pursuant to itemized vouchers approved by the chairperson of the commission and the director. 18087
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(I) The director shall designate an official or employee of the department of agriculture to act as the executive secretary of the commission. The director also may request the attendance at meetings of the commission consultants with expertise in agricultural law, marketing, statistics, or any other subject to advise and consult with the commission on matters on the agenda of any regular or special meeting of the commission. The expenses incurred by consultants attending those meetings shall be reimbursed according to division (H) of this section. The executive secretary shall keep or cause to be kept a permanent journal of all meetings, proceedings, findings, determinations, and recommendations of the commission, including an itemized statement of the expenses allowed to each member of the commission and consultants under this section. The journal shall be a public record. 18093
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(J) In addition to the authority granted in division (F) of section 926.05, division (B) of section 926.17, divisions (A) and (C) of section 926.18, and division (B) of section 926.19 of the Revised Code, the commission shall advise and counsel the 18108
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director on all matters relating to: 18112

(1) The administration of this chapter; 18113

(2) The development of rules authorized ~~by section 926.02~~
~~of the Revised Code~~ under this chapter; 18114
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(3) Any other matters that the commission and the director 18116
consider appropriate in carrying out this chapter. 18117

Sec. 927.52. (A) The director of agriculture ~~shall adopt~~
~~and enforce any rules that are necessary to carry out sections~~
~~927.51 to 927.73 of the Revised Code.~~ 18118
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~~(B) The director may revoke, suspend, or refuse to issue~~ 18121
any nursery certificate or dealer's license for any violation of 18122
sections 927.51 to 927.71 of the Revised Code, ~~or of any rules~~
~~adopted under those sections.~~ 18123
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~~(C)~~ (B) The director may publish reports describing nursery 18125
inspection and pest control operations authorized by sections 18126
927.51 to 927.71 of the Revised Code. 18127

Sec. 927.682. (A) Except as otherwise provided in division 18128
(B) of this section, no person and no political subdivision, 18129
agency, department, or instrumentality of the state shall sell, 18130
offer for sale, or plant *Lythrum salicaria* (purple loosestrife) 18131
plants or seed in this state without a permit issued by the 18132
director of agriculture. The director may issue permits to plant 18133
Lythrum salicaria for use in controlled experiments. 18134

(B) The director, ~~by rule,~~ shall adopt rules in accordance
with Chapter 119. of the Revised Code to exempt from the permit
requirement of division (A) of this section any variety of 18135
Lythrum salicaria that has been demonstrated to the director's 18136
satisfaction not to be a threat to the environment. 18137
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Sec. 927.69. To effect the purpose of sections 927.51 to 18140
927.73 of the Revised Code, the director of agriculture or the 18141
director's authorized representative may: 18142

(A) Make reasonable inspection of any premises in this 18143
state and any property therein or thereon; 18144

(B) Stop and inspect in a reasonable manner, any means of 18145
conveyance moving within this state upon probable cause to 18146
believe it contains or carries any pest, host, commodity, or 18147
other article that is subject to sections 927.51 to 927.72 of 18148
the Revised Code; 18149

(C) Conduct inspections of agricultural products that are 18150
required by other states, the United States department of 18151
agriculture, other federal agencies, or foreign countries to 18152
determine whether the products are infested. If, upon making 18153
such an inspection, the director or the director's authorized 18154
representative determines that an agricultural product is not 18155
infested, the director or the director's authorized 18156
representative may issue a certificate, as required by other 18157
states, the United States department of agriculture, other 18158
federal agencies, or foreign countries, indicating that the 18159
product is not infested. 18160

If the director charges fees for any of the certificates, 18161
agreements, or inspections specified in this section, the fees 18162
shall be as follows: 18163

(1) Phytosanitary certificates, twenty-five dollars for 18164
shipments comprised exclusively of nursery stock; 18165

(2) Phytosanitary certificates, one hundred dollars for 18166
all others; 18167

(3) Phytosanitary certificates, twenty-five dollars for 18168

replacement of an issued certificate because of a mistake on the 18169
certificate or a change made by the shipper if no additional 18170
inspection is required; 18171

(4) Compliance agreements, forty dollars; 18172

(5) Agricultural products and their conveyances 18173
inspections, an amount equal to the hourly rate of pay in the 18174
highest step in the pay range, including fringe benefits, of a 18175
plant pest control specialist multiplied by the number of hours 18176
worked by such a specialist in conducting an inspection. 18177

The director may adopt rules under ~~section 927.52~~ Chapter 18178
119. of the Revised Code that define the certificates, 18179
agreements, and inspections. 18180

The fees shall be credited to the plant pest program fund 18181
created in section 927.54 of the Revised Code. 18182

Sec. 927.701. (A) As used in this section, "gypsy moth" 18183
means the live insect, *Lymantria dispar*, in any stage of 18184
development. 18185

(B) The director of agriculture may establish a voluntary 18186
gypsy moth suppression program under which a landowner may 18187
request that the department of agriculture have the landowner's 18188
property aeriually sprayed to suppress the presence of gypsy 18189
moths in exchange for payment from the landowner of a portion of 18190
the cost of the spraying. To determine the total cost per acre, 18191
the department shall add the per-acre cost of the product 18192
selected by the landowner to suppress gypsy moths and the per- 18193
acre cost of applying the product as determined by the director 18194
in rules. To determine the aggregate total cost, the department 18195
shall multiply the total cost per acre by the number of acres 18196
that the landowner requests to be sprayed. The department shall 18197

add to that amount any administrative costs that it incurs in 18198
billing the landowner and collecting payment. The portion of the 18199
cost that is assessed to the landowner, if any, shall be 18200
determined by the funding that is allocated to the department by 18201
the federal and state gypsy moth suppression programs. 18202

(C) The director shall adopt rules under Chapter 119. of 18203
the Revised Code to establish procedures under which a landowner 18204
may make a request under division (B) of this section, to 18205
establish the per-acre cost of applying product to suppress 18206
gypsy moths, and to establish provisions governing agreements 18207
between the department and landowners concerning gypsy moth 18208
suppression ~~together with any other provisions that the director~~ 18209
~~considers appropriate to administer this section.~~ 18210

(D) The director shall deposit all money collected under 18211
this section to the credit of the plant pest program fund 18212
created in section 927.54 of the Revised Code. Money credited to 18213
the fund under this section shall be used for the suppression of 18214
gypsy moths in accordance with this section. 18215

Sec. 927.71. (A) The director of agriculture, may adopt 18216
rules in accordance with Chapter 119. of the Revised Code, ~~may~~ 18217
to quarantine: 18218

(1) This state or any portion thereof when the director 18219
determines that such action is necessary to prevent or retard 18220
the spread of a pest into, within, or from this state; 18221

(2) Any other state or portion thereof when the director 18222
determines that a pest exists therein and that such action is 18223
necessary to prevent or retard its spread into this state. 18224

(B) The director may limit the application of a quarantine 18225
to the infested portions of the quarantined area and appropriate 18226

environs, to be known as the regulated area, and may, without 18227
further hearing, extend the regulated area to include additional 18228
portions of the quarantined area either: 18229

(1) Upon publication of a notice to that effect in such 18230
newspapers in the quarantined area as the director may select; 18231

(2) Upon written notice to those concerned. 18232

(C) Following establishment of a quarantine, no person 18233
shall move any regulated article described in the quarantine, or 18234
move the pest against which the quarantine is established, 18235
within, from, into, or through this state contrary to rules 18236
adopted by the director without prior permission or order of the 18237
director. 18238

(D) ~~A rule~~ The director may adopt rules in accordance with 18239
Chapter 119. of the Revised Code to restrict the movement of a 18240
pest and any regulated article from the quarantined or regulated 18241
area in this state into or through other parts of this state or 18242
other states and from the quarantine or regulated area in other 18243
states into or through this state ~~and may impose such~~ 18244
~~inspection, disinfection, certification, permit, or other~~ 18245
~~requirements as the director determines necessary to effectuate~~ 18246
~~the purpose of sections 927.51 to 927.73 of the Revised Code.~~ 18247

Sec. 928.03. ~~The director of agriculture, in consultation~~ 18248
~~with the governor and attorney general, shall adopt rules in~~ 18249
~~accordance with Chapter 119. of the Revised Code establishing~~ 18250
~~standards and procedures for the regulation of hemp processing.~~ 18251
The director also shall adopt ~~such~~ rules, in consultation with 18252
the governor and attorney general and in accordance with Chapter 18253
119. of the Revised Code, regarding hemp cultivation if the 18254
director implements a program to monitor and regulate hemp 18255

cultivation under division (A) (1) of section 928.02 of the Revised Code. The rules shall ~~include~~ specify all of the following:

(A) The form of an application for a hemp cultivation license and hemp processing license and the information required to be included in each license application;

(B) The amount of an initial application fee that an applicant shall submit along with an application for a hemp cultivation license or a hemp processing license, and the amount of an annual license fee that a licensee shall submit for a hemp cultivation license or a hemp processing license. In adopting rules under division (B) of this section, the director shall ensure both of the following:

(1) That the amount of the application fee and annual license fee does not exceed an amount sufficient to cover the costs incurred by the department of agriculture to administer and enforce this chapter;

(2) That there is one uniform application fee and one uniform annual license fee that applies to all applicants for a hemp cultivation license.

(C) Requirements and procedures concerning background investigations of each applicant for a hemp cultivation license and each applicant for a hemp processing license. The director shall include both of the following in the rules adopted under this division:

(1) A requirement that each applicant comply with sections 4776.01 to 4776.04 of the Revised Code;

(2) Provisions that prohibit the director from issuing a hemp cultivation license or hemp processing license to an

applicant that has not complied with those sections.	18285
(D) Requirements regarding the experience, equipment,	18286
facilities, or land necessary to obtain a hemp cultivation	18287
license;	18288
(E) Requirements and procedures regarding standards of	18289
financial responsibility for each applicant for a hemp	18290
processing license.	18291
(F) Procedures and requirements for the issuance, renewal,	18292
denial, suspension, and revocation of a hemp cultivation license	18293
and hemp processing license, including providing for a hearing	18294
under Chapter 119. of the Revised Code with regard to such a	18295
denial, suspension, or revocation;	18296
(G) Grounds for the denial, suspension, and revocation of	18297
a hemp cultivation license and of a hemp processing license,	18298
including a requirement that the director revoke a hemp	18299
cultivation license or hemp processing license, for a period of	18300
ten years, of any person who pleads guilty to or is convicted of	18301
a felony relating to a controlled substance;	18302
(H) A requirement that the director shall not issue a hemp	18303
cultivation license or hemp processing license to any person who	18304
has pleaded guilty to or been convicted of a felony relating to	18305
a controlled substance in the ten years immediately prior to the	18306
submission of the application for a license;	18307
(I) A requirement that any person that materially	18308
falsifies information in an application for a hemp cultivation	18309
license or hemp processing license is ineligible to receive	18310
either license;	18311
(J) A practice for maintaining relevant information	18312
regarding land on which hemp is cultivated by hemp cultivation	18313

licensees, including a legal description of the land, in	18314
accordance with applicable federal law;	18315
(K) Requirements prohibiting a hemp cultivation licensee	18316
and a hemp processing licensee from cultivating or processing	18317
marihuana;	18318
(L) A procedure for testing, using post-decarboxylation or	18319
other similarly reliable methods, delta-9 tetrahydrocannabinol	18320
concentration levels of plants and products for purposes of	18321
determining compliance with this chapter and rules adopted under	18322
it;	18323
(M) Requirements and procedures for the issuance,	18324
administration, and enforcement of corrective action plans	18325
issued under this chapter;	18326
(N) A procedure for conducting annual inspections of, at a	18327
minimum, a random sample of hemp cultivation license holders to	18328
verify that plants are not being cultivated in violation of this	18329
chapter or rules adopted under it;	18330
(O) A procedure for conducting annual inspections of, at a	18331
minimum, a random sample of hemp processing license holders to	18332
verify that such license holders are not operating in violation	18333
of this chapter or rules adopted under it;	18334
(P) A procedure for complying with enforcement procedures	18335
required under federal law;	18336
(Q) A procedure for the effective disposal of all of the	18337
following:	18338
(1) Plants, whether growing or not, cultivated in	18339
violation of this chapter or rules adopted under it;	18340
(2) Products derived from plants cultivated in violation	18341

of this chapter or rules adopted under it; 18342

(3) Products produced in violation of this chapter or 18343
rules adopted under it. 18344

(R) Requirements and procedures governing the production, 18345
storage, and disposal of hemp byproducts. 18346

For the purposes of this chapter and notwithstanding any 18347
provision of law to the contrary, "hemp product" includes a 18348
byproduct, produced as a result of processing hemp, that 18349
contains a delta-9 tetrahydrocannabinol concentration of more 18350
than three-tenths per cent, provided that the byproduct is 18351
produced, stored, and disposed of in accordance with rules 18352
adopted under division (R) of this section. 18353

(S) Procedures for sharing information regarding hemp 18354
cultivation license holders with the secretary of the USDA; 18355

(T) A setback distance requirement that specifies the 18356
distance that a hemp cultivation license holder shall locate 18357
hemp plants from a location where medical marijuana is being 18358
cultivated. The requirement does not apply to a hemp cultivation 18359
license holder with regard to a medical marijuana cultivator 18360
that locates medical marijuana within the established setback 18361
distance requirement after the hemp cultivation license holder 18362
begins operation. 18363

(U) Annual reporting requirements and procedures for hemp 18364
cultivation license holders and hemp processing license holders; 18365

(V) Recordkeeping and documentation maintenance 18366
requirements and procedures for hemp cultivation license holders 18367
and hemp processing license holders; 18368

(W) Fees for the laboratory testing of plants and 18369

products;	18370
(X) Standards for the testing and labeling of hemp and hemp products;	18371 18372
(Y) Requirements prohibiting the processing of hemp in a building used as a personal residence or on land that is zoned for residential use;	18373 18374 18375
(Z) Production standards and manufacturing practices for processing hemp;	18376 18377
(AA) Procedures and requirements for the transportation and storage of both hemp and hemp products;	18378 18379
(BB) Any other requirements or procedures necessary to administer and enforce this chapter.	18380 18381
Sec. 935.17. The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:	18382 18383 18384
(A) Both of the following concerning the registration of dangerous wild animals under section 935.04 of the Revised Code:	18385 18386
(1) Any additional information that must be included with a registration;	18387 18388
(2) Standards for the care and housing of registered dangerous wild animals, including standards for the proper care of each species of dangerous wild animal and caging and fencing of the animals.	18389 18390 18391 18392
The director shall adopt rules under division (A) of this section not later than ninety days after September 5, 2012.	18393 18394
(B) Standards for the care and well-being of dangerous wild animals specified in divisions (C) (1) to (19) of section	18395 18396

935.01 of the Revised Code that are possessed by the holders of 18397
wildlife shelter permits and wildlife propagation permits issued 18398
under this chapter. The standards shall govern at least 18399
sanitation for, provision of health care for, and feeding, 18400
caging, housing, and fencing of dangerous wild animals. In 18401
adopting rules under this division, the director shall consider 18402
the following factors: 18403

(1) Best management practices for the care and well-being 18404
of dangerous wild animals; 18405

(2) Public health and safety; 18406

(3) Biosecurity; 18407

(4) The prevention of disease; 18408

(5) Animal morbidity and mortality data; 18409

(6) Generally accepted veterinary medical practices; 18410

(7) Standards adopted by the association of zoos and 18411
aquariums; 18412

(8) Standards adopted by the zoological association of 18413
America; 18414

(9) Standards established in the federal animal welfare 18415
act; 18416

(10) Ethical standards established by the American 18417
veterinary medical association; 18418

~~(11) Any other factors that the director considers 18419
necessary for the proper care and well-being of dangerous wild 18420
animals in this state. 18421~~

(C) Standards for the housing of dangerous wild animals 18422
specified in division (C) (20) of section 935.01 of the Revised 18423

Code that are possessed by the holders of wildlife shelter 18424
permits and wildlife propagation permits issued under this 18425
chapter; 18426

(D) All of the following concerning applications for 18427
permits issued under sections 935.06 and 935.07 of the Revised 18428
Code: 18429

(1) Any additional information that must be included with 18430
a permit application; 18431

(2) Criteria for determining what constitutes a species 18432
survival program for the purposes of division (A) of section 18433
935.07 of the Revised Code and requirements and procedures that 18434
are necessary to determine if a program meets those criteria; 18435

(3) The content of the examination specified in division 18436
(B) (6) of section 935.05 of the Revised Code. The rules shall 18437
require the examination to test an applicant's knowledge on 18438
topics that include proper diet, health care, exercise needs, 18439
and housing of the species of dangerous wild animal or animals 18440
that are the subject of the application. 18441

(4) Procedures and requirements concerning the 18442
administration of the examination specified in division (B) (6) 18443
of section 935.05 of the Revised Code. 18444

(E) All of the following concerning applications for 18445
permits issued under sections 935.09 and 935.10 of the Revised 18446
Code: 18447

(1) Any additional information that must be included with 18448
a permit application; 18449

(2) The content of the examination specified in division 18450
(B) (5) of section 935.08 of the Revised Code. The rules shall 18451

require the examination to test an applicant's knowledge on 18452
topics that include proper diet, health care, and housing of the 18453
species of restricted snake or snakes that are the subject of 18454
the application. 18455

(3) Procedures and requirements concerning the 18456
administration of the examination specified in division (B) (5) 18457
of section 935.08 of the Revised Code. 18458

(F) Both of the following concerning applications for 18459
permits issued under section 935.101 of the Revised Code: 18460

(1) Information that must be included in a permit 18461
application; 18462

(2) Criteria and procedures for the issuance or denial of 18463
a permit. 18464

(G) Standards for the care and well-being of dangerous 18465
wild animals that are possessed by the holders of permits issued 18466
under section 935.101 of the Revised Code. The standards shall 18467
govern at least sanitation for, provision of health care for, 18468
and feeding, caging, housing, and fencing of dangerous wild 18469
animals. In adopting the rules, the director may consider the 18470
standards of care and housing established in rules adopted under 18471
division (B) of this section and section 935.12 of the Revised 18472
Code. 18473

(H) Procedures and requirements governing the maintenance 18474
of records under section 935.15 of the Revised Code; 18475

(I) Standards for signs that are required to be posted and 18476
displayed in accordance with section 935.18 of the Revised Code; 18477

(J) The amount of civil penalties that may be assessed 18478
under section 935.24 of the Revised Code; 18479

~~(K) Any other provisions necessary to administer and
enforce this chapter.~~ 18480
18481

Sec. 936.02. (A) The director of agriculture shall 18482
establish a propane council ~~and adopt rules in accordance with~~ 18483
~~Chapter 119. of the Revised Code necessary to implement this~~ 18484
~~chapter.~~ 18485

(B) The director shall appoint the following members to 18486
the council in accordance with this section ~~and rules adopted~~ 18487
~~under it:~~ 18488

(1) Two multi-state propane gas retailers; 18489

(2) Two intrastate propane gas retailers; 18490

(3) One cooperative propane gas retailer; 18491

(4) One wholesale propane gas wholesale distributor; 18492

(5) One propane gas equipment dealer; 18493

The director of agriculture or the director's designee and 18494
the state fire marshal or the fire marshal's designee also shall 18495
serve on the council. 18496

(C) The director shall appoint members under divisions (B) 18497
(1) through (5) of this section from a list submitted by a 18498
qualified statewide propane association. The director shall not 18499
appoint a person as a member of the council unless the person is 18500
at least twenty-five years old and has at least five years of 18501
active experience in the propane gas industry. 18502

(D) Not later than ninety days after the effective date of 18503
this section, the director shall make initial appointments to 18504
the council. Members shall serve three-year staggered terms of 18505
~~office in accordance with rules adopted by the director.~~ 18506

Sec. 939.02. The director of agriculture shall do all of 18507
the following: 18508

(A) Provide administrative leadership to soil and water 18509
conservation districts in planning, budgeting, staffing, and 18510
administering district programs and the training of district 18511
supervisors and personnel in their duties, responsibilities, and 18512
authorities as prescribed in this chapter and Chapter 940. of 18513
the Revised Code; 18514

(B) Administer this chapter and Chapter 940. of the 18515
Revised Code pertaining to state responsibilities and provide 18516
staff assistance to the Ohio soil and water conservation 18517
commission in exercising its statutory responsibilities; 18518

(C) Assist in expediting state responsibilities for 18519
watershed development and other soil and water conservation 18520
works of improvement, including assisting in watershed planning 18521
and management under section 940.41 of the Revised Code; 18522

(D) Coordinate or support the development and 18523
implementation of cooperative programs and working agreements 18524
between soil and water conservation districts and the department 18525
of agriculture, department of natural resources, environmental 18526
protection agency, or other agencies of local, state, and 18527
federal government. The cooperative programs and working 18528
agreements shall be for the support of farm, rural, suburban, 18529
and urban conservation programs. 18530

(E) Subject to the approval of the Ohio soil and water 18531
conservation commission, adopt rules in accordance with Chapter 18532
119. of the Revised Code that do or comply with all of the 18533
following: 18534

(1) Establish technically feasible and economically 18535

reasonable standards to achieve a level of management and 18536
conservation practices in farming operations that will abate 18537
wind or water erosion of the soil or abate the degradation of 18538
the waters of the state by residual farm products, manure, or 18539
soil sediment, including attached substances, and establish 18540
criteria for determination of the acceptability of such 18541
management and conservation practices; 18542

(2) Establish procedures for administration of rules for 18543
agricultural pollution abatement and for enforcement of those 18544
rules; 18545

(3) Specify the pollution abatement practices eligible for 18546
state cost sharing and determine the conditions for eligibility, 18547
the construction standards and specifications, the useful life, 18548
the maintenance requirements, and the limits of cost sharing for 18549
those practices. Eligible practices shall be limited to 18550
practices that address agricultural operations and that require 18551
expenditures that are likely to exceed the economic returns to 18552
the owner or operator and that abate soil erosion or degradation 18553
of the waters of the state by residual farm products, manure, or 18554
soil sediment, including attached pollutants. 18555

(4) Establish procedures for administering grants to 18556
owners or operators of agricultural land or animal feeding 18557
operations for the implementation of operation and management 18558
plans; 18559

(5) Do both of the following with regard to composting 18560
conducted in conjunction with agricultural operations: 18561

(a) Establish methods, techniques, or practices for 18562
composting dead animals, or particular types of dead animals, 18563
that are to be used at such operations, as the director 18564

considers to be necessary or appropriate; 18565

(b) Establish requirements and procedures governing the 18566
review and approval or disapproval of composting plans by the 18567
supervisors of soil and water conservation districts under 18568
division ~~(S)~~(R) of section 940.06 of the Revised Code. 18569

(6) Establish best management practices for inclusion in 18570
operation and management plans; 18571

(7) Establish the amount of civil penalties assessed by 18572
the director under division (A) of section 939.07 of the Revised 18573
Code for violation of rules adopted under division (E) of this 18574
section; 18575

(8) Not conflict with air or water quality standards 18576
adopted pursuant to section 3704.03 or 6111.041 of the Revised 18577
Code. Compliance with rules adopted under this section does not 18578
affect liability for noncompliance with air or water quality 18579
standards adopted pursuant to section 3704.03 or 6111.041 of the 18580
Revised Code. The application of a level of management and 18581
conservation practices recommended under this section to control 18582
windblown soil from farming operations creates a presumption of 18583
compliance with section 3704.03 of the Revised Code as that 18584
section applies to windblown soil. 18585

(F) Cost share with landowners on practices established 18586
pursuant to division (E) (3) of this section as moneys are 18587
appropriated and available for that purpose. Any practice for 18588
which cost share is provided shall be maintained for its useful 18589
life. Failure to maintain a cost share practice for its useful 18590
life shall subject the landowner to full repayment to the 18591
department. 18592

(G) Employ field assistants and other employees that are 18593

necessary for the performance of the work prescribed by Chapter 18594
940. of the Revised Code, for performance of work of the 18595
department under this chapter, and as agreed to under working 18596
agreements or contractual arrangements with soil and water 18597
conservation districts, prescribe their duties, and fix their 18598
compensation in accordance with schedules that are provided by 18599
law for the compensation of state employees. All such employees 18600
of the department, unless specifically exempted by law, shall be 18601
employed subject to the classified civil service laws in force 18602
at the time of employment. 18603

(H) In connection with new or relocated projects involving 18604
highways, underground cables, pipelines, railroads, and other 18605
improvements affecting soil and water resources, including 18606
surface and subsurface drainage: 18607

(1) Provide engineering services that are mutually 18608
agreeable to the Ohio soil and water conservation commission and 18609
the director to aid in the design and installation of soil and 18610
water conservation practices as a necessary component of such 18611
projects; 18612

(2) Maintain close liaison between the owners of lands on 18613
which the projects are executed, soil and water conservation 18614
districts, and authorities responsible for such projects; 18615

(3) Review plans for such projects to ensure their 18616
compliance with standards developed under division (E) of this 18617
section in cooperation with the department of transportation or 18618
with any other interested agency that is engaged in soil or 18619
water conservation projects in the state in order to minimize 18620
adverse impacts on soil and water resources adjacent to or 18621
otherwise affected by these projects; 18622

(4) Recommend measures to retard erosion and protect soil	18623
and water resources through the installation of water	18624
impoundment or other soil and water conservation practices;	18625
(5) Cooperate with other agencies and subdivisions of the	18626
state to protect the agricultural status of rural lands adjacent	18627
to such projects and control adverse impacts on soil and water	18628
resources.	18629
(I) Collect, analyze, inventory, and interpret all	18630
available information pertaining to the origin, distribution,	18631
extent, use, and conservation of the soil resources of the	18632
state;	18633
(J) Prepare and maintain up-to-date reports, maps, and	18634
other materials pertaining to the soil resources of the state	18635
and their use and make that information available to	18636
governmental agencies, public officials, conservation entities,	18637
and the public;	18638
(K) Provide soil and water conservation districts with	18639
technical assistance including on-site soil investigations and	18640
soil interpretation reports on the suitability or limitations of	18641
soil to support a particular use or to plan soil conservation	18642
measures. The assistance shall be on terms that are mutually	18643
agreeable to the districts and the department of agriculture.	18644
(L) Assist local government officials in utilizing land	18645
use planning and zoning, current agricultural use value	18646
assessment, development reviews, and land management activities;	18647
(M) When necessary for the purposes of this chapter or	18648
Chapter 940. of the Revised Code, develop or approve operation	18649
and management plans. The director may designate an employee of	18650
the department to develop or approve operation and management	18651

plans in lieu of the director. 18652

This section does not restrict the manure of domestic or 18653
farm animals defecated on land outside an animal feeding 18654
operation or runoff from that land into the waters of the state. 18655

Sec. 939.04. (A) A person who owns or operates an 18656
agricultural operation, or owns the animals raised by the owner 18657
or operator of an agricultural operation, and who wishes to 18658
conduct composting of dead animals resulting from the 18659
agricultural operation shall do both of the following: 18660

(1) Participate in an educational course concerning 18661
composting conducted by OSU extension and obtain a certificate 18662
of completion for the course; 18663

(2) Use the appropriate method, technique, or practice of 18664
composting established in rules adopted under division (E) (5) of 18665
section 939.02 of the Revised Code. 18666

(B) A person who fails to comply with division (A) of this 18667
section shall prepare and operate under a composting plan 18668
required by the director of agriculture under division (A) (2) of 18669
section 939.02 of the Revised Code. If the person's proposed 18670
composting plan is disapproved by the supervisors of the 18671
appropriate soil and water conservation district under division 18672
~~(S) (3)~~ (R) (3) of section 940.06 of the Revised Code, the person 18673
may appeal the plan disapproval to the director, who shall 18674
afford the person a hearing. Following the hearing, the director 18675
shall uphold the plan disapproval or reverse it. If the director 18676
reverses the disapproval, the plan shall be deemed approved. 18677

Sec. 940.02. There is hereby established in the department 18678
of agriculture the Ohio soil and water conservation commission. 18679
The commission shall consist of seven members of equal status 18680

and authority, six of whom shall be appointed by the governor 18681
with the advice and consent of the senate, and one of whom shall 18682
be designated by resolution of the board of directors of the 18683
Ohio federation of soil and water conservation districts. The 18684
directors of agriculture, environmental protection, and natural 18685
resources, the vice-president for agricultural administration of 18686
the Ohio state university, and an officer of the Ohio federation 18687
of soil and water conservation districts, or their designees, 18688
may serve as ex officio members of the commission, but without 18689
the power to vote. A vacancy in the office of an appointed 18690
member shall be filled by the governor, with the advice and 18691
consent of the senate. Any member appointed to fill a vacancy 18692
occurring prior to the expiration of the term for which the 18693
member's predecessor was appointed shall hold office for the 18694
remainder of that term. Of the appointed members, four shall be 18695
persons who have a knowledge of or interest in agricultural 18696
production and the natural resources of the state. One member 18697
shall represent rural interests and one member shall represent 18698
urban interests. Not more than three of the appointed members 18699
shall be members of the same political party. 18700

Terms of office of the member designated by the board of 18701
directors of the federation and the members appointed by the 18702
governor shall be for four years, commencing on the first day of 18703
July and ending on the thirtieth day of June. 18704

Each appointed member shall hold office from the date of 18705
appointment until the end of the term for which the member was 18706
appointed. Any appointed member shall continue in office 18707
subsequent to the expiration date of the member's term until the 18708
member's successor takes office, or until a period of sixty days 18709
has elapsed, whichever occurs first. 18710

The commission shall organize by selecting from its 18711
members a chairperson and a vice-chairperson. The commission 18712
shall hold at least one regular meeting in each quarter of each 18713
calendar year and shall keep a record of its proceedings, which 18714
shall be open to the public for inspection. Special meetings may 18715
be called by the chairperson and shall be called by the 18716
chairperson upon receipt of a written request signed by two or 18717
more members of the commission. Written notice of the time and 18718
place of each meeting shall be sent to each member of the 18719
commission. A majority of the commission shall constitute a 18720
quorum. 18721

~~The commission may adopt rules as necessary to carry out 18722
the purposes of this chapter, subject to Chapter 119. of the 18723
Revised Code. 18724~~

The governor may remove any appointed member of the 18725
commission at any time for inefficiency, neglect of duty, or 18726
malfeasance in office, after giving to the member a copy of the 18727
charges against the member and an opportunity to be heard 18728
publicly in person or by counsel in the member's defense. Any 18729
such act of removal by the governor is final. A statement of the 18730
findings of the governor, the reason for the governor's action, 18731
and the answer, if any, of the member shall be filed by the 18732
governor with the secretary of state and shall be open to public 18733
inspection. 18734

All members of the commission shall be reimbursed for the 18735
necessary expenses incurred by them in the performance of their 18736
duties as members. 18737

Upon recommendation by the commission, the director of 18738
agriculture shall designate an executive secretary and provide 18739
staff necessary to carry out the powers and duties of the 18740

commission. 18741

The commission shall do all of the following: 18742

(A) Determine distribution of funds under section 940.15 18743
of the Revised Code, recommend to the director and other 18744
agencies the levels of appropriations to special funds 18745
established to assist soil and water conservation districts, and 18746
recommend the amount of federal funds to be requested and 18747
policies for the use of such funds in support of soil and water 18748
conservation district programs; 18749

(B) Assist in keeping the board of supervisors of soil and 18750
water conservation districts informed of its powers and duties, 18751
program opportunities, and the activities and experience of all 18752
other districts, and facilitate the interchange of advice, 18753
experience, and cooperation between the districts; 18754

(C) Seek the cooperation and assistance of the federal 18755
government or any of its agencies, and of agencies of this 18756
state, in the work of the districts; 18757

(D) Adopt appropriate rules governing the conduct of 18758
elections provided for in this chapter, subject to Chapter 119. 18759
of the Revised Code, provided that only owners and occupiers of 18760
lands situated within the boundaries of the districts or 18761
proposed districts to which the elections apply shall be 18762
eligible to vote in the elections; 18763

(E) Recommend to the director priorities for planning and 18764
construction of small watershed projects, and make 18765
recommendations to the director concerning coordination of 18766
programs as proposed and implemented in agreements with soil and 18767
water conservation districts; 18768

(F) Recommend to the directors of agriculture, 18769

environmental protection, and natural resources, the governor, 18770
and the general assembly programs and legislation with respect 18771
to the operations of soil and water conservation districts that 18772
will encourage proper soil, water, and other natural resource 18773
management for farm, rural, suburban, and urban land and promote 18774
the economic and social development of the state; 18775

(G) Recommend to the director of agriculture a procedure 18776
for coordination of a program of agricultural pollution 18777
abatement. Implementation of such a program shall be based on 18778
water quality standards adopted pursuant to section 6111.041 of 18779
the Revised Code. The director of environmental protection may 18780
coordinate with the division of soil and water conservation in 18781
the department of agriculture and soil and water conservation 18782
districts for the abatement of agricultural pollution. 18783

Sec. 940.31. (A) At the conclusion of the hearing 18784
conducted under section 940.30 of the Revised Code, the board of 18785
county commissioners shall vote to approve or dismiss the 18786
petition. 18787

(B) The board may approve the petition if the board is 18788
reasonably certain that: 18789

(1) The benefits of the proposed improvement outweigh the 18790
costs. 18791

(2) The proposed improvement is necessary. 18792

(3) The proposed improvement will be conducive to the 18793
public welfare. 18794

(4) The proposed route and mode of construction of the 18795
improvement will improve water management and development in the 18796
county in which the district is located to the advantage of 18797
lands located in it. 18798

(5) The proposed improvement will aid lands in the area by promoting the economic, environmental, or social development of the area. 18799
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(C) When, in the opinion of the board of county commissioners, it is necessary for the board to acquire real property or a right-of-way or other easement for an improvement project under this chapter, the board may make the acquisition through purchase or voluntary transfer, or the board may appropriate the real property or right-of-way or other easement in accordance with sections 163.01 to 163.62 of the Revised Code. 18802
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(D) If the board approves a petition for an improvement, the county engineer shall file with the county recorder all of the following: 18810
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(1) A property plat showing the landowners of record and parcel numbers along the improvement; 18813
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(2) The location of the improvement; 18815

(3) The width of any permanent easement that is necessary for maintenance of the improvement granted in section 6137.12 of the Revised Code; 18816
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(4) An affidavit listing the landowners of record, complete property descriptions, and parcel numbers subject to the permanent easement. The county engineer shall note the property plat in the affidavit. 18819
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The county engineer shall include the permanent easement in the county's geographic information systems or other mapping system, if available. 18823
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In the case of an improvement that is an open ditch, 18826

provisions that govern the permanent easement for maintenance of the ditch that are established in section 6137.12 of the Revised Code apply.

(E) A board of county commissioners shall follow competitive bidding requirements in sections 307.86 to 307.91 of the Revised Code in constructing an improvement. However, the board may designate the board of supervisors of a soil and water conservation district as the contracting agency. The board of supervisors shall follow division ~~(H)~~(G) of section 940.06 of the Revised Code. If the improvement is being undertaken through the joint efforts and cooperation of the board of county commissioners or board of supervisors and another state or federal agency, and if the state or federal regulations or procedures are in conflict with those sections with respect to the procedures for the preparing of contracts, the issuing of bids, the making of awards, and generally the administering of the contracts, the board of county commissioners or board of supervisors may adopt the state or federal regulations or procedures in those areas where conflict exists and proceed with the improvement in accordance with the requirements of the state or federal regulations or procedures.

(F) If a board of county commissioners does not approve a petition for a proposed improvement, the applicable board of supervisors may revise the proposed improvement and submit the revision to the board of county commissioners for reconsideration of the petition.

Sec. 941.01. As used in this chapter:

(A) "Dangerously contagious or infectious disease" means any disease, including any foreign animal disease, or vector, that the director of agriculture, in the director's sound

discretion, determines to be of harmful effect on the animal or 18857
poultry industry or the public health and to be capable of 18858
transmission by any means from a carrier animal to a human or to 18859
another animal. 18860

(B) "Disease of concern" means any disease, including any 18861
foreign animal disease, or vector, that the director determines 18862
may have an adverse impact on the animal or poultry industry or 18863
to the public health in this state, but that is not a disease 18864
that is reportable to the United States department of 18865
agriculture. 18866

(C) "Geographic area" means any county or counties within 18867
this state or parts thereof as may be designated by the 18868
director. 18869

(D) "Animal" means any animal that is a bird, reptile, 18870
amphibian, fish, or mammal, other than humans. 18871

(E) "Domestic animal" includes livestock; other animals 18872
that through long association with humans have been bred to a 18873
degree resulting in genetic changes affecting the temperament, 18874
color, conformation, or other attributes of the species to an 18875
extent that makes them different from nondomestic animals of 18876
their kind; and other animals as defined ~~by rule~~ by the 18877
director. 18878

(F) "Foreign animal disease" means a contagious or 18879
infectious disease that is not present in United States domestic 18880
or nondomestic species populations and is listed by the United 18881
States department of agriculture as a "foreign animal disease." 18882

(G) "Nondomestic animal" means any animal that is not 18883
domestic, including at least nonindigenous animals and animals 18884
usually not in captivity. 18885

(H) "Poultry" means any domesticated fowl kept in confinement, except for doves and pigeons, that are bred for the primary purpose of producing eggs or meat for human consumption. "Poultry" includes chickens, turkeys, waterfowl, and game birds.

(I) "Vector" means a disease carrier, usually from, but not limited to, the arthropod class, that transfers an infectious agent that may transmit a dangerously contagious or infectious disease from one host to another.

(J) "Residue" means any poisonous or deleterious pesticide governed by 40 C.F.R. 180, any poisonous or deleterious substance governed by 21 C.F.R. 109.6, or any other substance governed by 21 C.F.R. 556.

(K) "Seal" means any band or object made of metal, plastic, or other material placed on a vehicle or other means of conveyance so that when the vehicle or conveyance is opened, the band or object is affected, altered, or broken.

Sec. 941.03. ~~(A)~~ The director of agriculture, under Chapter 119. of the Revised Code, may adopt ~~and enforce~~ rules to ~~carry out this chapter, including designating~~ designate a disease or vector as a dangerously contagious or infectious disease or as a disease of concern.

~~(B) No person shall fail to comply with the rules adopted by the director under division (A) of this section.~~

Sec. 941.99. (A) Whoever violates sections ~~941.03,~~ 941.05, 941.06, 941.08, 941.14, 941.24, 941.25, 941.54, 941.56, or division (C) of section 941.07, division (B) of section 941.09, division (C) of section 941.10, division (B) of section 941.11, or division (A) of section 941.55 of the Revised Code is guilty of a misdemeanor of the fourth degree. For each subsequent

violation, such person is guilty of a misdemeanor of the third degree. 18915
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(B) Whoever violates division (A), (C), or (D) of section 941.041 of the Revised Code is guilty of a misdemeanor of the first degree. 18917
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(C) Whoever violates division (B) of section 941.041 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense. On each subsequent violation, the person is guilty of a misdemeanor of the third degree. 18920
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(D) Except as otherwise provided in this section, whoever violates division (E) or (F) of section 941.041 of the Revised Code is guilty of a misdemeanor of the first degree. If the animal is found to be infected with or to have been exposed to a dangerously contagious or infectious disease or is adulterated with a residue or if the person previously has been convicted of or pleaded guilty to one violation of division (E) or (F) of section 941.041 of the Revised Code, the person is guilty of a felony of the fifth degree. Thereafter, on each subsequent violation, the person is guilty of a felony of the fourth degree. 18924
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Sec. 943.03. (A) (1) Application for a license as a dealer or broker shall be made in writing to the department of agriculture. The application shall state the nature of the business, the municipal corporation, township, and county, and the post-office address of the location where the business is to be conducted, the name of any employee authorized to act in the dealer's or broker's behalf, and such additional information as the department prescribes. 18935
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The applicant shall satisfy the department of the 18943

applicant's good faith in seeking to engage in such business. 18944
The department shall issue to the applicant a license to conduct 18945
the business of a dealer or broker at the place named in the 18946
application. Licenses, unless revoked, shall expire annually on 18947
the thirty-first day of March and shall be renewed according to 18948
the standard renewal procedure of sections 4745.01 to 4745.03 of 18949
the Revised Code. 18950

(2) No license shall be issued by the department to a 18951
dealer or broker having weighing facilities until the applicant 18952
has filed with the department a copy of a scale test certificate 18953
showing the weighing facilities to be in satisfactory condition, 18954
a copy of the license of each weigher employed by the applicant, 18955
and a certificate of inspection by the department showing 18956
livestock market facilities to be in satisfactory sanitary 18957
condition. 18958

(3) Except as provided in division (A) (4) of this section, 18959
no license shall be issued by the department until the applicant 18960
has furnished proof of financial responsibility. Except as 18961
provided in division (C) of this section, such proof may be in 18962
the following forms: 18963

(a) A bond of a surety company authorized to do business 18964
in this state in the form prescribed by and to the satisfaction 18965
of the department, conditioned for the payment of a judgment 18966
against the applicant furnishing the bond and arising out of the 18967
failure of such dealer or broker to pay for the livestock 18968
purchased for the dealer's or broker's own or for the accounts 18969
of others or to pay when due to the person entitled thereto the 18970
gross amount, less lawful charges, for which all of the 18971
livestock is sold. The amount of bond required, the termination 18972
of the bond, and the limitation on filing claims against the 18973

dealer or broker or their surety shall be the same as prescribed 18974
in division (B) of this section. 18975

(b) A deposit with a trustee acceptable to the department 18976
of the required amount in money or negotiable bonds of the 18977
United States or of this state or of a political subdivision of 18978
this state of that par or face value, or any combination 18979
thereof, for the purpose of securing the payment of a judgment 18980
against the dealer or broker furnishing the deposit and arising 18981
out of the failure of the dealer or broker to pay for the 18982
livestock purchased for the dealer's or broker's own or for the 18983
accounts of others, or to pay when due to the person entitled 18984
thereto the gross amount, less lawful charges, for which all of 18985
the livestock is sold. The deposit shall be made under a deposit 18986
agreement acceptable to the department. The deposit is not 18987
subject to attachment for any other claim or levy of execution 18988
upon a judgment based on any other claims. 18989

(4) An applicant for a license as a dealer or broker of 18990
poultry is not required to maintain financial responsibility or 18991
furnish proof of financial responsibility. 18992

(B) Any person damaged by failure of a dealer or broker to 18993
pay for the livestock purchased for the dealer's or broker's or 18994
for the accounts of others or to pay when due to the person 18995
entitled thereto the gross amount, less lawful charges, for 18996
which all of the livestock is sold may maintain an action 18997
against the broker or dealer and the sureties on the bonds, or 18998
the trustee, provided for in this section. The aggregate 18999
liability of the sureties or trustee for all such damage shall 19000
not exceed the amount of the bond or deposit. 19001

Unless the person damaged files a claim with the dealer or 19002
broker and the sureties or trustee within sixty days from the 19003

date of the transaction on which the claim is based, the person 19004
shall be barred from maintaining an action on the bond or for 19005
the application of the deposit. Upon the filing of a claim, the 19006
claimant shall notify the department of that action. 19007

The amount of the bond or deposit shall not be less than 19008
the nearest multiple of one thousand dollars above the average 19009
daily value of livestock sold by the dealer or broker for the 19010
accounts of others and livestock purchased by the dealer or 19011
broker for the dealer's or broker's or for the accounts of 19012
others on the dealer's or broker's ten largest business days 19013
during the preceding twelve months or such part thereof as the 19014
dealer or broker was purchasing, selling, or exchanging 19015
livestock. In no case shall the amount of the bond or deposit 19016
total less than ten thousand dollars. 19017

Whenever the amount of bond or deposit calculated as above 19018
specified exceeds fifty thousand dollars, the amount of the bond 19019
shall be fifty thousand dollars plus ten per cent of the 19020
valuation in excess of fifty thousand dollars. 19021

In no case shall the bond or deposit covering the business 19022
of the dealer or broker be less than the amount specified above 19023
or such higher amount as may be specified by the "Packer and 19024
Stockyards Act of 1921," 42 Stat. 159, 7 U.S.C.A. 181, as 19025
amended. 19026

Whenever in the judgment of the department the business 19027
volume of the licensee is such as to render the bond or deposit 19028
inadequate, the amount of the bond or deposit shall be adjusted, 19029
upon thirty days' notice, to meet sections 943.01 to 943.18 of 19030
the Revised Code ~~and rules adopted under them~~. All of the bonds 19031
or deposit agreements shall contain a provision requiring that 19032
at least thirty days' prior notice in writing be given to the 19033

department and the packers and stockyards administration of the 19034
United States department of agriculture by the party terminating 19035
the bonds or deposit agreements in order to effect termination, 19036
except that a bond may be terminated as of the effective date of 19037
a replacement bond. 19038

The termination of a bond shall not release the parties 19039
from any liability arising out of facts or transactions 19040
occurring prior to the termination date. 19041

The termination of a deposit agreement shall neither 19042
release the party furnishing the deposit from any liability 19043
arising out of acts or transactions occurring prior to the 19044
termination date, nor shall the trustee permit the withdrawal of 19045
the deposit until after sixty days after the termination date, 19046
and then only if no claims under the agreement have been filed 19047
with the trustee. If any claims have been filed with the 19048
trustee, the withdrawal of the deposit shall not be permitted 19049
until the claims have been satisfied or released and evidence of 19050
the satisfaction or release filed with the trustee. 19051

(C) If approved by the director of agriculture, in lieu of 19052
the bond or deposit required in division (A) (3) of this section, 19053
a broker or dealer subject to the "Packers and Stockyards Act of 19054
1921," 42 Stat. 159, 7 U.S.C.A. 181, as amended, may furnish 19055
proof in a manner and form acceptable to the director that the 19056
broker or dealer has an irrevocable letter of credit on file 19057
with the packers and stockyards administration under regulations 19058
adopted by the packers and stockyards administration in 9 C.F.R. 19059
201.35, as amended. 19060

(D) No licensed livestock dealer or broker shall employ as 19061
an employee a person who, as a dealer or broker, previously 19062
defaulted on contracts pertaining to the purchase, exchange, or 19063

sale of livestock until the licensee does both of the following: 19064

(1) Increases the value of the dealer's or broker's bond, 19065
deposit, or letter of credit, in addition to the amount of any 19066
other bond, deposit, or letter of credit required by this 19067
section, by an amount equal to that owed by such person for the 19068
purchase, exchange, or sale of livestock prior to being employed 19069
by the licensee; 19070

(2) Signs and files with the director an agreement that 19071
guarantees, without condition, all contracts pertaining to the 19072
purchase, exchange, or sale of livestock made by such person 19073
while in the employ of the licensee. The agreement shall be in 19074
addition to any other proof of financial responsibility required 19075
by this section. The director shall prescribe the form and 19076
content of the agreement. 19077

(E) No licensed livestock dealer or broker shall employ a 19078
person whose dealer's or broker's license was revoked or is 19079
suspended. 19080

Sec. 943.07. Each small dealer, dealer, or broker leasing, 19081
renting, operating, or owning livestock yards, pens, premises, 19082
or vehicles in which animals are quartered, fed, held, or 19083
transported, shall have a veterinary inspector approved by the 19084
department of agriculture, inspect, when directed, all such 19085
yards, premises, and vehicles and shall thoroughly and 19086
completely disinfect all such yards, pens, premises, and 19087
vehicles under the direction of the veterinary inspector and as 19088
prescribed by the department. The cost of the inspection and 19089
disinfection shall be borne by the small dealer, dealer, or 19090
broker. 19091

The department shall not require such veterinary 19092

inspection of yards, pens, premises, or other facilities where 19093
veterinary inspection is regularly maintained by the United 19094
States department of agriculture, or by the municipal 19095
corporation in which the same are located, or where livestock is 19096
transported to markets or slaughtering establishments where such 19097
inspection is maintained. 19098

The department may adopt adequate sanitary requirements 19099
covering the construction and maintenance of buildings, pens, 19100
and chutes on all premises regularly used for the assembling, 19101
receiving, handling, feeding, watering, holding, buying, or 19102
selling of livestock, ~~and may prescribe and enforce rules for~~ 19103
~~the purpose of carrying into effect sections. Sections~~ 943.01 to 19104
943.18 of the Revised Code. ~~These sections shall not apply to~~ 19105
railroads subject to the "Interstate Commerce Act of 1887," 24 19106
Stat. 379, 49 U.S.C.A. 1. 19107

Sec. 943.14. (A) The department of agriculture or any of 19108
its authorized agents may inspect the records of any licensee or 19109
employee at any time to determine the origin and destination of 19110
any livestock handled by the licensee and to determine if 19111
sections 943.01 to 943.18 of the Revised Code, ~~or the rules~~ 19112
~~adopted thereunder,~~ have been violated. 19113

(B) A small dealer, dealer, or broker, employee, or person 19114
described in division (B) (4) of section 943.01 of the Revised 19115
Code, who acquires or disposes of an animal by any means, shall 19116
make a record of the name and address of the person from whom 19117
the animal was acquired and to whom disposed. The record also 19118
shall show the individual identification of each animal at the 19119
time of acquisition or disposal. These records shall be 19120
maintained for a period of sixty months or longer from the date 19121
of acquisition or disposal. 19122

(C) The individual identification in division (B) of this section shall be in a manner or form approved by the department. 19123
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(D) A person who is a soliciting agent for a video auction pursuant to division (C) of section 943.02 of the Revised Code shall maintain records in a manner or form approved by the department. 19125
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Sec. 943.24. The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following: 19129
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(A) Requirements governing health monitoring and disease testing of monitored captive deer, captive deer with status, and captive deer with certified chronic wasting disease status, which testing may include, but is not limited to, testing for chronic wasting disease, brucellosis, and tuberculosis of such deer that are held at a facility licensed under section 1533.71 or 1533.721 of the Revised Code; 19132
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(B) Requirements governing captive whitetail deer licensees, including record-keeping requirements related to health monitoring and disease testing of monitored captive deer, captive deer with status, and captive deer with certified chronic wasting disease status; 19139
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(C) Requirements and procedures that are necessary to preserve the health, safety, and welfare of monitored captive deer, captive deer with status, or captive deer with certified chronic wasting disease status; 19144
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(D) Requirements and procedures governing the transfer of living game and nonnative wildlife, as defined in section 1531.01 of the Revised Code, from one wild animal hunting preserve licensed under section 1533.721 of the Revised Code to 19148
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another such wild animal hunting preserve; 19152

(E) Tagging requirements for captive deer with status and 19153
captive deer with certified chronic wasting disease status for 19154
such deer that are propagated pursuant to a captive white-tailed 19155
deer propagation license issued under section 1533.71 of the 19156
Revised Code; 19157

(F) Requirements governing the certification of captive 19158
deer with certified chronic wasting disease status; 19159

~~(G) Any other requirements or procedures that are 19160
necessary to administer and enforce sections 943.20 to 943.26 of 19161
the Revised Code. 19162~~

Sec. 947.06. ~~(A) The director of agriculture shall adopt 19163
rules, subject to Chapter 119. of the Revised Code, to 19164
implement, administer, and enforce this chapter. No person shall 19165
violate such a rule of the director. 19166~~

~~(B)~~ In cooperation with law enforcement officers in this 19167
and other states, the director of agriculture shall develop a 19168
uniform procedure for notifying livestock marketing and 19169
slaughtering establishments of reported livestock thefts and of 19170
any brands or other identifying marks on such livestock. 19171

~~(C)~~ (B) Moneys received by the director under sections 19172
947.01 to 947.06 of the Revised Code shall be deposited in the 19173
state treasury to the credit of the animal and consumer 19174
protection laboratory fund created in section 901.43 of the 19175
Revised Code. 19176

Sec. 947.99. (A) Whoever violates section 947.04 of the 19177
Revised Code is guilty of a misdemeanor of the second degree. 19178

(B) Whoever violates division (A) or (B) of section 947.05 19179

of the Revised Code is guilty of a felony of the fourth degree. 19180

(C) Whoever violates division (C) of section 947.05 of the 19181
Revised Code is guilty of a misdemeanor of the first degree. 19182

(D) Whoever violates division (D) of section 947.05 of the 19183
Revised Code is guilty of a minor misdemeanor. 19184

(E) Whoever violates a rule of the director of agriculture 19185
adopted under section ~~947.06~~ or 947.11 of the Revised Code is 19186
guilty of a misdemeanor of the third degree. 19187

Sec. 955.52. (A) (1) The department of agriculture shall 19188
hear claims that are approved by the dog warden and supported by 19189
the wildlife officer pursuant to section 955.51 of the Revised 19190
Code in the order of their filing and may allow the claims in 19191
full or in part, or may disallow any claim, as the testimony and 19192
information submitted under that section show to be just. The 19193
department shall make the final determination of the fair market 19194
value of any animal that is the subject of a claim. 19195

If the animal that is the subject of a claim dies as a 19196
result of the injuries that it received from a predator, the 19197
amount of indemnity is the fair market value of the animal on 19198
the date of its death. If the animal that is the subject of a 19199
claim does not die as a result of the injuries that it received 19200
from a predator, the amount of indemnity is the fair market 19201
value of the animal on the date that it received its injuries. 19202
If the animal that is the subject of a claim is registered or 19203
eligible for registration as described in division (B) of 19204
section 955.51 of the Revised Code, the amount of indemnity is 19205
one hundred twenty-five per cent of the fair market value of the 19206
animal on the date that the animal was killed or injured. If the 19207
date of death or injury of an animal cannot be determined, the 19208

amount of indemnity shall be based on the fair market value of 19209
the animal on the date that the animal was discovered by its 19210
owner. 19211

(2) If the owner of an animal does not agree with the 19212
department's determination of the animal's fair market value, 19213
the owner may appeal the determination in accordance with 19214
Chapter 119. of the Revised Code. 19215

(3) The department shall certify any claim or part of a 19216
claim that has been found to be valid under division (A) (1) of 19217
this section. Claims certified in accordance with this section 19218
shall be paid out of money that has been appropriated from the 19219
general revenue fund for the purposes of sections 955.51 to 19220
955.53 of the Revised Code, except that no claim shall be paid 19221
from that money if either of the following applies: 19222

(a) A claim for the same loss or injury has been paid or 19223
is payable under a policy or policies of insurance. However, a 19224
claim may be paid for the amount of any deductible paid or 19225
payable by the claimant under such insurance. 19226

(b) The owner of an animal who otherwise would receive 19227
indemnity under a claim has been paid more than five hundred 19228
dollars within the immediately preceding calendar year from 19229
money so appropriated. However, that owner may be paid if the 19230
owner has implemented a voluntary animal damage control plan 19231
that meets the requirements established in rules adopted under 19232
division (D) of this section. 19233

(B) If at any time the money that has been appropriated 19234
from the general revenue fund for the purposes of sections 19235
955.51 to 955.53 of the Revised Code for a fiscal year is not 19236
sufficient to pay certified claims, the department shall 19237

disapprove those claims. Any claim that has been disapproved due 19238
to lack of money shall not be resubmitted. 19239

(C) The department either may assist owners in developing 19240
and implementing a voluntary animal damage control plan to 19241
prevent and minimize loss or injury to animals by predators or 19242
may enter into an agreement with another state agency, a federal 19243
agency, or a person to provide such assistance. The department 19244
may use no more than fifty per cent or twenty-five thousand 19245
dollars, whichever is less, of the money that is appropriated 19246
for the purposes of sections 955.51 to 955.53 of the Revised 19247
Code to pay the costs incurred by the department for either 19248
providing assistance under this division or entering into an 19249
agreement under this division to provide that assistance. 19250

(D) The director of agriculture shall adopt rules in 19251
accordance with Chapter 119. of the Revised Code ~~that are~~ 19252
~~necessary to administer sections 955.51 to 955.53 of the Revised~~ 19253
~~Code, including rules that~~ establish requirements governing 19254
voluntary animal damage control plans. 19255

Sec. 956.03. (A) The director of agriculture shall adopt 19256
rules in accordance with Chapter 119. of the Revised Code 19257
establishing all of the following: 19258

(1) Requirements and procedures governing high volume 19259
breeders, including the licensing and inspection of and record 19260
keeping by high volume breeders, in addition to the requirements 19261
and procedures established in this chapter. The rules shall 19262
include a requirement that a high volume breeder keep and 19263
maintain a record of veterinary care for each dog kept, housed, 19264
and maintained by the high volume breeder. The rules shall 19265
require the records to be kept and maintained for three years 19266
after the care is provided by a veterinarian. 19267

(2) Requirements and procedures for conducting background investigations of each applicant for a license issued under section 956.04 of the Revised Code in order to determine if the applicant has been convicted of or pleaded guilty to an offense the director determines is a disqualifying offense under section 9.79 of the Revised Code;

(3) Requirements and procedures governing dog brokers, including the licensing of and record keeping by dog brokers, in addition to the requirements and procedures established in this chapter;

(4) The form of applications for licenses issued under this chapter and the information that is required to be submitted in the applications;

(5) The form of an application for registration and registration renewal as an animal rescue for dogs under this chapter and the information that is required to be provided with a registration or registration renewal, including the name and address of each foster home that an animal rescue for dogs utilizes;

(6) A requirement that each high volume breeder submit to the director, with an application for a high volume breeder license, evidence of insurance or, in the alternative, evidence of a surety bond payable to the state to ensure compliance with this chapter and rules adopted under it. The face value of the insurance coverage or bond shall be in the following amounts:

(a) Five thousand dollars for high volume breeders keeping, housing, and maintaining not more than twenty-five adult dogs;

(b) Ten thousand dollars for high volume breeders keeping,

housing, and maintaining at least twenty-six adult dogs, but not more than fifty adult dogs;	19297 19298
(c) Fifty thousand dollars for high volume breeders keeping, housing, and maintaining more than fifty adult dogs.	19299 19300
The rules shall require that the insurance be payable to the state or that the surety bond be subject to redemption by the state, as applicable, upon a suspension or revocation of a high volume breeder license for the purpose of paying for the maintenance and care of dogs that are seized or otherwise impounded from the high volume breeder in accordance with this chapter.	19301 19302 19303 19304 19305 19306 19307
(7) (a) For high volume breeders, standards of care governing all of the following:	19308 19309
(i) Housing;	19310
(ii) Nutrition;	19311
(iii) Exercise;	19312
(iv) Grooming;	19313
(v) Biosecurity and disease control;	19314
(vi) Waste management;	19315
(vii) Whelping;	19316
(viii) Any other general standards of care for dogs.	19317
(b) In adopting rules under division (A) (7) (a) of this section, the director shall consider the following factors, without limitation:	19318 19319 19320
(i) Best management practices for the care and well-being of dogs;	19321 19322

(ii) Biosecurity;	19323
(iii) The prevention of disease;	19324
(iv) Morbidity and mortality data;	19325
(v) Generally accepted veterinary medical standards and ethical standards established by the American veterinary medical association;	19326 19327 19328
(vi) Standards established by the United States department of agriculture under the federal animal welfare act as defined in section 959.131 of the Revised Code.	19329 19330 19331
(8) Procedures for inspections conducted under section 956.10 of the Revised Code in addition to the procedures established in that section, and procedures for making records of the inspections;	19332 19333 19334 19335
(9) (a) A requirement that an in-state retailer of a puppy or adult dog provide to the purchaser the complete name, address, and telephone number of all high volume breeders, dog brokers, and private owners that kept, housed, or maintained the puppy or adult dog prior to its coming into the possession of the retailer or proof that the puppy or adult dog was acquired through an animal rescue for dogs, animal shelter for dogs, or humane society, or a valid health certificate from the state of origin pertaining to the puppy or adult dog;	19336 19337 19338 19339 19340 19341 19342 19343 19344
(b) A requirement that an out-of-state retailer of a puppy or adult dog that is conducting business in this state provide to the purchaser a valid health certificate from the state of origin pertaining to the puppy or adult dog and the complete name, address, and telephone number of all breeders, brokers, and private owners that kept, housed, or maintained the puppy or adult dog prior to its coming into the possession of the	19345 19346 19347 19348 19349 19350 19351

retailer or proof that the puppy or adult dog was acquired 19352
through an animal rescue for dogs, animal shelter for dogs, or 19353
humane society in this state or another state. 19354

(10) A requirement that a high volume breeder or a dog 19355
broker who advertises the sale of a puppy or adult dog include 19356
with the advertisement the vendor number assigned by the tax 19357
commissioner to the high volume breeder or to the dog broker if 19358
the sale of the puppy or dog is subject to the tax levied under 19359
Chapter 5739. of the Revised Code; 19360

(11) A requirement that a licensed high volume breeder and 19361
a licensed dog broker comply with Chapter 5739. of the Revised 19362
Code. The rules shall authorize the director to suspend or 19363
revoke a license for failure to comply with that chapter. The 19364
director shall work in conjunction with the tax commissioner for 19365
the purposes of rules adopted under this division. 19366

(12) Requirements and procedures governing pet stores, 19367
including requirements and procedures governing the initial 19368
licensing of pet stores and the renewal of pet store licenses; 19369

(13) The application form for a license issued under 19370
division (A) of section 956.21 of the Revised Code and the 19371
information that is required to be submitted in the application; 19372

(14) Requirements governing permanent implanted 19373
identification microchips for dogs to be sold at a pet store and 19374
by a dog broker; 19375

~~(15) Any other requirements and procedures that are 19376
determined by the director to be necessary for the 19377
administration and enforcement of this chapter and rules adopted 19378
under it. However, rules adopted under this division shall not 19379
establish additional requirements and procedures governing 19380~~

~~animal rescues for dogs other than those adopted under division
(A) (5) of this section.~~ 19381
19382

(B) The director of agriculture may adopt rules in 19383
accordance with Chapter 119. of the Revised Code establishing 19384
disease testing protocols and vaccination requirements for dogs 19385
to be sold at a pet store. 19386

Sec. 956.041. (A) As used in this section, "out-of-state 19387
dog breeder" means a dog breeder located outside of this state 19388
that, if located in this state, would be a high volume breeder. 19389

(B) A dog broker or the owner or operator of a pet store 19390
that seeks to purchase a dog from an in-state high volume 19391
breeder or out-of-state dog breeder, prior to completing the 19392
transaction, shall request the breeder to sign a document 19393
prescribed and provided by the director of agriculture. The 19394
document shall state that the in-state high volume breeder or 19395
out-of-state dog breeder is in compliance with the standards of 19396
care established in rules adopted under section 956.03 and in 19397
section 956.031 of the Revised Code. The broker or owner or 19398
operator shall keep and maintain the signed document. If the in- 19399
state high volume breeder or out-of-state dog breeder does not 19400
provide the signed document, the broker or owner or operator 19401
shall not purchase the dog. 19402

The broker or owner or operator shall allow the director 19403
to inspect the signed document during normal business hours. 19404
With respect to a pet store, the requirements established under 19405
this section are in addition to the requirements established 19406
under section 956.20 of the Revised Code. 19407

(C) No dog broker or owner or operator of a pet store 19408
shall knowingly sell a dog unless the broker or owner or 19409

operator has obtained a signed document with respect to the dog 19410
as required under division (B) of this section. The director 19411
shall not assess a civil penalty under section 956.13 of the 19412
Revised Code against a dog broker or the owner or operator of a 19413
pet store for a violation of this division if the broker or 19414
owner or operator has obtained such a document with regard to 19415
the dog. 19416

~~(D) The director shall adopt rules in accordance with 19417
Chapter 119. of the Revised Code that establish requirements and 19418
procedures governing the administration and enforcement of this 19419
section. 19420~~

Sec. 1112.08. (A) Upon the conclusion of the investigation 19421
required under section 1112.07 of the Revised Code, the 19422
superintendent of financial institutions shall issue a license 19423
to the applicant if the superintendent finds that all of the 19424
following conditions are met: 19425

(1) The applicant is organized as a corporation or limited 19426
liability company under the laws of this state. 19427

(2) The articles of incorporation or articles of 19428
organization of the applicant contain both of the following: 19429

(a) A name for the family trust company that includes 19430
"family trust company" or "FTC" and that distinguishes it from 19431
any trust company licensed under Chapter 1111. of the Revised 19432
Code or any other family trust company licensed under this 19433
chapter; 19434

(b) The purpose for which it is formed, including a 19435
statement that its services will be provided only to family 19436
clients of a designated relative. 19437

(3) The individuals who will serve as directors or 19438

officers of the corporation, or the managers or family members 19439
acting in a managerial capacity for the limited liability 19440
company, as applicable: 19441

(a) Have a reputation for honesty, trustworthiness, and 19442
integrity and display competence to transact the business of a 19443
licensed family trust company; 19444

(b) Have not been convicted of, or pleaded guilty or nolo 19445
contendere to, a felony or any crime involving fraud, 19446
misrepresentation, or moral turpitude; 19447

(c) Have not made a false statement of material fact on 19448
the application; 19449

(d) Have not had a license issued under Chapter 1111. of 19450
the Revised Code or under this chapter suspended or revoked 19451
within the ten years immediately preceding the date of the 19452
application; 19453

(e) Have not had a trust company license issued in any 19454
other state or any foreign country suspended or revoked within 19455
the ten years immediately preceding the date of the application; 19456

(f) Have not failed to comply with any of the provisions 19457
of this chapter ~~or any rule adopted thereunder~~ that, in the 19458
judgment of the superintendent, would render the person unfit 19459
for the proposed position. 19460

(4) The qualifications of the directors and the president, 19461
vice-presidents, and treasurer of the corporation, or the 19462
managers and family members acting in a managerial capacity for 19463
the limited liability company, as applicable, are consistent 19464
with their responsibilities and duties. 19465

(5) The initial stockholders' equity meets the minimum 19466

requirement set forth in division (E) (2) of section 1112.14 of
the Revised Code. 19467
19468

(B) If the superintendent does not find that all of the 19469
conditions set forth in division (A) of this section have been 19470
met, the superintendent shall enter an order denying the 19471
application and notify the applicant of the denial and the 19472
applicant's reasonable opportunity to be heard in accordance 19473
with Chapter 119. of the Revised Code, excepting any such 19474
related hearings shall not be open to the public. The notice 19475
shall be in writing, either served personally or sent by 19476
certified mail. 19477

Sec. 1112.24. (A) The superintendent of financial 19478
institutions may revoke a license issued under this chapter if, 19479
after notice and an opportunity for hearing in accordance with 19480
Chapter 119. of the Revised Code (which hearing shall not be 19481
open to the public), the superintendent finds either of the 19482
following: 19483

(1) An officer or director of, or any manager or family 19484
member acting in a managerial capacity for, the licensed family 19485
trust company has failed to comply with any provision of this 19486
chapter. 19487

(2) The licensed family trust company, or any person 19488
authorized to act on its behalf, refuses to allow the 19489
superintendent or any deputy or examiner appointed by the 19490
superintendent to inspect all books, records, papers, and 19491
effects related to the family trust company's business. 19492

(B) In addition to any other remedy provided under this 19493
chapter, the superintendent may impose a fine of not more than 19494
ten thousand dollars upon either of the following: 19495

(1) A person who fails to comply with any provision of this chapter or any rule adopted thereunder;	19496 19497
(2) A family trust company that is not licensed under this chapter that operates in any manner that is authorized only for licensed family trust companies.	19498 19499 19500
Sec. 1115.05. (A) As used in this section:	19501
(1) "Acquire" or "acquisition" means any of the following transactions or actions:	19502 19503
(a) A merger or consolidation with, or purchase of assets from, a bank holding company that has acquired an Ohio bank;	19504 19505
(b) The acquisition of the direct or indirect ownership or control of voting shares of an Ohio bank if, after the acquisition, the acquiring bank holding company will directly or indirectly own or control the Ohio bank, unless the superintendent of financial institutions determines, in the superintendent's discretion, due to the nature of the acquisition, it should not be subject to the limitations of this section;	19506 19507 19508 19509 19510 19511 19512 19513
(c) The merger or consolidation of an Ohio bank with, or the transfer of assets from an Ohio bank to, another bank, whether previously existing or chartered for the purpose of the transaction;	19514 19515 19516 19517
(d) Any other action that results in the direct or indirect control of an Ohio bank.	19518 19519
(2) "Ohio bank" means a state bank or a national bank whose principal place of business is in this state.	19520 19521
(B) Subject to division (C) of this section, a bank, bank holding company, federal savings association, or savings and	19522 19523

loan holding company whose principal place of business is in 19524
this state or any other state may charter or otherwise acquire 19525
an Ohio bank, and a bank may acquire banking offices in this 19526
state by merger or consolidation with or transfer of assets and 19527
liabilities from a bank, savings bank, or savings association 19528
that has offices in this state, if, upon consummation of the 19529
acquisition, both of the following will apply: 19530

(1) The acquiring bank, bank holding company, federal 19531
savings association, or savings and loan holding company, with 19532
or through its affiliate banks, savings banks, and savings 19533
associations, does not control more than ten per cent of the 19534
total deposits of banks, savings banks, and savings associations 19535
in the United States, and either of the following applies: 19536

(a) The acquiring bank, acquiring bank holding company, 19537
federal savings association, or savings and loan holding 19538
company, with or through its affiliate banks, savings banks, and 19539
savings associations, does not control more than thirty per cent 19540
of the total deposits of banks, savings banks, and savings 19541
associations in this state. 19542

(b) The acquiring bank, acquiring bank holding company, 19543
federal savings association, or savings and loan holding 19544
company, with or through its affiliate banks, savings banks, and 19545
savings associations, controls more than thirty per cent of the 19546
total deposits of banks, savings banks, and savings associations 19547
in this state, and the superintendent approved the acquisition 19548
after determining the anticompetitive effects of the acquisition 19549
were clearly outweighed in the public interest by the probable 19550
effect of the transaction. 19551

(2) Except in the case of a foreign bank subject to 19552
Chapter 1119. of the Revised Code or a bank that by the terms of 19553

its articles of incorporation or association is not permitted to 19554
solicit or accept deposits other than trust funds, the Ohio bank 19555
or any bank that has banking offices in this state will be an 19556
insured bank as defined in section 3(h) of the "Federal Deposit 19557
Insurance Act," 92 Stat. 614 (1978), 12 U.S.C.A. 1813(h). 19558

(C) (1) Any bank holding company proposing to charter a 19559
state bank under this section shall comply with Chapter 1113. or 19560
1114. of the Revised Code ~~and any rules adopted to implement~~ 19561
~~that chapter.~~ 19562

(2) If, after the proposed acquisition, the acquiring bank 19563
or bank holding company will control an existing state bank the 19564
acquiring bank or bank holding company did not control before 19565
the acquisition, and the acquisition does not include the merger 19566
or consolidation of the existing state bank with another bank, 19567
the acquiring bank or bank holding company shall comply with 19568
section 1115.06 of the Revised Code ~~and any rules adopted to~~ 19569
~~implement that section.~~ 19570

(3) If the proposed acquisition will be accomplished by 19571
means of a merger or consolidation with a state bank and the 19572
resulting bank of the merger or consolidation will be a state 19573
bank, the state bank shall comply with section 1115.11 of the 19574
Revised Code ~~and any rules adopted to implement that section.~~ 19575

(4) If the proposed acquisition will be accomplished by 19576
means of a transfer of assets and liabilities to a state bank, 19577
the state bank shall comply with section 1115.14 of the Revised 19578
Code ~~and any rules adopted to implement that section.~~ 19579

(5) If the proposed acquisition will be accomplished by 19580
forming a bank to which the bank to be acquired will transfer 19581
assets and liabilities, or with which the bank to be acquired 19582

will be merged or consolidated and the resulting bank will be a 19583
state bank, the acquiring bank holding company shall comply with 19584
section 1115.23 of the Revised Code ~~and any rules adopted to~~ 19585
~~implement that section.~~ 19586

Sec. 1115.06. (A) As used in this section: 19587

(1) "Control" of a state bank means either of the 19588
following: 19589

(a) Power, directly or indirectly, to direct the 19590
management or policies of a state bank; 19591

(b) Ownership or control of or power to vote twenty-five 19592
per cent or more of any class of voting securities of a state 19593
bank. 19594

(2) "State bank" includes any bank holding company that 19595
controls a state bank, and any other company that controls a 19596
state bank and is not a bank holding company. 19597

(B) (1) No person, acting directly or indirectly or through 19598
or in concert with one or more other persons, shall acquire 19599
control of a state bank through a purchase, assignment, 19600
transfer, pledge, or other disposition of voting securities of a 19601
state bank unless the superintendent of financial institutions 19602
has been given sixty days' prior written notice of the proposed 19603
acquisition and within that sixty days the superintendent has 19604
not done either of the following: 19605

(a) Disapproved the acquisition; 19606

(b) Extended the time during which the superintendent may 19607
disapprove the acquisition, as provided in division (B) (2) of 19608
this section. 19609

(2) The superintendent may extend the time during which 19610

the superintendent may disapprove a proposed acquisition of control, as follows:

(a) For an additional thirty days in the discretion of the superintendent;

(b) For two additional extensions of not more than forty-five days each, if any of the following applies:

(i) The superintendent determines any acquiring party has not furnished all of the information required under division (C) of this section.

(ii) In the superintendent's judgment, any material information submitted is substantially inaccurate.

(iii) The superintendent has been unable to complete the investigation of an acquiring person under division (E)(1) of this section because of any delay caused by, or the inadequate cooperation of, that acquiring person.

(iv) The superintendent determines additional time is needed to investigate and determine whether any acquiring person has a record of failing to comply with the requirements of subchapter II of chapter 53 of subtitle IV of Title 31 of the United States Code.

(3) An acquisition may be made prior to the expiration of the disapproval period if the superintendent issues written notice of the superintendent's intent not to disapprove the acquisition of control.

(C) A notice required under division (B) of this section shall contain such information as the superintendent may require by rule.

(D) Unless the superintendent determines an emergency

exists or disclosure of a proposed acquisition of control would 19639
seriously threaten the safety or soundness of the state bank, 19640
each person who gives a notice required under division (B) of 19641
this section shall, within a reasonable time after receiving the 19642
superintendent's acceptance of the notice, do both of the 19643
following: 19644

(1) Publish the name of the state bank proposed to be 19645
acquired and the name of each person identified in the notice as 19646
a person by whom or for whom the acquisition is to be made; 19647

(2) Solicit public comment on the proposed acquisition, 19648
particularly from persons in the geographic area where the state 19649
bank proposed to be acquired is located, before final 19650
consideration of the notice by the superintendent. 19651

(E) Upon accepting a notice required under division (B) of 19652
this section, the superintendent shall do both of the following: 19653

(1) Conduct an investigation of the competence, 19654
experience, integrity, and financial ability of each person 19655
named in the notice as a person by whom or for whom the 19656
acquisition is to be made; 19657

(2) Make an independent determination of the accuracy and 19658
completeness of all information required to be in the notice. 19659

(F) The superintendent may disapprove any proposed 19660
acquisition of control if the superintendent finds any of the 19661
following: 19662

(1) The proposed acquisition of control would result in a 19663
monopoly or further any combination or conspiracy to monopolize 19664
or to attempt to monopolize the business of banking in any part 19665
of this state or any markets served by the state bank. 19666

(2) The effect of the proposed acquisition of control in any part of this state and any markets served by the state bank may be to substantially lessen competition, tend to create a monopoly, or in any other manner restrain trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served.

(3) The financial condition of any acquiring person might jeopardize the financial stability of the state bank or prejudice the interests of the depositors of the state bank.

(4) The competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the state bank, or in the interest of the public, to permit the acquiring person to control the state bank.

(5) The acquiring person neglects, fails, or refuses to furnish to the superintendent all of the information required by the superintendent.

(6) The superintendent determines the proposed transaction would have an adverse effect on the deposit insurance fund administered by the federal deposit insurance corporation.

(G) Within three days after deciding to disapprove any proposed acquisition of control of a state bank, the superintendent shall notify the acquiring person in writing of the disapproval. The notice of disapproval shall provide a statement of the basis for the disapproval.

(H) Within ten days after receipt of a notice of the disapproval, the acquiring person may, in accordance with

Chapter 119. of the Revised Code, request a hearing conducted in 19696
accordance with that chapter on the proposed acquisition. 19697

(I) Whenever a change in control of a state bank occurs, 19698
the state bank shall promptly report to the superintendent any 19699
changes in or replacement of its chief executive officer or of 19700
any director that occurs in the next twelve-month period, and 19701
include in the report a statement of the past and current 19702
business and professional affiliations of the new chief 19703
executive officer or director. 19704

(J) (1) The superintendent may exercise any authority 19705
vested in the superintendent under Chapter 1121. of the Revised 19706
Code in the course of conducting any investigation under 19707
division (E) of this section or any other investigation the 19708
superintendent, in the superintendent's discretion, considers 19709
necessary to determine whether any person has filed inaccurate, 19710
incomplete, or misleading information under this section or 19711
otherwise is violating, has violated, or is about to violate any 19712
provision of this section ~~or any rule implementing this section.~~ 19713

(2) Whenever it appears to the superintendent any person 19714
is violating, has violated, or is about to violate any provision 19715
of this section ~~or any rule implementing this section,~~ the 19716
superintendent may, in the superintendent's discretion, apply to 19717
the court of common pleas of any county in which the state bank 19718
is doing business for either of the following: 19719

(a) A temporary or permanent injunction or restraining 19720
order enjoining the person from violating this section ~~or any~~ 19721
~~rule implementing this section;~~ 19722

(b) Other equitable relief, including divestiture, that 19723
may be necessary to prevent violation of this section ~~or of any~~ 19724

~~rule implementing this section.~~ 19725

(3) (a) The courts of this state have the same jurisdiction 19726
and power in connection with the exercise of any authority by 19727
the superintendent under this section as they have under Chapter 19728
1121. of the Revised Code. 19729

(b) The courts of this state have jurisdiction and power 19730
to issue any injunction or restraining order or grant any 19731
equitable relief described in division (J) (2) of this section. 19732
When a court finds it appropriate, the court may grant the 19733
injunction, order, or other equitable relief without requiring 19734
the posting of any bond. 19735

(K) The resignation, termination of employment or 19736
participation, divestiture of control, or separation of or by a 19737
regulated person, including a separation caused by the closing 19738
of a state bank, shall not affect the jurisdiction and authority 19739
of the superintendent to issue any notice and otherwise proceed 19740
under this section against the regulated person, if the notice 19741
is issued no later than six years after the date of the 19742
regulated person's resignation, termination of employment or 19743
participation, or separation from or divestiture of control of a 19744
state bank. 19745

For purposes of this division, "regulated person" has the 19746
same meaning as in section 1121.01 of the Revised Code. 19747

Sec. 1115.24. (A) As used in this section: 19748

(1) "Applicant" means the person or persons seeking a 19749
shelf charter under this section. 19750

(2) "Control" has the same meaning as in section 1115.06 19751
of the Revised Code ~~and any rules adopted under that section.~~ 19752

(3) "Shelf charter" means the preliminary conditional approval of a charter.	19753 19754
(B) The superintendent of financial institutions may, at the superintendent's sole discretion, grant a shelf charter to an applicant intending or desiring to enter into a transaction resulting in any of the following:	19755 19756 19757 19758
(1) Formation of an interim bank under this chapter to be used for the transactions contemplated by this section;	19759 19760
(2) Acquisition of control of a designated or undesignated state bank;	19761 19762
(3) Acquisition of control of a designated or undesignated bank chartered by the banking authority of any other state or the United States that the person or persons intend to convert to a state bank;	19763 19764 19765 19766
(4) Acquisition of assets from and assumption of liabilities, pursuant to this chapter, of a bank or from the federal deposit insurance corporation as receiver of a designated or undesignated bank headquartered in this state or any other state that the person or persons intend to convert to a state bank;	19767 19768 19769 19770 19771 19772
(5) Formation of a de novo bank pursuant to Title XI of the Revised Code.	19773 19774
(C) The superintendent shall prescribe the form for an application for a shelf charter. After reviewing an application, the superintendent may require the applicant to submit any additional information or documentation the superintendent considers necessary and appropriate. Factors to be considered by the superintendent shall include all of the following:	19775 19776 19777 19778 19779 19780

(1) The availability of adequate capital for the transaction;	19781 19782
(2) The existence of acceptable business plans;	19783
(3) Whether acceptable management, directors, and control persons are identified;	19784 19785
(4) Whether all necessary approvals from state and federal agencies have been secured.	19786 19787
(D) (1) A shelf charter granted under this section, and any final approval for a transaction described in division (B) of this section, shall be subject to such conditions and ongoing requirements as the superintendent considers appropriate.	19788 19789 19790 19791
(2) An applicant granted a shelf charter under this section shall not exercise control over the bank or consummate the transaction authorized by the charter until the superintendent gives final approval of the transaction.	19792 19793 19794 19795
(E) A shelf charter shall expire twenty-four months after the date it is granted, subject to the following:	19796 19797
(1) The superintendent may extend the expiration date at any time sua sponte or upon approval by the superintendent of a written request for an extension submitted by the person or persons to whom the shelf charter was granted.	19798 19799 19800 19801
(2) The person or persons to whom the shelf charter was granted may withdraw it at any time.	19802 19803
(3) The superintendent may modify, suspend, or revoke any shelf charter granted under this section.	19804 19805
(F) Pursuant to the authority granted under section 1121.03 of the Revised Code, the superintendent may adopt rules	19806 19807

~~and issue interpretive guidelines the superintendent considers~~ 19808
~~necessary and appropriate for the implementation of this~~ 19809
~~section.~~ 19810

Sec. 1123.02. (A) The banking commission shall hold 19811
regular meetings at the times and places it fixes, and shall 19812
meet at any time on call of the deputy superintendent for banks 19813
upon two days' notice unless the commission by resolution 19814
provides for a shorter notice. 19815

(B) A majority of the full commission constitutes a 19816
quorum, and action taken by a majority of those present at a 19817
meeting at which there is a quorum constitutes the action of the 19818
commission. 19819

(C) No member shall participate before the commission in a 19820
proceeding involving any bank of which the member is, or was at 19821
any time in the preceding twelve months, a member of the board 19822
of directors, an officer, an employee, or a shareholder. A 19823
member may refrain from participating in a proceeding before the 19824
commission for any other cause the member considers sufficient. 19825

(D) The commission may, by a majority vote of those 19826
present at a meeting at which there is a quorum, adopt and amend 19827
bylaws ~~and rules~~ the commission, in its judgment, considers 19828
necessary and proper. The commission shall select one of its 19829
members as secretary, who shall keep a record of all its 19830
proceedings. 19831

Sec. 1181.08. ~~(A) In addition to the specific authority~~ 19832
~~given the superintendent of financial institutions by other~~ 19833
~~provisions of the Revised Code, the superintendent may from time~~ 19834
~~to time adopt such rules as the superintendent considers~~ 19835
~~necessary or appropriate for the administration of the division~~ 19836

~~of financial institutions or to carry out any other duty of the~~ 19837
~~superintendent.~~ 19838

~~(B)~~ The superintendent shall not adopt any rule that has a 19839
retroactive effective date or apply any rule to conduct that 19840
took place exclusively before the effective date of that rule. 19841

Sec. 1181.21. (A) As used in this section, "consumer 19842
finance company" has the same meaning as in section 1181.05 of 19843
the Revised Code. 19844

(B) The superintendent of financial institutions shall see 19845
that the laws relating to consumer finance companies are 19846
executed and enforced. 19847

(C) The deputy superintendent for consumer finance shall 19848
be the principal supervisor of consumer finance companies. In 19849
that position the deputy superintendent for consumer finance 19850
shall, notwithstanding section 1321.421, division (A) of section 19851
1321.76, and sections 1321.07, 1321.55, 1322.34, 4727.05, and 19852
4728.05 of the Revised Code, be responsible for conducting 19853
examinations and preparing examination reports under those 19854
sections and under Chapter 4712. of the Revised Code. In 19855
addition, the deputy superintendent for consumer finance shall, 19856
notwithstanding sections 1315.27, 1321.10, ~~1321.43, 1321.54,~~ 19857
~~1321.77, 1322.57,~~ 4712.14, 4727.13, and 4728.10 of the Revised 19858
Code, have the authority to adopt rules and standards in 19859
accordance with those sections. In performing or exercising any 19860
of the examination, rule-making, or other regulatory functions, 19861
powers, or duties vested by this division in the deputy 19862
superintendent for consumer finance, the deputy superintendent 19863
for consumer finance shall be subject to the control of the 19864
superintendent of financial institutions and the director of 19865
commerce. 19866

Sec. 1181.23. (A) The superintendent of financial 19867
institutions may require persons licensed or registered by the 19868
division of financial institutions to participate in a 19869
multistate licensing system. 19870

(B) (1) If the superintendent requires use of a multistate 19871
licensing system, the superintendent may establish, by ~~rule,~~ 19872
~~regulation, or order,~~ requirements as necessary to enable 19873
information required by existing statutes providing for 19874
licensing or registration to be submitted to the superintendent 19875
through the multistate licensing system. 19876

(2) The superintendent shall not adopt a requirement in 19877
conflict with a provision of the Revised Code, but may add to 19878
existing requirements with regard to all of the following: 19879

(a) The manner of obtaining required criminal history 19880
records, civil or administrative records, or credit history 19881
records; 19882

(b) The payment of fees required for the use of the 19883
multistate licensing system; 19884

(c) The setting or resetting as necessary of renewal or 19885
reporting dates; 19886

(d) The amending of or surrendering of a license or 19887
registration. 19888

(C) Any person engaged in activity that requires licensure 19889
or registration pursuant to this section shall utilize the 19890
multistate licensing system for the application for, renewal of, 19891
amendment to, or surrender of a license or registration, as well 19892
as for any other activity as the superintendent may require. 19893
Such a person shall pay all applicable charges to utilize the 19894
multistate licensing system. 19895

(D) The superintendent is authorized to establish 19896
relationships or contacts with the multistate licensing system 19897
or other entities designated by the multistate licensing system 19898
to collect and maintain records and process transaction fees or 19899
other fees related to licensees and registrants. 19900

(E) Any confidentiality or privilege arising under federal 19901
or state law with respect to any information or material 19902
provided to the multistate licensing system shall continue to 19903
apply to the information or material after the information or 19904
material is provided to the multistate licensing system. The 19905
information and material so provided may be released to any 19906
state or federal regulatory official with applicable oversight 19907
authority without the loss of confidentiality or privilege 19908
protections provided by federal law or the law of any state. 19909

(F) The superintendent may use the documents, materials, 19910
or other information made available to the superintendent 19911
through the multistate licensing system in furtherance of any 19912
action brought by the superintendent. 19913

Sec. 1306.21. (A) With regard to state agency use of 19914
electronic records or electronic signatures, the department of 19915
administrative services, in consultation with the state 19916
archivist, shall adopt rules in accordance with section 111.15 19917
of the Revised Code setting forth all of the following: 19918

(1) The minimum requirements for the method of creation, 19919
maintenance, and security of electronic records and electronic 19920
signatures; 19921

(2) If electronic records must be signed by electronic 19922
means, all of the following: 19923

(a) The type of electronic signature required; 19924

(b) The manner and format in which the electronic signature must be affixed to the electronic record; 19925
19926

(c) The identity of, or criteria that must be met by, any third party used by the person filing a document to facilitate the process. 19927
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(3) Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; 19930
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(4) Any other required attributes for electronic records that are specified for corresponding nonelectronic records ~~or~~ are reasonably necessary under the circumstances. 19933
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(B) (1) The department of administrative services may adopt rules in accordance with section 111.15 of the Revised Code to ensure consistency and interoperability among state agencies with regard to electronic transactions, electronic signatures, and security procedures. 19936
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(2) If the department of administrative services adopts rules pursuant to division (B) (1) of this section, the department shall consider consistency in applications and interoperability with governmental agencies of this state, agencies of other states, the federal government, and nongovernmental persons to the extent practicable when adopting rules pursuant to that division. 19941
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(C) With regard to electronic transactions, electronic signatures, and security procedures, the department of administrative services may publish recommendations for governmental agencies and nongovernmental persons to promote consistency and interoperability among nongovernmental persons, agencies of this state and other states, and the federal 19948
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government. 19954

(D) For purposes of this section, "state agency" has the 19955
same meaning as in section 1306.20 of the Revised Code. 19956

Sec. 1315.27. The superintendent of financial institutions 19957
shall adopt rules, in accordance with Chapter 119. of the 19958
Revised Code, ~~for the administration and enforcement of sections~~ 19959
~~1315.21 to 1315.30 of the Revised Code. The rules shall include,~~ 19960
~~but shall not be limited to,~~that do both of the following: 19961

(A) Record-keeping requirements that require check-cashing 19962
businesses to do all of the following: 19963

(1) Maintain a daily cash reconciliation that: 19964

(a) Summarizes daily activity; 19965

(b) Reconciles cash-on-hand at the opening of business to 19966
cash-on-hand at the close of business; 19967

(c) Separately reflects cash received from the sale of 19968
checks, cash disbursed in cashing of checks, redemption of 19969
returned items, bank cash deposits, and bank cash withdrawals. 19970

(2) Maintain a general ledger that: 19971

(a) Contains records of all assets, liabilities, capital, 19972
income, and expenses; 19973

(b) Is posted monthly from the original entry records; 19974

(c) Facilitates the preparation of an accurate trial 19975
balance of accounts in accordance with generally accepted 19976
accounting practices; 19977

(d) May consolidate activity at two or more locations, 19978
provided that books of original entries are maintained 19979
separately for each location. 19980

(3) Provide a receipt to each customer indicating the amount of the check and the fee charged; 19981
19982

(4) Maintain business records for at least two years. 19983

(B) Reasonable business practices of persons licensed under sections 1315.21 to 1315.28 of the Revised Code. 19984
19985

Sec. 1321.37. (A) Application for an original or renewal license to make short-term loans shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions, and shall contain the name and address of the applicant, the location where the business of making loans is to be conducted, and any further information as the superintendent requires. At the time of making an application for an original license, the applicant shall pay to the superintendent a nonrefundable investigation fee of two hundred dollars. No investigation fee or any portion thereof shall be refunded after an original license has been issued. The application for an original or renewal license shall be accompanied by an original or renewal license fee, for each business location of one thousand dollars, except that applications for original licenses issued on or after the first day of July for any year shall be accompanied by an original license fee of five hundred dollars, and except that an application for an original or renewal license, for a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, shall be accompanied by an original or renewal license fee, for each business location, that is one-half of the fee otherwise required. All fees paid to the superintendent pursuant to this division shall be deposited into the state treasury to the credit of the consumer finance fund. 19986
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(B) Upon the filing of an application for an original 20010

license and, with respect to an application filed for a renewal 20011
license, on a schedule determined by the superintendent ~~by rule~~ 20012
~~adopted pursuant to section 1321.43 of the Revised Code~~, and the 20013
payment of fees in accordance with division (A) of this section, 20014
the superintendent shall investigate the facts concerning the 20015
applicant and the requirements provided by this division. The 20016
superintendent shall request the superintendent of the bureau of 20017
criminal identification and investigation, or a vendor approved 20018
by the bureau, to conduct a criminal records check based on the 20019
applicant's fingerprints in accordance with section 109.572 of 20020
the Revised Code. Notwithstanding division (L) of section 121.08 20021
of the Revised Code, the superintendent of financial 20022
institutions shall request that criminal record information from 20023
the federal bureau of investigation be obtained as part of the 20024
criminal records check. The superintendent of financial 20025
institutions shall conduct a civil records check. The 20026
superintendent shall approve an application and issue an 20027
original or renewal license to the applicant if the 20028
superintendent finds all of the following: 20029

(1) The financial responsibility, experience, and general 20030
fitness of the applicant are such as to warrant the belief that 20031
the business of making loans will be operated lawfully, 20032
honestly, and fairly under sections 1321.35 to 1321.48 of the 20033
Revised Code and within the purposes of those sections; that the 20034
applicant has fully complied with those sections and any rule or 20035
order adopted or issued ~~pursuant to section 1321.43 of the~~ 20036
~~Revised Code~~ by the superintendent; and that the applicant is 20037
qualified to engage in the business of making loans under 20038
sections 1321.35 to 1321.48 of the Revised Code. 20039

(2) The applicant is financially sound and has a net worth 20040
of not less than one hundred thousand dollars, or in the case of 20041

a nonprofit corporation that is incorporated under Chapter 1702. 20042
of the Revised Code, a net worth of not less than fifty thousand 20043
dollars. The applicant's net worth shall be computed according 20044
to generally accepted accounting principles. 20045

(3) The applicant has never had revoked a license to make 20046
loans under sections 1321.35 to 1321.48 of the Revised Code, 20047
under former sections 1315.35 to 1315.44 of the Revised Code, or 20048
to do business under sections 1315.21 to 1315.30 of the Revised 20049
Code. 20050

(4) Neither the applicant nor any senior officer, or 20051
partner of the applicant, has pleaded guilty to or been 20052
convicted of a disqualifying offense as determined in accordance 20053
with section 9.79 of the Revised Code. 20054

(5) Neither the applicant nor any senior officer, or 20055
partner of the applicant, has been subject to any adverse 20056
judgment for conversion, embezzlement, misappropriation of 20057
funds, fraud, misfeasance or malfeasance, or breach of fiduciary 20058
duty, or if the applicant or any of those other persons has been 20059
subject to such a judgment, the applicant has proven to the 20060
superintendent, by a preponderance of the evidence, that the 20061
applicant's or other person's activities and employment record 20062
since the judgment show that the applicant or other person is 20063
honest and truthful and there is no basis in fact for believing 20064
that the applicant or other person will be subject to such a 20065
judgment again. 20066

(C) If the superintendent finds that the applicant does 20067
not meet the requirements of division (B) of this section, or 20068
the superintendent finds that the applicant knowingly or 20069
repeatedly contracts with or employs persons to directly engage 20070
in lending activities who have been convicted of a felony crime 20071

listed in division (B) (5) of this section, the superintendent shall issue an order denying the application for an original or renewal license and giving the applicant an opportunity for a hearing on the denial in accordance with Chapter 119. of the Revised Code. The superintendent shall notify the applicant of the denial, the grounds for the denial, and the applicant's opportunity for a hearing. If the application is denied, the superintendent shall return the annual license fee but shall retain the investigation fee.

(D) No person licensed under sections 1321.35 to 1321.48 of the Revised Code shall conduct business in this state unless the licensee has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent and in the penal sum of at least one hundred thousand dollars, or in the case of a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, in the amount of fifty thousand dollars. The term of the bond shall coincide with the term of the license. The licensee shall file a copy of the bond with the superintendent. The bond shall be for the exclusive benefit of any borrower injured by a violation by a licensee or any employee of a licensee, of any provision of sections 1321.35 to 1321.48 of the Revised Code.

(E) Notwithstanding any provision of this section to the contrary, the superintendent shall issue an original license in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:

(1) The applicant holds a license in another state.

(2) The applicant has satisfactory work experience, a

government certification, or a private certification as 20102
described in that chapter as a short-term lender in a state that 20103
does not issue that license. 20104

Sec. 1321.42. (A) The superintendent of financial 20105
institutions shall, in accordance with Chapter 119. of the 20106
Revised Code, suspend or revoke a license issued pursuant to 20107
sections 1321.35 to 1321.48 of the Revised Code, if the 20108
superintendent determines that either of the following applies: 20109

(1) The licensee has failed to comply with any order 20110
issued by the superintendent pursuant to section 1321.43 of the 20111
Revised Code. 20112

(2) Any fact or condition exists that if it had existed or 20113
had been known to exist at the time of original or renewal 20114
licensure pursuant to sections 1321.35 to 1321.48 of the Revised 20115
Code, the fact or condition clearly would have warranted the 20116
superintendent to refuse to issue a license pursuant to those 20117
sections. 20118

(B) The superintendent may make any investigation and 20119
conduct any hearing the superintendent considers necessary to 20120
determine whether any person has violated sections 1321.35 to 20121
1321.48 of the Revised Code, or any rule or order adopted or 20122
~~issued under section 1321.43 of the Revised Code~~ by the 20123
superintendent, or has otherwise engaged in conduct that would 20124
justify the suspension, revocation, or refusal of an original or 20125
renewal license or the imposition of a fine. 20126

The superintendent may impose a monetary fine of not more 20127
than one thousand dollars for each such violation. 20128

(C) In making any investigation or conducting any hearing 20129
pursuant to this section, the superintendent, or any person 20130

designated by the superintendent, at any time may compel by 20131
subpoena witnesses, may take depositions of witnesses residing 20132
without the state in the manner provided for in civil actions, 20133
pay any witnesses the fees and mileage for their attendance 20134
provided under section 119.094 of the Revised Code, and 20135
administer oaths. The superintendent also may compel by order or 20136
subpoena duces tecum the production of, and examine, all 20137
relevant books, records, accounts, and other documents. If a 20138
person does not comply with a subpoena or subpoena duces tecum, 20139
the superintendent may apply to the court of common pleas of 20140
Franklin county for an order compelling the person to comply 20141
with the subpoena or subpoena duces tecum or, for failure to do 20142
so, an order to be held in contempt of court. 20143

(D) In connection with any investigation under this 20144
section, the superintendent may file an action in the court of 20145
common pleas of Franklin county or the court of common pleas of 20146
the county in which the person who is the subject of the 20147
investigation resides, or is engaging in or proposing to engage 20148
in actions in violation of sections 1321.35 to 1321.48 of the 20149
Revised Code, to obtain an injunction, temporary restraining 20150
order, or other appropriate relief. 20151

Sec. 1321.43. The superintendent of financial 20152
institutions, in accordance with Chapter 119. of the Revised 20153
Code, ~~may adopt rules and issue specific orders to enforce and~~ 20154
~~carry out the purposes of sections 1321.35 to 1321.48 of the~~ 20155
~~Revised Code. The superintendent shall issue a rule defining~~ 20156
"senior officer" for the purpose of section 1321.37 of the 20157
Revised Code. The superintendent may adopt, amend, and repeal 20158
substantive rules defining with reasonable specificity acts or 20159
practices that violate section 1321.45 of the Revised Code. 20160

Sec. 1321.46. ~~(A)~~ Before initiating a short-term loan 20161
transaction with a borrower, a licensee shall make a reasonable 20162
attempt to verify the borrower's income for purposes of division 20163
(B) (2) of section 1321.39 and section 1321.391 of the Revised 20164
Code. At a minimum, the licensee shall obtain from the borrower 20165
one or more recent pay stubs or other written evidence of 20166
recurring income, such as a bank statement. The written evidence 20167
shall include at least one document that, when presented to the 20168
licensee, is dated not earlier than forty-five days prior to the 20169
borrower's initiation of the short-term loan transaction. If the 20170
borrower intends to provide a bank statement, the licensee shall 20171
permit the borrower to delete from the statement the information 20172
regarding to whom the debits listed on the statement are 20173
payable. 20174

~~(B) The superintendent of financial institutions may adopt 20175
rules under section 1321.43 of the Revised Code that set forth 20176
any other procedures the superintendent considers necessary to 20177
ensure accurate verification of borrower income. 20178~~

Sec. 1321.54. ~~(A) The division of financial institutions 20179
may adopt, in accordance with Chapter 119. of the Revised Code, 20180
rules that are necessary for the enforcement or administration 20181
of sections 1321.51 to 1321.60 of the Revised Code and that are 20182
consistent with those sections and rules to carry out the 20183
purposes of those sections. 20184~~

~~(B) (1)~~ (A) (1) The division may, upon written notice to the 20185
registrant stating the contemplated action, the grounds for the 20186
action, and the registrant's reasonable opportunity to be heard 20187
on the action in accordance with Chapter 119. of the Revised 20188
Code, revoke, suspend, or refuse to renew any certificate issued 20189
under sections 1321.51 to 1321.60 of the Revised Code if it 20190

finds any of the following: 20191

(a) A violation of or failure to comply with any provision 20192
of sections 1321.51 to 1321.60 of the Revised Code or the rules 20193
adopted thereunder, any federal lending law, or any other law 20194
applicable to the business conducted under a certificate of 20195
registration; 20196

(b) The person has been convicted of or pleaded guilty or 20197
nolo contendere to any criminal felony offense in a domestic, 20198
foreign, or military court; 20199

(c) The person has been convicted of or pleaded guilty or 20200
nolo contendere to any criminal offense involving theft, 20201
receiving stolen property, embezzlement, forgery, fraud, passing 20202
bad checks, money laundering, breach of trust, dishonesty, or 20203
drug trafficking, or any criminal offense involving money or 20204
securities, in a domestic, foreign, or military court. 20205

(2) In addition to, or in lieu of, any revocation, 20206
suspension, or denial, the division may impose a monetary fine 20207
after administrative hearing or in settlement of matters subject 20208
to claims under division ~~(B) (1) (a)~~ (A) (1) (a) of this section. 20209

(3) The revocation, suspension, or refusal to renew shall 20210
not impair the obligation of any pre-existing lawful contract 20211
made under sections 1321.51 to 1321.60 of the Revised Code; 20212
provided, however, that a prior registrant shall make good faith 20213
efforts to promptly transfer the registrant's collection rights 20214
to another registrant or person exempt from registration, or be 20215
subject to additional monetary fines and legal or administrative 20216
action by the division. Nothing in division ~~(B) (3)~~ (A) (3) of 20217
this section shall limit a court's ability to impose a cease and 20218
desist order preventing any further business or servicing 20219

activity. 20220

~~(C)(1)~~ (B) (1) The superintendent of financial institutions 20221
may impose a fine for a violation of sections 1321.51 to 1321.60 20222
of the Revised Code or any rule adopted thereunder. All fines 20223
collected pursuant to this section shall be paid to the 20224
treasurer of state to the credit of the consumer finance fund 20225
created in section 1321.21 of the Revised Code. In determining 20226
the amount of a fine to be imposed pursuant to this section, the 20227
superintendent may consider all of the following to the extent 20228
it is known to the division of financial institutions: 20229

(a) The seriousness of the violation; 20230

(b) The registrant's good faith efforts to prevent the 20231
violation; 20232

(c) The registrant's history regarding violations and 20233
compliance with division orders; 20234

(d) The registrant's financial resources; 20235

(e) Any other matters the superintendent considers 20236
appropriate in enforcing sections 1321.51 to 1321.60 of the 20237
Revised Code. 20238

(2) Monetary fines imposed under this division shall not 20239
exceed twenty-five thousand dollars and do not preclude any 20240
criminal fine imposed pursuant to section 1321.99 of the Revised 20241
Code. 20242

~~(D)~~ (C) The superintendent may investigate alleged 20243
violations of sections 1321.51 to 1321.60 of the Revised Code, 20244
or the rules adopted thereunder, or complaints concerning any 20245
such violation. The superintendent may make application to the 20246
court of common pleas for an order enjoining any violation and, 20247

upon a showing by the superintendent that a person has 20248
committed, or is about to commit, a violation, the court shall 20249
grant an injunction, restraining order, or other appropriate 20250
relief. The superintendent, in making application to the court 20251
of common pleas for an order enjoining a person from acting as a 20252
registrant, may also seek and obtain civil penalties for that 20253
unregistered conduct in an amount not to exceed five thousand 20254
dollars per violation. 20255

~~(E)~~ (D) In conducting an investigation pursuant to this 20256
section, the superintendent may compel, by subpoena, witnesses 20257
to testify in relation to any matter over which the 20258
superintendent has jurisdiction, and may require the production 20259
or photocopying of any book, record, or other document 20260
pertaining to such matter. If a person fails to file any 20261
statement or report, obey any subpoena, give testimony, produce 20262
any book, record, or other document as required by such a 20263
subpoena, or permit photocopying of any book, record, or other 20264
document subpoenaed, the court of common pleas of any county in 20265
this state, upon application made to it by the superintendent, 20266
shall compel obedience by attachment proceedings for contempt, 20267
as in the case of disobedience of the requirements of a subpoena 20268
issued from the court, or a refusal to testify therein. 20269

~~(F)~~ (E) If the superintendent determines that a person is 20270
engaged in, or is believed to be engaged in, activities that may 20271
constitute a violation of sections 1321.51 to 1321.60 of the 20272
Revised Code or the rules adopted thereunder, the superintendent 20273
may, after notice and a hearing conducted in accordance with 20274
Chapter 119. of the Revised Code, issue a cease and desist 20275
order. The superintendent, in taking administrative action to 20276
enjoin a person from acting as a registrant, may also seek and 20277
impose fines for those violations in an amount not to exceed 20278

five thousand dollars per violation. Such an order shall be 20279
enforceable in the court of common pleas. 20280

~~(G)(1)~~ (F)(1) To protect the public interest, the 20281
superintendent may, without a prior hearing, suspend the 20282
certificate of registration of a person who is convicted of or 20283
pleads guilty or nolo contendere to a criminal violation of 20284
sections 1321.51 to 1321.60 of the Revised Code or any criminal 20285
offense described in division ~~(B)(1)(b)~~ (A)(1)(b) or (c) of this 20286
section. 20287

(2) The superintendent may, in accordance with Chapter 20288
119. of the Revised Code, subsequently revoke any registration 20289
suspended under division ~~(G)(1)~~ (F)(1) of this section. 20290

(3) The superintendent shall, in accordance with Chapter 20291
119. of the Revised Code, adopt rules establishing the maximum 20292
amount of time a suspension under division ~~(G)(1)~~ (F)(1) of this 20293
section may continue before a hearing is conducted. 20294

Sec. 1321.702. ~~The superintendent of financial~~ 20295
~~institutions may adopt, in accordance with Chapter 119. of the~~ 20296
~~Revised Code, rules that are necessary for the enforcement of~~ 20297
~~sections 1321.62 to 1321.702 of the Revised Code and that are~~ 20298
~~consistent with those sections. Each rule shall contain a~~ 20299
~~reference to the section, division, or paragraph of the Revised~~ 20300
~~Code to which it applies. The superintendent shall send by~~ 20301
~~regular mail to each licensee a copy of each rule that is~~ 20302
~~adopted pursuant to this section~~ regarding sections 1321.62 to 20303
1321.702 of the Revised Code. 20304

Sec. 1321.77. ~~The division of financial institutions may~~ 20305
~~adopt, in accordance with Chapter 119. of the Revised Code,~~ 20306
~~rules that are necessary for the enforcement of sections 1321.71~~ 20307

~~to 1321.83 of the Revised Code and that are consistent with~~ 20308
~~those sections. Each rule shall contain a reference to the~~ 20309
~~section, division, or paragraph of the Revised Code to which it~~ 20310
~~applies. The division shall send by regular mail to each~~ 20311
~~licensee a copy of each rule that is adopted pursuant to this~~ 20312
~~section regarding sections 1321.71 to 1321.83 of the Revised~~ 20313
Code. 20314

Sec. 1322.05. (A) A credit union service organization or 20315
depository institution seeking exemption from registration 20316
pursuant to division (H) or (I) of section 1322.04 of the 20317
Revised Code or rules adopted by the superintendent ~~in~~ 20318
~~accordance with section 1322.02 of the Revised Code shall submit~~ 20319
an application to the superintendent of financial institutions 20320
along with a nonrefundable fee of three hundred fifty dollars 20321
for each location of an office to be maintained by the 20322
organization or institution seeking exemption. The application 20323
shall be in a form prescribed by the superintendent and shall 20324
include all of the following: 20325

(1) The organization's or institution's business name and 20326
state of incorporation or business registration; 20327

(2) The names of the owners, officers, or partners having 20328
control of the organization or institution; 20329

(3) An attestation to all of the following: 20330

(a) That the organization or institution and its owners, 20331
officers, or partners identified in division (A)(2) of this 20332
section have not had a credit union service organization 20333
registration or license, mortgage banker license, mortgage 20334
broker certificate of registration, or mortgage loan originator 20335
license, or any comparable authority, revoked in any 20336

governmental jurisdiction; 20337

(b) That the organization or institution and its owners, 20338
officers, or partners identified in division (A) (2) of this 20339
section have not been convicted of, or pleaded guilty or nolo 20340
contendere to, any of the following in a domestic, foreign, or 20341
military court: 20342

(i) During the seven-year period immediately preceding the 20343
date of application for exemption, a misdemeanor involving theft 20344
or any felony; 20345

(ii) At any time prior to the date the application for 20346
exemption is approved, a felony involving an act of fraud, 20347
dishonesty, a breach of trust, theft, or money laundering. 20348

(c) That, with respect to financing residential mortgage 20349
loans, the organization or institution conducts business with 20350
residents of this state or secures its loans with property 20351
located in this state. 20352

(4) The names of all mortgage loan originators or 20353
licensees under the organization's or institution's control and 20354
direction; 20355

(5) An acknowledgment of understanding that the 20356
organization or institution is subject to the regulatory 20357
authority of the division of financial institutions as described 20358
in this section; 20359

(6) Any further reasonable information that the 20360
superintendent may require. 20361

(B) (1) If the superintendent determines that the credit 20362
union service organization or depository institution qualifies 20363
for exemption, the superintendent shall issue a letter of 20364

exemption. Additional certified copies of a letter of exemption 20365
shall be provided upon request and the payment of seventy-five 20366
dollars per copy. 20367

(2) If the superintendent determines that the organization 20368
or institution does not qualify for exemption, the 20369
superintendent shall issue a notice of denial, and the 20370
organization or institution may request a hearing in accordance 20371
with Chapter 119. of the Revised Code. 20372

(C) All of the following conditions apply to any credit 20373
union service organization or depository institution holding a 20374
valid letter of exemption: 20375

(1) The organization or institution shall be subject to 20376
examination in the same manner as a registrant with respect to 20377
the conduct of the organization's or institution's mortgage loan 20378
originators. In conducting any out-of-state examination, the 20379
organization or institution shall be responsible for paying the 20380
costs of the division in the same manner as a registrant. 20381

(2) The organization or institution shall have an 20382
affirmative duty to supervise the conduct of its mortgage loan 20383
originators, and to cooperate with investigations by the 20384
division with respect to that conduct, in the same manner as is 20385
required of registrants. 20386

(3) The organization or institution shall keep and 20387
maintain records of all transactions relating to the conduct of 20388
its mortgage loan originators in the same manner as is required 20389
of registrants. 20390

(4) The organization or institution may provide the surety 20391
bond for its licensees in the same manner as is permitted for 20392
registrants. 20393

(D) A letter of exemption expires annually on the thirty- 20394
first day of December and may be renewed on or before that date 20395
by submitting an application that meets the requirements of 20396
division (A) of this section and a nonrefundable renewal fee of 20397
three hundred fifty dollars for each location of an office to be 20398
maintained by the credit union service organization or 20399
depository institution. 20400

(E) The superintendent may issue a notice to revoke or 20401
suspend a letter of exemption if the superintendent finds that 20402
the letter was obtained through a false or fraudulent 20403
representation of a material fact, or the omission of a material 20404
fact, required by law, or that a condition for exemption is no 20405
longer being met. Prior to issuing an order of revocation or 20406
suspension, the credit union service organization or depository 20407
institution shall be given an opportunity for a hearing in 20408
accordance with Chapter 119. of the Revised Code. 20409

(F) All information obtained by the division pursuant to 20410
an examination or investigation under this section shall be 20411
subject to the confidentiality requirements set forth in section 20412
1322.36 of the Revised Code. 20413

(G) All money collected under this section shall be 20414
deposited into the state treasury to the credit of the consumer 20415
finance fund created in section 1321.21 of the Revised Code. 20416

Sec. 1322.56. The superintendent of financial institutions 20417
may adopt, in accordance with Chapter 119. of the Revised Code, 20418
~~any rule necessary to comply with the requirements of the~~ 20419
~~nationwide mortgage licensing system and registry, including~~ 20420
requirements pertaining to all of the following: 20421

(A) Payment of nonrefundable fees to apply for, maintain, 20422

and renew licenses through the nationwide mortgage licensing system and registry;	20423 20424
(B) Renewal or reporting dates;	20425
(C) Procedures to amend or to surrender a license;	20426
(D) Any other activity necessary for participation in the nationwide mortgage licensing system and registry.	20427 20428
Sec. 1327.46. As used in sections 1327.46 to 1327.61 of the Revised Code:	20429 20430
(A) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any such instruments and devices, except that "weights and measures" shall not be construed to include meters for the measurement of electricity, gas, whether natural or manufactured, or water when the same are operated in a public utility system. Such electricity, gas, and water meters, and appliances or accessories associated therewith, are specifically excluded from the purview of the weights and measures laws.	20431 20432 20433 20434 20435 20436 20437 20438 20439 20440
(B) "Intrastate commerce" means all commerce or trade that is begun, carried on, and completed wholly within the limits of this state, and "introduced into intrastate commerce" defines the time and place in which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.	20441 20442 20443 20444 20445 20446 20447
(C) "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.	20448 20449 20450

- (D) "Consumer package" means a package that is customarily produced or distributed for sale through a retail sales agency for consumption by an individual or use by an individual. 20451
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- (E) "Weight" as used in connection with any commodity means net weight. 20454
20455
- (F) "Correct" as used in connection with weights and measures means conformity with all applicable requirements of sections 1327.46 to 1327.61 of the Revised Code and rules adopted pursuant to those sections. 20456
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- (G) "Reference standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived. 20460
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- (H) "Working standards" means the physical standards that are traceable to the reference standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules. 20463
20464
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- (I) "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale. 20467
20468
- (J) "Net weight" means the weight of a commodity, excluding any materials, substances, or items not considered to be a part of the commodity. Materials, substances, or items not considered to be part of the commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons. 20469
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- (K) "Random weight package" means a package that is one of a lot, shipment, or delivery of packages of the same commodity with no fixed pattern of weights. 20476
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(L) "Sold" includes keeping, offering, or exposing for sale. 20479
20480

(M) "Commercially used weighing and measuring device" 20481
means a device described in the national institute of standards 20482
and technology handbook 44 or its supplements and revisions and 20483
any other weighing and measuring device ~~designated by rules~~ 20484
~~adopted under division (C) of section 1327.50 of the Revised~~ 20485
~~Code.~~ "Commercially used weighing and measuring device" 20486
includes, but is not limited to, a livestock scale, vehicle 20487
scale, railway scale, vehicle tank meter, bulk rack meter, and 20488
LPG meter. 20489

(N) "Livestock scale" means a scale equipped with stock 20490
racks and gates that is adapted to weighing livestock standing 20491
on the scale platform. 20492

(O) "Vehicle scale" means a scale that is adapted to 20493
weighing highway, farm, or other large industrial vehicles other 20494
than railroad cars. 20495

(P) "Railway scale" means a rail scale that is designed to 20496
weigh railroad cars. 20497

(Q) "Vehicle tank meter" means a vehicle mounted device 20498
that is designed for the measurement and delivery of liquid 20499
products from a tank. 20500

(R) "Bulk rack meter" means a wholesale device, usually 20501
mounted on a rack, that is designed for the measurement and 20502
delivery of liquid products. 20503

(S) "LPG meter" means a system, including a mechanism or 20504
machine of the meter type, that is designed to measure and 20505
deliver liquefied petroleum gas in the liquid state by a 20506
definite quantity whether installed in a permanent location or 20507

mounted on a vehicle. 20508

(T) "Service person" means an individual who installs, 20509
services, repairs, reconditions, or places into service a 20510
commercially used weighing and measuring device for any type of 20511
compensation. 20512

Sec. 1327.50. The director of agriculture shall: 20513

(A) Maintain traceability of the state standards to those 20514
of the international system of units; 20515

(B) Enforce sections 1327.46 to 1327.61 of the Revised 20516
Code; 20517

~~(C) Issue reasonable rules for the uniform enforcement of~~ 20518
~~sections 1327.46 to 1327.61 of the Revised Code, which rules~~ 20519
~~shall have the force and effect of law;~~ 20520

~~(D)~~ Establish standards of weight, measure, or count, 20521
reasonable standards of fill, and standards for the voluntary 20522
presentation of cost per unit information for any package; 20523

~~(E)~~ (D) Grant any exemptions from sections 1327.46 to 20524
1327.61 of the Revised Code, or any rules adopted under those 20525
sections, when appropriate to the maintenance of good commercial 20526
practices in the state; 20527

~~(F)~~ (E) Conduct investigations to ensure compliance with 20528
sections 1327.46 to 1327.61 of the Revised Code; 20529

~~(G)~~ (F) Delegate to appropriate personnel any of these 20530
responsibilities for the proper administration of the director's 20531
office; 20532

~~(H)~~ (G) Test as often as is prescribed by rule the 20533
standards of weight and measure used by any municipal 20534

corporation or county within the state, and approve the same 20535
when found to be correct; 20536

~~(I)~~(H) Inspect and test weights and measures that are 20537
sold; 20538

~~(J)~~(I) Inspect and test to ascertain if they are correct, 20539
weights and measures commercially used either: 20540

(1) In determining the weight, measure, or count of 20541
commodities or things sold on the basis of weight, measure, or 20542
count; 20543

(2) In computing the basic charge or payment for goods or 20544
services rendered on the basis of weight, measure, or count. 20545

~~(K)~~(J) Test all weights and measures used in checking the 20546
receipt or disbursement of supplies in every institution, for 20547
the maintenance of which funds are appropriated by the general 20548
assembly; 20549

~~(L)~~(K) Approve for use, and may mark, such weights and 20550
measures as the director finds to be correct, and shall reject 20551
and mark as rejected such weights and measures as the director 20552
finds to be incorrect. Weights and measures that have been 20553
rejected may be seized if not corrected within the time 20554
specified or if used or disposed of in a manner not specifically 20555
authorized, and may be condemned and seized if found to be 20556
incorrect and not capable of being made correct. 20557

~~(M)~~(L) Weigh, measure, or inspect packaged commodities 20558
that are sold or in the process of delivery to determine whether 20559
they contain the amounts represented and whether they are sold 20560
in accordance with sections 1327.46 to 1327.61 of the Revised 20561
Code or rules adopted under those sections. In carrying out this 20562
section, the director shall employ recognized sampling 20563

procedures, such as those designated in the national institute 20564
of standards and technology handbook 133 "checking the net 20565
contents of packaged goods." 20566

~~(N)~~(M) Prescribe by rule the appropriate term or unit of 20567
weight or measure to be used, whenever the director determines 20568
in the case of a specific commodity that an existing practice of 20569
declaring the quantity by weight, measure, numerical count, or 20570
combination thereof, does not facilitate value comparisons by 20571
consumers, or offers an opportunity for consumer confusion; 20572

~~(O)~~(N) Allow reasonable variations from the stated 20573
quantity of contents, which shall include those caused by 20574
unavoidable deviations in good manufacturing practice and by 20575
loss or gain of moisture during the course of good distribution 20576
practice, only after the commodity has entered intrastate 20577
commerce; 20578

~~(P)~~(O) Provide for the weights and measures training of 20579
inspector personnel and establish minimum training requirements, 20580
which shall be met by all inspector personnel, whether county, 20581
municipal, or state; 20582

~~(Q)~~(P) Prescribe the methods of tests and inspections to 20583
be employed in the enforcement of sections 1327.46 to 1327.61 of 20584
the Revised Code. The director may prescribe the official test 20585
and inspection forms to be used. 20586

~~(R)~~(Q) Provide by rule for registration with the director 20587
of service persons who are employed by commercially used 20588
weighing and measuring device servicing agencies; 20589

~~(S)~~(R) In conjunction with the national institute of 20590
standards and technology, operate a type evaluation program for 20591
certification of weighing and measuring devices as part of the 20592

national type evaluation program. The director shall establish a
schedule of fees for services rendered by the department of
agriculture for type evaluation services. The director may
require any weighing or measuring instrument or device to be
traceable to a national type evaluation program certificate of
conformance prior to use for commercial or law enforcement
purposes.

~~(T)~~(S) Verify advertised prices, price representations,
and point-of-sale systems, as necessary, to determine both the
accuracy of prices and computations and the correct use of the
equipment and the accuracy of prices printed or recalled from a
database if a system utilizes scanning or coding in lieu of
manual entry. In order to implement this division, the director
shall do all of the following:

(1) Employ recognized procedures such as those designated
in the national institute of standards and technology handbook
130, uniform laws and regulations, "examination procedures for
price verification";

(2) Adopt rules establishing requirements governing the
accuracy of advertised prices and point-of-sale systems ~~and~~
~~establishing requirements and procedures for the enforcement of~~
~~this division;~~

(3) Conduct necessary inspections.

Sec. 1327.52. Any weights and measures official elected or
appointed for a county or municipality shall have the duties
enumerated in divisions ~~(I)~~(H) to ~~(M)~~(L) of section 1327.50 of
the Revised Code, and the powers enumerated in section 1327.51
of the Revised Code. These powers and duties shall extend to the
respective jurisdictions, except that the jurisdiction of a

county official shall not extend to any municipal corporation 20622
for which a weights and measures official has been appointed. 20623
The director of agriculture shall advise and assist these 20624
officials. 20625

Sec. 1333.21. The department of taxation, through the tax 20626
commissioner, shall administer and enforce sections 1333.11 to 20627
1333.20, inclusive, of the Revised Code. ~~The tax commissioner,~~ 20628
~~pursuant to sections 119.01 to 119.13, inclusive, of the Revised~~ 20629
~~Code may adopt, amend, and repeal rules and regulations~~ 20630
~~necessary to enforce and administer sections 1333.11 to 1333.20,~~ 20631
~~inclusive, of the Revised Code.~~ Upon notice and hearing in 20632
accordance with sections 119.01 to 119.13, inclusive, of the 20633
Revised Code, the tax commissioner may suspend or revoke any 20634
wholesale or retail cigarette license for the violation of, or 20635
the failure of the licensee to comply with, said sections. A 20636
certified copy of the order suspending or revoking said license 20637
shall be transmitted by the tax commissioner to the county 20638
auditor of the county in which the license was issued. 20639

Sec. 1346.08. ~~(A) The tax commissioner and the attorney~~ 20640
~~general may adopt administrative rules necessary to implement~~ 20641
~~sections 1346.05 to 1346.10 of the Revised Code.~~ 20642

~~(B)~~ Subject to the requirements of section 1346.05 of the 20643
Revised Code, the attorney general may adopt an administrative 20644
rule requiring a tobacco product manufacturer to make required 20645
escrow deposits in quarterly installments during the year in 20646
which the sales covered by the deposits are made. If the 20647
attorney general adopts such a rule, the tax commissioner may 20648
require a tobacco product manufacturer or a stamping agent to 20649
produce information sufficient to enable the tax commissioner 20650
and the attorney general to determine the adequacy of the amount 20651

of an installment deposit. 20652

Sec. 1347.05. Every state or local agency that maintains a 20653
personal information system shall: 20654

(A) Appoint one individual to be directly responsible for 20655
the system; 20656

~~(B) Adopt and implement rules that provide for the 20657
operation of the system in accordance with the provisions of 20658
this chapter that, in the case of state agencies, apply to state 20659
agencies or, in the case of local agencies, apply to local 20660
agencies;~~ 20661

~~(C)~~ Inform each of its employees who has any 20662
responsibility for the operation or maintenance of the system, 20663
or for the use of personal information maintained in the system, 20664
of the applicable provisions of this chapter and of all rules 20665
adopted in accordance with this section; 20666

~~(D)~~ (C) Specify disciplinary measures to be applied to any 20667
employee who initiates or otherwise contributes to any 20668
disciplinary or other punitive action against any individual who 20669
brings to the attention of appropriate authorities, the press, 20670
or any member of the public, evidence of unauthorized use of 20671
information contained in the system; 20672

~~(E)~~ (D) Inform a person who is asked to supply personal 20673
information for a system whether the person is legally required 20674
to, or may refuse to, supply the information; 20675

~~(F)~~ (E) Develop procedures for purposes of monitoring the 20676
accuracy, relevance, timeliness, and completeness of the 20677
personal information in this system, and, in accordance with the 20678
procedures, maintain the personal information in the system with 20679
the accuracy, relevance, timeliness, and completeness that is 20680

necessary to assure fairness in any determination made with 20681
respect to a person on the basis of the information; 20682

~~(G)~~(F) Take reasonable precautions to protect personal 20683
information in the system from unauthorized modification, 20684
destruction, use, or disclosure; 20685

~~(H)~~(G) Collect, maintain, and use only personal 20686
information that is necessary and relevant to the functions that 20687
the agency is required or authorized to perform by statute, 20688
ordinance, code, or rule, and eliminate personal information 20689
from the system when it is no longer necessary and relevant to 20690
those functions. 20691

Sec. 1347.99. (A) No public official, public employee, or 20692
other person who maintains, or is employed by a person who 20693
maintains, a personal information system for a state or local 20694
agency shall purposely refuse to comply with division ~~(E)~~(D), 20695
~~(F)~~(E), ~~(G)~~(F), or ~~(H)~~(G) of section 1347.05, section 1347.071, 20696
division (A), (B), or (C) of section 1347.08, or division (A) or 20697
(C) of section 1347.09 of the Revised Code. Whoever violates 20698
this section is guilty of a minor misdemeanor. 20699

(B) Whoever violates division (H) (1) or (2) of section 20700
1347.15 of the Revised Code is guilty of a misdemeanor of the 20701
first degree. 20702

Sec. 1349.30. (A) A person has no liability under section 20703
1349.31 of the Revised Code, and shall not be subject to any 20704
sanction by the superintendent of financial institutions, for 20705
any failure to comply with section 1349.26 or 1349.27 of the 20706
Revised Code, if within sixty days after discovering the error, 20707
whether pursuant to the person's own procedures or an 20708
examination or investigation by the superintendent under 20709

division (A) or (B) of section 1349.34 of the Revised Code, and 20710
prior to the initiation of any action by the superintendent 20711
under divisions (C) to (F) of section 1349.34 of the Revised 20712
Code or the receipt of written notice of the error from the 20713
consumer, the person notifies the consumer or other person 20714
concerned of the error and makes whatever adjustments in the 20715
appropriate account are necessary to assure that the consumer 20716
will not be required to pay an amount in excess of the charge 20717
actually disclosed, or the dollar equivalent of the annual 20718
percentage rate actually disclosed, whichever is lower. 20719

(B) A creditor or assignee shall not be held liable in any 20720
action brought under section 1349.29 of the Revised Code, if the 20721
creditor or assignee shows by a preponderance of evidence that 20722
the compliance failure was not intentional and resulted from a 20723
bona fide error notwithstanding the maintenance of procedures 20724
reasonably adapted to avoid any such error. For purposes of this 20725
division, "bona fide error" includes, but is not limited to, 20726
clerical, calculation, computer malfunction and programming, and 20727
printing errors. "Bona fide error" does not include an error of 20728
legal judgment with respect to a person's obligations under 20729
sections 1349.25 to ~~1349.36~~1349.35 of the Revised Code. 20730

Sec. 1349.32. The purpose of sections 1349.25 to ~~1349.36~~ 20731
1349.35 of the Revised Code is to bring Ohio law into 20732
conformance with the "Home Ownership and Equity Protection Act 20733
of 1994," 108 Stat. 2190, 15 U.S.C.A. 1601 note, as amended, and 20734
the regulations and interpretations adopted thereunder by the 20735
federal reserve board, in order to facilitate the uniform 20736
administration and enforcement of state and federal laws on the 20737
regulation of certain high cost mortgages. 20738

In furtherance of that purpose, the regulations and 20739

interpretations adopted by the federal reserve board to 20740
implement the "Home Ownership and Equity Protection Act of 20741
1994," which regulations and interpretations are effective as of 20742
~~the effective date of this section~~ May 24, 2002, are hereby 20743
deemed applicable to sections 1349.25 to ~~1349.36~~ 1349.35 of the 20744
Revised Code. Such regulations and interpretations include the 20745
amendment of sections 226.32 and 226.34 of Title 12 of the Code 20746
of Federal Regulations, which amendment was approved by the 20747
federal reserve board on December 12, 2001, and takes effect 20748
October 1, 2002. 20749

Sec. 1349.34. (A) As often as the superintendent of 20750
financial institutions considers it necessary, the 20751
superintendent may examine a person's records regarding covered 20752
loans. The superintendent may recover from the person any costs 20753
incurred in connection with and reasonably related to the 20754
examination. 20755

(B) The superintendent may investigate alleged failures to 20756
comply with sections 1349.25 to ~~1349.36~~ 1349.35 of the Revised 20757
Code, or any rule adopted thereunder, or complaints concerning 20758
any such failure to comply. In conducting any investigation 20759
under this section, the superintendent may compel, by subpoena, 20760
witnesses to testify in relation to any matter over which the 20761
superintendent has jurisdiction and may require the production 20762
of any book, record, or other document pertaining to that 20763
matter. If a person fails to file any statement or report, obey 20764
any subpoena, give testimony, produce any book, record, or other 20765
document as required by a subpoena, or permit photocopying of 20766
any book, record, or other document subpoenaed, the court of 20767
common pleas of any county in this state, upon application made 20768
to it by the superintendent, shall compel obedience by 20769
attachment proceedings for contempt, as in the case of 20770

disobedience of the requirements of a subpoena issued from the 20771
court or a refusal to testify therein. 20772

(C) Whenever it appears to the superintendent that a 20773
person has engaged in, is engaging in, or is about to engage in, 20774
any activity constituting a failure to comply with section 20775
1349.26 or 1349.27 of the Revised Code, the superintendent may 20776
make application to the court of common pleas of any county in 20777
this state for an order enjoining any such activity. Upon a 20778
showing by the superintendent that a person has engaged in, is 20779
engaging in, or is about to engage in, any activity constituting 20780
a failure to comply with section 1349.26 or 1349.27 of the 20781
Revised Code, the court shall grant an injunction, restraining 20782
order, or other appropriate relief. 20783

(D) Whenever it appears to the superintendent that a 20784
person has engaged in, is engaging in, or is about to engage in, 20785
any activity that may constitute a failure to comply with 20786
section 1349.26 or 1349.27 of the Revised Code, the 20787
superintendent, after notice and a hearing conducted in 20788
accordance with Chapter 119. of the Revised Code, may issue a 20789
cease and desist order. Such an order shall be enforceable in 20790
any court of common pleas in this state. 20791

(E) If a person that fails to comply with section 1349.26 20792
or 1349.27 of the Revised Code is licensed, registered, or 20793
~~chartered~~chartered by, or otherwise operates under the authority 20794
of, the superintendent, the superintendent may, in accordance 20795
with Chapter 119. of the Revised Code, suspend, revoke, or deny 20796
the renewal of such license, registration, charter, or other 20797
authority. 20798

(F) If a person fails to comply with section 1349.26 or 20799
1349.27 of the Revised Code, the superintendent may, in 20800

accordance with Chapter 119. of the Revised Code, impose a fine 20801
of not more than two thousand five hundred dollars per 20802
compliance failure. If the person fails to comply two or more 20803
times, the superintendent may, in accordance with Chapter 119. 20804
of the Revised Code, impose a fine of not more than five 20805
thousand dollars per compliance failure. If the person injured 20806
by the failure to comply is sixty-five years of age or older, 20807
the superintendent may double the amount of the fine. 20808

An order to pay a fine pursuant to this division shall be 20809
enforceable in any court of common pleas in this state. All 20810
fines collected under this division shall be paid to the 20811
superintendent and shall be deposited by the superintendent into 20812
the state treasury to the credit of the consumer finance fund 20813
created under section 1321.21 of the Revised Code. 20814

In determining the amount of a fine to be imposed under 20815
this division, the superintendent shall consider all of the 20816
following: 20817

(1) The seriousness of the conduct; 20818

(2) The person's good faith efforts to prevent the 20819
conduct; 20820

(3) The person's history regarding violations and 20821
compliance with the superintendent's orders; 20822

(4) The person's financial resources; 20823

(5) Any other matter the superintendent considers 20824
appropriate in enforcing sections 1349.26 and 1349.27 of the 20825
Revised Code. 20826

The superintendent shall not impose a fine under this 20827
division if the superintendent has imposed or will impose a fine 20828

under another provision of the Revised Code for the same 20829
conduct. 20830

(G) (1) The superintendent may take any of the actions set 20831
forth in this section with respect to any person other than a 20832
federally chartered financial institution or its operating 20833
subsidiaries. Whenever it appears to the superintendent that a 20834
federally chartered financial institution or its operating 20835
subsidiary has engaged in, is engaging in, or is about to engage 20836
in, any activity that may constitute a failure to comply with 20837
section 1349.26 or 1349.27 of the Revised Code, the 20838
superintendent may present any evidence of such activity to the 20839
institution's appropriate federal regulatory authority, along 20840
with any recommendations regarding the imposition of specific 20841
sanctions. 20842

(2) Any action taken by the superintendent under this 20843
section shall be commenced within three years after the alleged 20844
compliance failure. 20845

(H) The remedies available to the superintendent under 20846
this section are cumulative and concurrent, and the exercise of 20847
one remedy by the superintendent does not preclude or require 20848
the exercise of any other remedy. 20849

(I) The remedies available to the superintendent under 20850
this section or to the appropriate federal regulatory authority, 20851
the right of rescission described in section 1349.29 of the 20852
Revised Code, and the criminal penalty provided in section 20853
1349.31 of the Revised Code shall constitute the sole and 20854
exclusive remedies for any failure to comply with section 20855
1349.26 or 1349.27 of the Revised Code. 20856

Sec. 1349.43. (A) As used in this section, "loan officer," 20857

"mortgage broker," and "nonbank mortgage lender" have the same 20858
meanings as in section 1345.01 of the Revised Code. 20859

(B) The department of commerce shall establish and 20860
maintain an electronic database accessible through the internet 20861
that contains information on all of the following: 20862

(1) The enforcement actions taken by the superintendent of 20863
financial institutions for each violation of or failure to 20864
comply with any provision of Chapter 1322. of the Revised Code, 20865
upon final disposition of the action; 20866

(2) The enforcement actions taken by the attorney general 20867
under Chapter 1345. of the Revised Code against loan officers, 20868
mortgage brokers, and nonbank mortgage lenders, upon final 20869
disposition of each action; 20870

(3) All judgments by courts of this state, concerning 20871
which appellate remedies have been exhausted or lost by the 20872
expiration of the time for appeal, finding either of the 20873
following: 20874

(a) A violation of any provision of Chapter 1322. of the 20875
Revised Code; 20876

(b) That specific acts or practices by a loan officer, 20877
mortgage broker, or nonbank mortgage lender violate section 20878
1345.02, 1345.03, or 1345.031 of the Revised Code. 20879

(C) The attorney general shall notify the department of 20880
all enforcement actions and judgments described in divisions (B) 20881
(2) and (3) (b) of this section. 20882

~~(D) The department may adopt rules in accordance with 20883
Chapter 119. of the Revised Code that are necessary to implement 20884
this section. 20885~~

~~(E)~~—The electronic database maintained by the department 20886
in accordance with this section shall not include information 20887
that, pursuant to section 1322.36 of the Revised Code, is 20888
confidential. 20889

~~(F)~~ (E) The department may use the multistate licensing 20890
system authorized in section 1181.23 of the Revised Code to 20891
fulfill its obligations under this section. 20892

Sec. 1506.02. (A) The department of natural resources is 20893
hereby designated the lead agency for the development and 20894
implementation of a coastal management program. The director of 20895
natural resources: 20896

(1) Shall develop and adopt the coastal management program 20897
document. The director shall cooperate and coordinate with other 20898
agencies of the state and its political subdivisions in the 20899
development of the document. Before adopting the document, the 20900
director shall hold four public hearings on it in the coastal 20901
area, and may hold additional public meetings, to give the 20902
public the opportunity to make comments and recommendations 20903
concerning its terms. The director shall consider the public 20904
comments and recommendations before adopting the document. The 20905
director may amend the coastal management program document, 20906
provided that, prior to making changes in it, the director 20907
notifies by mail those persons who submitted comments and 20908
recommendations concerning the original document and appropriate 20909
agencies of the state and its political subdivisions. The 20910
director may hold at least one public hearing on the proposed 20911
changes. 20912

(2) Shall administer the coastal management program in 20913
accordance with the coastal management program document, this 20914
chapter, and rules adopted under it; 20915

~~(3) Shall adopt and may amend or rescind rules under Chapter 119. of the Revised Code for the implementation, administration, and enforcement of the coastal management program and the other provisions of this chapter. Before the adoption, amendment, or rescission of rules under division (A) (3) of this section, the director shall do all of the following:~~ 20916
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~~(a) Maintain a list of interested public and private organizations and mail notice to those organizations of any proposed rule or amendment to or rescission of a rule at least thirty days before any public hearing on the proposal;~~ 20922
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~~(b) Mail a copy of each proposed rule, amendment, or rescission to any person who requests a copy within five days after receipt of the request;~~ 20926
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~~(c) Consult with appropriate statewide organizations and units of local government that would be affected by the proposed rule, amendment, or rescission.~~ 20929
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~~Although the director is expected to discharge these duties diligently, failure to mail any notice or copy or to so consult with any person is not jurisdictional and shall not be construed to invalidate any proceeding or action of the director.~~ 20932
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~~(4) Shall provide for consultation and coordination between and among state agencies, political subdivisions of the state, and interstate, regional, areawide, and federal agencies in carrying out the purposes of the coastal management program and the other provisions of this chapter;~~ 20937
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~~(5)~~ (4) Shall, to the extent practicable and consistent with the protection of coastal area resources, coordinate the rules and policies of the department of natural resources with 20942
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the rules and policies of other state and federal agencies to 20945
simplify and consolidate the regulation of activities along the 20946
Lake Erie shoreline; 20947

~~(6)~~(5) May, to accomplish the purposes of the coastal 20948
management program and the other provisions of this chapter, 20949
contract with any person and may accept and expend gifts, 20950
bequests, and grants of money or property from any person. 20951

(B) Every agency of the state, upon request of the 20952
director, shall cooperate with the department of natural 20953
resources in the implementation of the coastal management 20954
program. 20955

(C) The director shall establish a coastal management 20956
assistance grant program. Grants may be awarded from federal 20957
funds received for that purpose and from such other funds as may 20958
be provided by law to any municipal corporation, county, 20959
township, park district created under section 511.18 or 1545.04 20960
of the Revised Code, conservancy district established under 20961
Chapter 6101. of the Revised Code, port authority, other 20962
political subdivision, state agency, educational institution, or 20963
nonprofit corporation to help implement, administer, or enforce 20964
any aspect of the coastal management program. Grants may be used 20965
for any of the following purposes: 20966

(1) Feasibility studies and engineering reports for 20967
projects that are consistent with the policies in the coastal 20968
management program document; 20969

(2) The protection and preservation of wetlands, beaches, 20970
fish and wildlife habitats, minerals, natural areas, prime 20971
agricultural land, endangered plant and animal species, or other 20972
significant natural coastal resources; 20973

- (3) The management of shoreline development to prevent loss of life and property in coastal flood hazard areas and coastal erosion areas, to set ~~prioities~~priorities for water-dependent energy, commercial, industrial, agricultural, and recreational uses, or to identify environmentally acceptable sites for dredge spoil disposal; 20974
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- (4) Increasing public access to Lake Erie and other public places in the coastal area; 20980
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- (5) The protection and preservation of historical, cultural, or aesthetic coastal resources; 20982
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- (6) Improving the predictability and efficiency of governmental decision making related to coastal area management; 20984
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- (7) Adopting, administering, and enforcing zoning ordinances or resolutions relating to coastal flood hazard areas or coastal erosion areas; 20986
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- (8) The redevelopment of deteriorating and underutilized waterfronts and ports; 20989
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- (9) Other purposes approved by the director. 20991
- Sec. 1506.04.** (A) No later than September 15, 1989, each county or municipal corporation within whose jurisdiction is a coastal flood hazard area shall either participate in and remain in compliance with the national flood insurance program or shall adopt resolutions or ordinances governing the coastal flood hazard area that meet or exceed the standards required for participation in the regular phase of the national flood insurance program. 20992
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- (B) If the director of natural resources determines at any time that a county or municipal corporation that is 21000
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participating in the national flood insurance program or has 21002
adopted resolutions or ordinances under division (A) of this 21003
section is not in compliance with that program or those 21004
resolutions or ordinances, as applicable, the director shall so 21005
notify the legislative authority of the county or municipal 21006
corporation and shall also notify the legislative authority that 21007
it may respond to the determination in accordance with the 21008
procedure for doing so established by rules ~~adopted under~~ 21009
~~section 1506.02 of the Revised Code.~~ If after considering the 21010
legislative authority's response the director determines that 21011
the county or municipal corporation is still not in compliance 21012
with the national flood insurance program or resolutions or 21013
ordinances adopted under division (A) of this section, as 21014
applicable, the director may request the attorney general in 21015
writing to, and the attorney general shall, bring an action for 21016
appropriate relief in a court of competent jurisdiction against 21017
the county or municipal corporation. 21018

(C) The attorney general, upon the written request of the 21019
director, shall bring an action for appropriate relief in a 21020
court of competent jurisdiction against any development that 21021
meets both of the following criteria: 21022

(1) Is located in a county or municipal corporation that 21023
is not in compliance with division (A) of this section; 21024

(2) Is not in compliance with the standards of the 21025
national flood insurance program. 21026

(D) This section does not apply to any permits or 21027
approvals issued by any state agency prior to the effective date 21028
of rules adopted ~~under section 1506.02 of the Revised Code~~ for 21029
the implementation of this section. 21030

(E) As used in this section, "national flood insurance program" and "development" have the same meanings as in section 1521.01 of the Revised Code.

Sec. 1506.34. (A) The director of natural resources, with the approval of the director of the Ohio history connection, shall establish policies ~~and may adopt rules~~ necessary to implement and administer sections 1506.30 to 1506.36 of the Revised Code. Not less than forty-five days prior to adopting a rule under ~~this section or~~ section 1506.31 of the Revised Code, the director of natural resources shall send a copy of the proposed rule to the director of the Ohio history connection, who shall promptly review it. Not more than thirty days after receiving the proposed rule, the director of the Ohio history connection shall return the rule to the director of natural resources together with the former director's written approval or disapproval of the proposed rule. If the director of the Ohio history connection disapproves the rule, the director shall explain the reasons for the disapproval and any amendments to the rule the director considers necessary to obtain the director's approval. The director of natural resources shall not adopt a rule under those sections that has not been approved by the director of the Ohio history connection. If the director of the Ohio history connection does not respond within thirty days as prescribed in this section, the rule is deemed approved by the director.

(B) The director of natural resources shall inform the public of the requirements of sections 1506.30 to 1506.36 of the Revised Code and any policies established and rules adopted under them. In complying with this section, the director may establish or conduct educational programs or seminars, print and distribute informational pamphlets, and provide detailed

information to organizations that conduct scuba diving training 21062
programs. 21063

(C) The director of natural resources may hire or contract 21064
with a marine archaeologist, a marine historian, a marine 21065
surveyor, or any combination of these persons for the purposes 21066
of implementing and administering sections 1506.30 to 1506.36 of 21067
the Revised Code and any rules adopted under them. 21068

Sec. 1509.03. (A) The chief of the division of oil and gas 21069
resources management shall adopt, rescind, and amend, in 21070
accordance with Chapter 119. of the Revised Code, rules for the 21071
~~administration, implementation, and enforcement of this chapter.~~ 21072
~~The rules shall include an~~ identification of the subjects that 21073
the chief shall address when attaching terms and conditions to a 21074
permit with respect to a well and production facilities of a 21075
well that are located within an urbanized area or with respect 21076
to a horizontal well and production facilities associated with a 21077
horizontal well. The subjects shall include all of the 21078
following: 21079

(1) Safety concerning the drilling or operation of a well; 21080

(2) Protection of the public and private water supply, 21081
including the amount of water used and the source or sources of 21082
the water; 21083

(3) Fencing and screening of surface facilities of a well; 21084

(4) Containment and disposal of drilling and production 21085
wastes; 21086

(5) Construction of access roads for purposes of the 21087
drilling and operation of a well; 21088

(6) Noise mitigation for purposes of the drilling of a 21089

well and the operation of a well, excluding safety and 21090
maintenance operations. 21091

No person shall violate any rule of the chief adopted 21092
under this chapter. 21093

(B) (1) Any order issuing, denying, or modifying a permit 21094
or notices required to be made by the chief pursuant to this 21095
chapter shall be made in compliance with Chapter 119. of the 21096
Revised Code, except that personal service may be used in lieu 21097
of service by mail. Every order issuing, denying, or modifying a 21098
permit under this chapter and described as such shall be 21099
considered an adjudication order for purposes of Chapter 119. of 21100
the Revised Code. Division (B) (1) of this section does not apply 21101
to a permit issued under section 1509.06 of the Revised Code. 21102

(2) Where notice to any person is required by this 21103
chapter, the notice shall be given in order to meet the 21104
requirements of law. 21105

(C) The chief or the chief's authorized representative may 21106
at any time enter upon lands, public or private, for the purpose 21107
of administration or enforcement of this chapter, the rules 21108
adopted or orders made thereunder, or terms or conditions of 21109
permits or registration certificates issued thereunder and may 21110
examine and copy records pertaining to the drilling, conversion, 21111
or operation of a well for injection of fluids and logs required 21112
by division (C) of section 1509.223 of the Revised Code. No 21113
person shall prevent or hinder the chief or the chief's 21114
authorized representative in the performance of official duties. 21115
If entry is prevented or hindered, the chief or the chief's 21116
authorized representative may apply for, and the court of common 21117
pleas may issue, an appropriate inspection warrant necessary to 21118
achieve the purposes of this chapter within the court's 21119

territorial jurisdiction. 21120

(D) The chief may issue orders to enforce this chapter, 21121
rules adopted thereunder, and terms or conditions of permits 21122
issued thereunder. Any such order shall be considered an 21123
adjudication order for the purposes of Chapter 119. of the 21124
Revised Code. No person shall violate any order of the chief 21125
issued under this chapter. No person shall violate a term or 21126
condition of a permit or registration certificate issued under 21127
this chapter. 21128

(E) Orders of the chief denying, suspending, or revoking a 21129
registration certificate; approving or denying approval of an 21130
application for revision of a registered transporter's plan for 21131
disposal; or to implement, administer, or enforce division (A) 21132
of section 1509.224 and sections 1509.22, 1509.222, 1509.223, 21133
1509.225, and 1509.226 of the Revised Code pertaining to the 21134
transportation of brine by vehicle and the disposal of brine so 21135
transported are not adjudication orders for purposes of Chapter 21136
119. of the Revised Code. The chief shall issue such orders 21137
under division (A) or (B) of section 1509.224 of the Revised 21138
Code, as appropriate. 21139

Sec. 1509.061. An owner of a well who has been issued a 21140
permit under section 1509.06 of the Revised Code may submit to 21141
the chief of the division of oil and gas resources management, 21142
on a form prescribed by the chief, a request to revise an 21143
existing tract upon which exists a producing or idle well. The 21144
chief shall adopt, and may amend and rescind, rules ~~under~~ 21145
~~section 1509.03 of the Revised Code that are necessary for the~~ 21146
~~administration of this section. The rules at least shall to~~ 21147
stipulate the information to be included on the request form and 21148
~~shall to~~ establish a fee to be paid by the person submitting the 21149

request, which fee shall not exceed two hundred fifty dollars. 21150

The chief shall approve a request submitted under this 21151
section unless it would result in a violation of this chapter or 21152
rules adopted under it, including provisions establishing 21153
spacing or minimum acreage requirements. 21154

Sec. 1509.222. (A) (1) Except as provided in section 21155
1509.226 of the Revised Code, no person shall transport brine by 21156
vehicle in this state unless the business entity that employs 21157
the person first registers with and obtains a registration 21158
certificate and identification number from the chief of the 21159
division of oil and gas resources management. 21160

(2) No more than one registration certificate shall be 21161
required of any business entity. Registration certificates 21162
issued under this section are not transferable. An applicant 21163
shall file an application with the chief, containing such 21164
information in such form as the chief prescribes. The 21165
application shall include at least all of the following: 21166

(a) A list that identifies each vehicle, vessel, railcar, 21167
and container that will be used in the transportation of brine; 21168

(b) A plan for disposal that provides for compliance with 21169
the requirements of this chapter and rules of the chief 21170
pertaining to the transportation of brine by vehicle and the 21171
disposal of brine so transported and that lists all disposal 21172
sites that the applicant intends to use; 21173

(c) The bond required by section 1509.225 of the Revised 21174
Code; 21175

(d) A certificate issued by an insurance company 21176
authorized to do business in this state certifying that the 21177
applicant has in force a liability insurance policy in an amount 21178

not less than three hundred thousand dollars bodily injury 21179
coverage and three hundred thousand dollars property damage 21180
coverage to pay damages for injury to persons or property caused 21181
by the collecting, handling, transportation, or disposal of 21182
brine. 21183

The insurance policy required by division (A) (2) (d) of 21184
this section shall be maintained in effect during the term of 21185
the registration certificate. The policy or policies providing 21186
the coverage shall require the insurance company to give notice 21187
to the chief if the policy or policies lapse for any reason. 21188
Upon such termination of the policy, the chief may suspend the 21189
registration certificate until proper insurance coverage is 21190
obtained. 21191

(3) Each application for a registration certificate shall 21192
be accompanied by a nonrefundable fee of fifty dollars. 21193

(4) If a business entity that has been issued a 21194
registration certificate under this section changes its name due 21195
to a business reorganization or merger, the business entity 21196
shall revise the bond or certificates of deposit required by 21197
section 1509.225 of the Revised Code and obtain a new 21198
certificate from an insurance company in accordance with 21199
division ~~(A) (2) (e)~~ (A) (2) (d) of this section to reflect the 21200
change in the name of the business entity. 21201

(B) The chief shall issue an order denying an application 21202
for a registration certificate if the chief finds that either of 21203
the following applies: 21204

(1) The applicant, at the time of applying for the 21205
registration certificate, has been found liable by a final 21206
nonappealable order of a court of competent jurisdiction for 21207

damage to streets, roads, highways, bridges, culverts, or 21208
drainways pursuant to section 4513.34 or 5577.12 of the Revised 21209
Code until the applicant provides the chief with evidence of 21210
compliance with the order. 21211

(2) The applicant's plan for disposal does not provide for 21212
compliance with the requirements of this chapter and rules of 21213
the chief pertaining to the transportation of brine by vehicle 21214
and the disposal of brine so transported. 21215

(C) No applicant shall attempt to circumvent division (B) 21216
of this section by applying for a registration certificate under 21217
a different name or business organization name, by transferring 21218
responsibility to another person or entity, or by any similar 21219
act. 21220

(D) A registered transporter shall apply to revise a 21221
disposal plan under procedures that the chief shall prescribe by 21222
rule. However, at a minimum, an application for a revision shall 21223
list all sources and disposal sites of brine currently 21224
transported. The chief shall deny any application for a revision 21225
of a plan under this division if the chief finds that the 21226
proposed revised plan does not provide for compliance with the 21227
requirements of this chapter and rules of the chief pertaining 21228
to the transportation of brine by vehicle and the disposal of 21229
brine so transported. Approvals and denials of revisions shall 21230
be by order of the chief. 21231

(E) The chief may ~~adopt rules,~~ issue orders, and attach 21232
terms and conditions to registration certificates as may be 21233
necessary to administer, implement, and enforce sections 21234
1509.222 to 1509.226 of the Revised Code for protection of 21235
public health or safety or conservation of natural resources. 21236

Sec. 1513.02. (A) The division of mineral resources 21237
management shall administer, enforce, and implement this 21238
chapter. The chief of the division of mineral resources 21239
management shall do all of the following: 21240

(1) Adopt, amend, and rescind rules: 21241

~~(a) To administer and enforce this chapter;~~ 21242

~~(b) To implement the requirements of this chapter for~~ For 21243
the reclamation of lands affected by coal mining, including such 21244
rules governing mining practices and procedures, segregation and 21245
placement of soil and topsoil, backfilling, grading, terracing, 21246
resoiling, soil conditioning and reconditioning, planting, 21247
establishment of drainage patterns, construction of 21248
impoundments, and the construction, maintenance, and disposition 21249
of haul roads, ditches, and dikes, as may be necessary or 21250
desirable, under varying conditions of slope, drainage, physical 21251
and chemical characteristics of soil and overburden, erodability 21252
of materials, season, growth characteristics of plants, and 21253
other factors affecting coal mining and reclamation, to 21254
facilitate the return of the land to a condition required by 21255
this chapter; to prevent pollution or substantial diminution of 21256
waters of the state, substantial erosion, substantial deposition 21257
of sediment, landslides, accumulation and discharge of acid 21258
water, and flooding, both during mining and reclamation and 21259
thereafter; to restore the recharge capacity of the mined area 21260
to approximate premining conditions; and to ensure full 21261
compliance with all requirements of this chapter relating to 21262
reclamation, and the attainment of those objectives in the 21263
interest of the public health, safety, and welfare to which 21264
these reclamation requirements are directed; 21265

~~(e)~~ (b) To meet the requirements of the "Surface Mining 21266

Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.	21267
1201.	21268
(2) Issue orders to enforce this chapter and rules adopted under it;	21269 21270
(3) Adopt rules for the internal management of the division that do not affect private rights;	21271 21272
(4) Adopt programs, rules , and procedures designed to assist the coal operator in this state with the permitting process and complying with the environmental standards of this chapter. Upon request of the applicant for a permit, the chief shall make a determination of the probable hydrologic consequences required in division (B) (1) (k) of section 1513.07 of the Revised Code within sixty days after a permit has been submitted to the division for those applications requesting the chief to perform the study. The chief shall perform the chemical analysis of test borings or core samplings for operators who have a total annual production of coal at all locations that does not exceed one hundred thousand tons.	21273 21274 21275 21276 21277 21278 21279 21280 21281 21282 21283 21284
(5) Adopt programs, rules, and procedures designed to ensure that reclamation is performed on operations for which the performance security has been forfeited pursuant to section 1513.16 of the Revised Code;	21285 21286 21287 21288
(6) Receive, administer, and expend moneys obtained from the United States department of the interior and other federal agencies to implement the state's permanent coal regulatory program;	21289 21290 21291 21292
(7) (a) Regulate the beneficial use of coal combustion byproducts at coal mining and reclamation operations and abandoned mine lands that are regulated under this chapter and	21293 21294 21295

rules adopted under it. The beneficial use of coal combustion 21296
byproducts at such coal mining and reclamation operations and 21297
abandoned mine lands is subject to all applicable performance 21298
standards and requirements established under this chapter and 21299
rules adopted under it, including, without limitation, standards 21300
and requirements established under section 1513.16 of the 21301
Revised Code and rules adopted pursuant to it. 21302

The beneficial use of coal combustion byproducts that is 21303
authorized at coal mining and reclamation operations and 21304
abandoned mine lands that are regulated under this chapter and 21305
rules adopted under it is not subject to the following 21306
provisions of Chapters 3734. and 6111. of the Revised Code and 21307
rules adopted under those provisions: 21308

(i) Permit and license requirements for solid waste 21309
facilities established under sections 3734.02 and 3734.05 of the 21310
Revised Code; 21311

(ii) The prohibition against the open dumping of solid 21312
wastes established in section 3734.03 of the Revised Code; 21313

(iii) Solid waste generation and disposal fees established 21314
under sections 3734.57 to 3734.574 of the Revised Code; 21315

(iv) Permit to install and plan approval requirements 21316
established under sections 6111.03, 6111.44, and 6111.45 of the 21317
Revised Code. 21318

Nothing in division (A) (7) of this section shall be 21319
construed to limit any other requirements that are applicable to 21320
the beneficial use of coal combustion byproducts and that are 21321
established under Chapter 3704., 3714., 3734., or 6111. of the 21322
Revised Code or under local or federal laws, including, without 21323
limitation, requirements governing air pollution control 21324

permits, hazardous waste, national pollutant discharge 21325
elimination system permits, and section 401 water quality 21326
certifications. 21327

(b) As used in division (A)(7) of this section: 21328

(i) "Coal combustion byproducts" means fly ash, bottom 21329
ash, coal slag, flue gas desulphurization and fluidized bed 21330
combustion byproducts, air or water pollution control residues 21331
from the operation of a coal-fired electric or steam generation 21332
facility, and any material from a clean coal technology 21333
demonstration project or other innovative process at a coal- 21334
fired electric or steam generation facility. 21335

(ii) "Beneficial use" means the use of coal combustion 21336
byproducts in a manner that is not equivalent to the 21337
establishment of a disposal system or a solid waste disposal 21338
facility and that is unlikely to affect human health or safety 21339
or the environment adversely or to degrade the existing quality 21340
of the land, air, or water. "Beneficial use" includes, without 21341
limitation, land application uses for agronomic value; land 21342
reclamation uses; and discrete, controlled uses for structural 21343
fill, pavement aggregate, pipe bedding aggregate, mine sealing, 21344
alternative drainage or capping material, and pilot 21345
demonstration projects. 21346

(iii) "Structural fill" means the discrete, controlled use 21347
of a coal combustion byproduct as a substitute for a 21348
conventional aggregate, raw material, or soil under or 21349
immediately adjacent to a building or structure. "Structural 21350
fill" does not include uses that involve general filling or 21351
grading operations or valley fills. 21352

(iv) "Pavement aggregate" means the discrete, controlled 21353

use of a coal combustion byproduct as a subbase material or 21354
drainage layer under or immediately adjacent to a paved road or 21355
a paved parking lot where the coal combustion byproduct is a 21356
substitute for a conventional aggregate, raw material, or soil. 21357

(v) "Pipe bedding aggregate" means the discrete, 21358
controlled use of a coal combustion byproduct as a substitute 21359
for a conventional aggregate, raw material, or soil under, 21360
around, or immediately adjacent to a water, sewer, or other 21361
pipeline. 21362

(vi) "Coal-fired electric or steam generation facility" 21363
includes any boiler that is fired with coal or with coal in 21364
combination with petroleum coke, oil, natural gas, or any other 21365
fossil fuel. 21366

(vii) "Solid waste disposal facility" means a facility for 21367
the disposal of solid wastes as provided in Chapter 3734. of the 21368
Revised Code and rules adopted under it. 21369

(viii) "Disposal system" has the same meaning as in 21370
section 6111.01 of the Revised Code. 21371

(8) Establish programs and adopt rules and procedures 21372
governing terms, limitations, and conditions for the use of 21373
diesel equipment in an underground coal mine. 21374

(B) The chief, by rule, may designate as unsuitable for 21375
coal mining natural areas maintained on the registry of natural 21376
areas of the department of natural resources pursuant to Chapter 21377
1517. of the Revised Code, wild, scenic, or recreational river 21378
areas designated pursuant to that chapter, publicly owned or 21379
dedicated parks, and other areas of unique and irreplaceable 21380
natural beauty or condition, or areas within specified distances 21381
of a public road, occupied dwelling, public building, school, 21382

church, community, or institutional building, public park, or cemetery. Such a designation may include land adjacent to the perimeters of those areas that may be necessary to protect their integrity.

(C) (1) The adoption, amendment, and rescission of rules under divisions ~~(A) (1), (4)~~ (A) (4), (5), and, (8), (B), and (J) of this section are subject to Chapter 119. of the Revised Code.

(2) The issuance of orders under division (A) (2) of this section and appeals therefrom are not governed by or subject to Chapter 119. of the Revised Code, but are governed by this chapter.

(D) (1) When the chief or an authorized representative of the chief determines that any condition or practice exists or that any permittee is in violation of any requirement of this chapter or any permit condition required by this chapter, which condition, practice, or violation creates an imminent danger to the health or safety of the public or is causing, or can reasonably be expected to cause, significant, imminent environmental harm to land, air, or water resources, the chief or the authorized representative immediately shall order the cessation of coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. The cessation order shall remain in effect until the chief or the authorized representative determines that the condition, practice, or violation has been abated or until the order is modified, vacated, or terminated by the chief or the authorized representative pursuant to division (D) (4) of this section or by the reclamation commission pursuant to section 1513.13 of the Revised Code. When the chief or the authorized representative finds that the ordered cessation of coal mining

and reclamation operations or any portion thereof will not 21413
completely abate the imminent danger to the health or safety of 21414
the public or the significant, imminent environmental harm to 21415
land, air, or water resources, the chief or the authorized 21416
representative, in addition to the cessation order, shall order 21417
the operator to take whatever steps the chief or the authorized 21418
representative considers necessary to abate the imminent danger 21419
or the significant environmental harm. 21420

(2) When the chief or an authorized representative of the 21421
chief determines that any person is in violation of any 21422
requirement of this chapter or any permit condition required by 21423
this chapter, but the violation does not create an imminent 21424
danger to the health or safety of the public or cannot 21425
reasonably be expected to cause significant, imminent 21426
environmental harm to land, air, or water resources, the chief 21427
or the authorized representative shall issue a notice of 21428
violation to the person or the person's agent fixing a 21429
reasonable time for the abatement of the violation, provided 21430
that the time afforded a person to abate the violation shall not 21431
exceed the time limitations prescribed by the secretary of the 21432
interior in 30 C.F.R. Part 843 for an approvable state 21433
regulatory program under the "Surface Mining Control and 21434
Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201. 21435

If, upon expiration of the period of time as originally 21436
fixed or subsequently extended for good cause shown and upon the 21437
written finding of the chief or the authorized representative, 21438
the chief or the authorized representative finds that the 21439
violation has not been abated, the chief or the authorized 21440
representative immediately shall order the cessation of coal 21441
mining and reclamation operations or the portion thereof 21442
relevant to the violation. The cessation order shall remain in 21443

effect until the chief or the authorized representative 21444
determines that the violation has been abated or until the order 21445
is modified, vacated, or terminated by the chief or the 21446
authorized representative pursuant to division (D) (4) of this 21447
section or by the reclamation commission pursuant to section 21448
1513.13 of the Revised Code. In a cessation order issued under 21449
division (D) (2) of this section, the chief or the authorized 21450
representative shall prescribe the steps necessary to abate the 21451
violation in the most expeditious manner possible. 21452

(3) When in the judgment of the chief or an authorized 21453
representative of the chief a pattern of violations of any 21454
requirements of this chapter or any permit conditions required 21455
by this chapter exists or has existed and the violations are 21456
caused by the unwarranted failure of the permittee to comply 21457
with any requirements of this chapter or any permit conditions 21458
or are willfully caused by the permittee, the chief or the 21459
authorized representative immediately shall issue an order to 21460
the permittee to show cause why the permit should not be 21461
suspended or revoked. If a hearing is requested, the chief shall 21462
inform all interested parties of the time and place of the 21463
hearing and conduct the hearing pursuant to division (D) of 21464
section 1513.13 of the Revised Code. Upon the permittee's 21465
failure to show cause why the permit should not be suspended or 21466
revoked, the chief or the authorized representative immediately 21467
shall suspend or revoke the permit. 21468

(4) Notices of violation and orders issued pursuant to 21469
this section shall set forth with reasonable specificity the 21470
nature of the violation and the remedial action required, the 21471
period of time established for abatement, and a reasonable 21472
description of the portion of the coal mining and reclamation 21473
operation to which the notice or order applies. Each notice or 21474

order issued under this section shall be given promptly to the 21475
alleged violator or the agent of the alleged violator by the 21476
chief or an authorized representative of the chief who issues 21477
the notice or order. Notices and orders shall be in writing and 21478
shall be signed by the chief or the authorized representative 21479
and may be modified, vacated, or terminated by the chief or the 21480
authorized representative. Any notice or order issued pursuant 21481
to this section that requires cessation of mining by the 21482
operator shall expire within thirty days after actual notice to 21483
the operator unless a public hearing pursuant to section 1513.13 21484
of the Revised Code is held at the site or within such 21485
reasonable proximity to the site that any viewings of the site 21486
can be conducted during the course of the public hearing. 21487

(E) (1) A person who violates a permit condition or any 21488
other provision of this chapter may be assessed a civil penalty 21489
by the chief, except that if the violation leads to the issuance 21490
of a cessation order under division (D) of this section, the 21491
civil penalty shall be assessed for each day until the person 21492
initiates the necessary corrective steps. The penalty shall not 21493
exceed five thousand dollars for each violation. Each day of 21494
continuing violation may be deemed a separate violation for 21495
purposes of penalty assessments. In determining the amount of 21496
the penalty, consideration shall be given to the person's 21497
history of previous violation at the particular coal mining 21498
operation; the seriousness of the violation, including any 21499
irreparable harm to the environment and any hazard to the health 21500
or safety of the public; whether the person was negligent; and 21501
the demonstrated diligence of the person charged in attempting 21502
to achieve rapid compliance after notification of the violation. 21503

(2) A civil penalty shall be assessed by the chief only 21504
after the person charged with a violation under division (E) (1) 21505

of this section has been given an opportunity for a public hearing. If a person charged with such a violation fails to avail oneself of the opportunity for a public hearing, a civil penalty shall be assessed by the chief after the chief has determined that a violation did occur, and the amount of the penalty that is warranted, and has issued an order requiring that the penalty be paid.

(3) Upon the issuance of a notice or order charging that a violation of this chapter has occurred, the chief shall inform the operator within thirty days of the proposed amount of the penalty and provide opportunity for an adjudicatory hearing pursuant to section 1513.13 of the Revised Code. The person charged with the penalty then shall have thirty days to pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, file a petition for review of the proposed assessment with the secretary of the reclamation commission pursuant to section 1513.13 of the Revised Code. If, after the hearing, the commission affirms or modifies the proposed amount of the penalty, the person charged with the penalty then shall have thirty days after receipt of the written decision to pay the amount in full or file an appeal with the court of appeals in accordance with section 1513.14 of the Revised Code. At the time the petition for review of the proposed assessment is filed with the secretary, the person shall forward the amount of the penalty to the secretary for placement in the reclamation penalty fund, which is hereby created. The fund shall be in the custody of the treasurer of state, but shall not be a part of the state treasury. Pursuant to administrative or judicial review of the penalty, the secretary, within thirty days, shall remit the appropriate amount of the penalty to the person, with

interest, if it is determined that no violation occurred or that 21537
the amount of the penalty should be reduced, and the secretary 21538
shall forward the balance of the penalty or, if the penalty was 21539
not reduced, the entire amount of the penalty, with interest, to 21540
the chief for deposit in the reclamation forfeiture fund created 21541
in section 1513.18 of the Revised Code. Failure to forward the 21542
money to the secretary within thirty days after the chief 21543
informs the operator of the proposed amount of the penalty shall 21544
result in a waiver of all legal rights to contest the violation 21545
or the amount of the penalty. Within fifteen days after being 21546
informed of the penalty, the person charged with the penalty may 21547
request in writing an informal assessment conference to review 21548
the amount of the penalty. The conference shall be presided over 21549
by the chief or an individual appointed by the chief other than 21550
the inspector that issued the notice of violation or order upon 21551
which the penalty is based. The chief shall adopt rules 21552
governing procedures to be followed in informal conferences. 21553
Time allowed for payment of the penalty or appeal to the 21554
commission shall be tolled while the penalty is being reviewed 21555
in an informal conference. 21556

(4) An operator who fails to correct a violation for which 21557
a notice of violation or order has been issued under division 21558
(D) of this section within the period permitted for its 21559
correction shall be assessed a civil penalty of not less than 21560
seven hundred fifty dollars for each day during which the 21561
failure or violation continues. However, a civil penalty shall 21562
not be assessed under division (E) (4) of this section if the 21563
commission orders the suspension of the abatement requirement 21564
after determining, based upon the findings of an expedited 21565
hearing held under section 1513.13 of the Revised Code at the 21566
request of the operator, that the operator will suffer 21567

irreparable loss or damage from the application of the abatement 21568
requirement or if the court orders suspension of the abatement 21569
requirement pursuant to review proceedings held under section 21570
1513.14 of the Revised Code at the request of the operator. 21571

(F) The chief may enter into a cooperative agreement with 21572
the secretary of the interior to provide for state regulation of 21573
coal mining and reclamation operations on federal lands within 21574
the state. 21575

(G) The chief may prohibit augering if necessary to 21576
maximize the utilization, recoverability, or conservation of the 21577
solid fuel resources or to protect against adverse water quality 21578
impacts. 21579

(H) The chief shall transmit copies of all schedules 21580
submitted under section 1513.07 of the Revised Code pertaining 21581
to violations of air or water quality laws and rules adopted and 21582
orders issued under those laws in connection with coal mining 21583
operations to the director of environmental protection for 21584
verification. 21585

(I) For the purposes of sections 1513.18, 1513.24, 21586
1513.37, and 1514.06 of the Revised Code, the chief triennially 21587
shall determine the average wage rate for companies performing 21588
reclamation work for the division under those sections by 21589
averaging the wage rate paid by all companies performing such 21590
reclamation work during the three years immediately preceding 21591
the determination. However, in making the initial determination 21592
under this division, the chief shall average the wage rate paid 21593
by all companies performing such reclamation work during the ten 21594
years immediately preceding October 29, 1995. 21595

(J) If this state becomes covered by a state programmatic 21596

general permit issued by the United States army corps of 21597
engineers for the discharge of dredged or fill material into the 21598
waters of the United States by operations that conduct surface 21599
and underground coal mining and reclamation operations and the 21600
restoration of abandoned mine lands, the chief may establish 21601
programs and adopt rules and procedures designed to implement 21602
the terms, limitations, and conditions of the permit. The 21603
purpose of the programs, rules, and procedures shall be to 21604
enable the state to reduce or eliminate duplicative state and 21605
federal project evaluation, simplify the regulatory approval 21606
process, provide environmental protection for aquatic resources 21607
that is equivalent to federal protection, and satisfy the 21608
requirements of the United States army corps of engineers 21609
regulatory program under which the permit is issued and that is 21610
established under section 404 of the "Federal Water Pollution 21611
Control Act," 86 Stat. 48 (1972), 33 U.S.C. 1344, as amended by 21612
the "Clean Water Act of 1977," 91 Stat. 1600, 33 U.S.C. 1344; 21613
section 10 of the "Rivers and Harbors Act of 1899," 30 Stat. 21614
1151, 33 U.S.C. 403; and section 103 of the "Marine Protection, 21615
Research, and Sanctuaries Act of 1972," 86 Stat. 1055, 33 U.S.C. 21616
1413. 21617

Sec. 1513.07. (A) (1) No operator shall conduct a coal 21618
mining operation without a permit for the operation issued by 21619
the chief of the division of mineral resources management. 21620

(2) All permits issued pursuant to this chapter shall be 21621
issued for a term not to exceed five years, except that, if the 21622
applicant demonstrates that a specified longer term is 21623
reasonably needed to allow the applicant to obtain necessary 21624
financing for equipment and the opening of the operation and if 21625
the application is full and complete for the specified longer 21626
term, the chief may grant a permit for the longer term. A 21627

successor in interest to a permittee who applies for a new 21628
permit within thirty days after succeeding to the interest and 21629
who is able to obtain the performance security of the original 21630
permittee may continue coal mining and reclamation operations 21631
according to the approved mining and reclamation plan of the 21632
original permittee until the successor's application is granted 21633
or denied. 21634

(3) A permit shall terminate if the permittee has not 21635
commenced the coal mining operations covered by the permit 21636
within three years after the issuance of the permit, except that 21637
the chief may grant reasonable extensions of the time upon a 21638
showing that the extensions are necessary by reason of 21639
litigation precluding the commencement or threatening 21640
substantial economic loss to the permittee or by reason of 21641
conditions beyond the control and without the fault or 21642
negligence of the permittee, and except that with respect to 21643
coal to be mined for use in a synthetic fuel facility or 21644
specified major electric generating facility, the permittee 21645
shall be deemed to have commenced coal mining operations at the 21646
time construction of the synthetic fuel or generating facility 21647
is initiated. 21648

(4) (a) Any permit issued pursuant to this chapter shall 21649
carry with it the right of successive renewal upon expiration 21650
with respect to areas within the boundaries of the permit. The 21651
holders of the permit may apply for renewal and the renewal 21652
shall be issued unless the chief determines by written findings, 21653
subsequent to fulfillment of the public notice requirements of 21654
this section and section 1513.071 of the Revised Code through 21655
demonstrations by opponents of renewal or otherwise, that one or 21656
more of the following circumstances exists: 21657

(i) The terms and conditions of the existing permit are 21658
not being satisfactorily met. 21659

(ii) The present coal mining and reclamation operation is 21660
not in compliance with the environmental protection standards of 21661
this chapter. 21662

(iii) The renewal requested substantially jeopardizes the 21663
operator's continuing responsibilities on existing permit areas. 21664

(iv) The applicant has not provided evidence that the 21665
performance security in effect for the operation will continue 21666
in effect for any renewal requested in the application. 21667

(v) Any additional, revised, or updated information 21668
required by the chief has not been provided. Prior to the 21669
approval of any renewal of a permit, the chief shall provide 21670
notice to the appropriate public authorities as prescribed by 21671
rule of the chief. 21672

(b) If an application for renewal of a valid permit 21673
includes a proposal to extend the mining operation beyond the 21674
boundaries authorized in the existing permit, the portion of the 21675
application for renewal of a valid permit that addresses any new 21676
land areas shall be subject to the full standards applicable to 21677
new applications under this chapter. 21678

(c) A permit renewal shall be for a term not to exceed the 21679
period of the original permit established by this chapter. 21680
Application for permit renewal shall be made at least one 21681
hundred twenty days prior to the expiration of the valid permit. 21682

(5) A permit issued pursuant to this chapter does not 21683
eliminate the requirements for obtaining a permit to install or 21684
modify a disposal system or any part thereof or to discharge 21685
sewage, industrial waste, or other wastes into the waters of the 21686

state in accordance with Chapter 6111. of the Revised Code. 21687

(B) (1) The permit application shall be submitted in a 21688
manner satisfactory to the chief and shall contain, among other 21689
things, all of the following: 21690

(a) The names and addresses of all of the following: 21691

(i) The permit applicant; 21692

(ii) Every legal owner of record of the property, surface 21693
and mineral, to be mined; 21694

(iii) The holders of record of any leasehold interest in 21695
the property; 21696

(iv) Any purchaser of record of the property under a real 21697
estate contract; 21698

(v) The operator if different from the applicant; 21699

(vi) If any of these are business entities other than a 21700
single proprietor, the names and addresses of the principals, 21701
officers, and statutory agent for service of process. 21702

(b) The names and addresses of the owners of record of all 21703
surface and subsurface areas adjacent to any part of the permit 21704
area; 21705

(c) A statement of any current or previous coal mining 21706
permits in the United States held by the applicant, the permit 21707
identification, and any pending applications; 21708

(d) If the applicant is a partnership, corporation, 21709
association, or other business entity, the following where 21710
applicable: the names and addresses of every officer, partner, 21711
director, or person performing a function similar to a director, 21712
of the applicant, the name and address of any person owning, of 21713

record, ten per cent or more of any class of voting stock of the 21714
applicant, a list of all names under which the applicant, 21715
partner, or principal shareholder previously operated a coal 21716
mining operation within the United States within the five-year 21717
period preceding the date of submission of the application, and 21718
a list of the person or persons primarily responsible for 21719
ensuring that the applicant complies with the requirements of 21720
this chapter and rules adopted pursuant thereto while mining and 21721
reclaiming under the permit; 21722

(e) A statement of whether the applicant, any subsidiary, 21723
affiliate, or persons controlled by or under common control with 21724
the applicant, any partner if the applicant is a partnership, 21725
any officer, principal shareholder, or director if the applicant 21726
is a corporation, or any other person who has a right to control 21727
or in fact controls the management of the applicant or the 21728
selection of officers, directors, or managers of the applicant: 21729

(i) Has ever held a federal or state coal mining permit 21730
that in the five-year period prior to the date of submission of 21731
the application has been suspended or revoked or has had a coal 21732
mining bond, performance security, or similar security deposited 21733
in lieu of bond forfeited and, if so, a brief explanation of the 21734
facts involved; 21735

(ii) Has been an officer, partner, director, principal 21736
shareholder, or person having the right to control or has in 21737
fact controlled the management of or the selection of officers, 21738
directors, or managers of a business entity that has had a coal 21739
mining or surface mining permit that in the five-year period 21740
prior to the date of submission of the application has been 21741
suspended or revoked or has had a coal mining or surface mining 21742
bond, performance security, or similar security deposited in 21743

lieu of bond forfeited and, if so, a brief explanation of the 21744
facts involved. 21745

(f) A copy of the applicant's advertisement to be 21746
published in a newspaper of general circulation in the locality 21747
of the proposed site at least once a week for four successive 21748
weeks, which shall include the ownership of the proposed mine, a 21749
description of the exact location and boundaries of the proposed 21750
site sufficient to make the proposed operation readily 21751
identifiable by local residents, and the location where the 21752
application is available for public inspection; 21753

(g) A description of the type and method of coal mining 21754
operation that exists or is proposed, the engineering techniques 21755
proposed or used, and the equipment used or proposed to be used; 21756

(h) The anticipated or actual starting and termination 21757
dates of each phase of the mining operation and number of acres 21758
of land to be affected; 21759

(i) An accurate map or plan, to an appropriate scale, 21760
clearly showing the land to be affected, the land upon which the 21761
applicant has the legal right to enter and commence coal mining 21762
operations, and the land for which the applicant will acquire 21763
the legal right to enter and commence coal mining operations 21764
during the term of the permit, copies of those documents upon 21765
which is based the applicant's legal right to enter and commence 21766
coal mining operations or a notarized statement describing the 21767
applicant's legal right to enter and commence coal mining 21768
operations, and a statement whether that right is the subject of 21769
pending litigation. This chapter does not authorize the chief to 21770
adjudicate property title disputes. 21771

(j) The name of the watershed and location of the surface 21772

stream or tributary into which drainage from the operation will 21773
be discharged; 21774

(k) A determination of the probable hydrologic 21775
consequences of the mining and reclamation operations, both on 21776
and off the mine site, with respect to the hydrologic regime, 21777
providing information on the quantity and quality of water in 21778
surface and ground water systems including the dissolved and 21779
suspended solids under seasonal flow conditions and the 21780
collection of sufficient data for the mine site and surrounding 21781
areas so that an assessment can be made by the chief of the 21782
probable cumulative impacts of all anticipated mining in the 21783
area upon the hydrology of the area and particularly upon water 21784
availability, but this determination shall not be required until 21785
hydrologic information of the general area prior to mining is 21786
made available from an appropriate federal or state agency; 21787
however, the permit shall not be approved until the information 21788
is available and is incorporated into the application; 21789

(l) When requested by the chief, the climatological 21790
factors that are peculiar to the locality of the land to be 21791
affected, including the average seasonal precipitation, the 21792
average direction and velocity of prevailing winds, and the 21793
seasonal temperature ranges; 21794

(m) Accurate maps prepared by or under the direction of 21795
and certified by a qualified registered professional engineer, 21796
registered surveyor, or licensed landscape architect to an 21797
appropriate scale clearly showing all types of information set 21798
forth on topographical maps of the United States geological 21799
survey of a scale of not more than four hundred feet to the 21800
inch, including all artificial features and significant known 21801
archeological sites. The map, among other things specified by 21802

the chief, shall show all boundaries of the land to be affected, 21803
the boundary lines and names of present owners of record of all 21804
surface areas abutting the permit area, and the location of all 21805
buildings within one thousand feet of the permit area. 21806

(n) (i) Cross-section maps or plans of the land to be 21807
affected including the actual area to be mined, prepared by or 21808
under the direction of and certified by a qualified registered 21809
professional engineer or certified professional geologist with 21810
assistance from experts in related fields such as hydrology, 21811
hydrogeology, geology, and landscape architecture, showing 21812
pertinent elevations and locations of test borings or core 21813
samplings and depicting the following information: the nature 21814
and depth of the various strata of overburden; the nature and 21815
thickness of any coal or rider seam above the coal seam to be 21816
mined; the nature of the stratum immediately beneath the coal 21817
seam to be mined; all mineral crop lines and the strike and dip 21818
of the coal to be mined within the area to be affected; existing 21819
or previous coal mining limits; the location and extent of known 21820
workings of any underground mines, including mine openings to 21821
the surface; the location of spoil, waste, or refuse areas and 21822
topsoil preservation areas; the location of all impoundments for 21823
waste or erosion control; any settling or water treatment 21824
facility; constructed or natural drainways and the location of 21825
any discharges to any surface body of water on the land to be 21826
affected or adjacent thereto; profiles at appropriate cross 21827
sections of the anticipated final surface configuration that 21828
will be achieved pursuant to the operator's proposed reclamation 21829
plan; the location of subsurface water, if encountered; the 21830
location and quality of aquifers; and the estimated elevation of 21831
the water table. Registered surveyors shall be allowed to 21832
perform all plans, maps, and certifications under this chapter 21833

as they are authorized under Chapter 4733. of the Revised Code. 21834

(ii) A statement of the quality and locations of 21835
subsurface water. The chief shall provide by rule the number of 21836
locations to be sampled, frequency of collection, and parameters 21837
to be analyzed to obtain the statement required. 21838

(o) A statement of the results of test borings or core 21839
samplings from the permit area, including logs of the drill 21840
holes, the thickness of the coal seam found, an analysis of the 21841
chemical properties of the coal, the sulfur content of any coal 21842
seam, chemical analysis of potentially acid or toxic forming 21843
sections of the overburden, and chemical analysis of the stratum 21844
lying immediately underneath the coal to be mined, except that 21845
this division may be waived by the chief with respect to the 21846
specific application by a written determination that its 21847
requirements are unnecessary. If the test borings or core 21848
samplings from the permit area indicate the existence of 21849
potentially acid forming or toxic forming quantities of sulfur 21850
in the coal or overburden to be disturbed by mining, the 21851
application also shall include a statement of the acid 21852
generating potential and the acid neutralizing potential of the 21853
rock strata to be disturbed as calculated in accordance with the 21854
calculation method established under section 1513.075 of the 21855
Revised Code or with another calculation method. 21856

(p) For those lands in the permit application that a 21857
reconnaissance inspection suggests may be prime farmlands, a 21858
soil survey shall be made or obtained according to standards 21859
established by the secretary of the United States department of 21860
agriculture in order to confirm the exact location of the prime 21861
farmlands, if any; 21862

(q) A certificate issued by an insurance company 21863

authorized to do business in this state certifying that the 21864
applicant has a public liability insurance policy in force for 21865
the coal mining and reclamation operations for which the permit 21866
is sought or evidence that the applicant has satisfied other 21867
state self-insurance requirements. The policy shall provide for 21868
personal injury and property damage protection in an amount 21869
adequate to compensate any persons damaged as a result of coal 21870
mining and reclamation operations, including the use of 21871
explosives, and entitled to compensation under the applicable 21872
provisions of state law. The policy shall be maintained in 21873
effect during the term of the permit or any renewal, including 21874
the length of all reclamation operations. The insurance company 21875
shall give prompt notice to the permittee and the chief if the 21876
public liability insurance policy lapses for any reason 21877
including the nonpayment of insurance premiums. Upon the lapse 21878
of the policy, the chief may suspend the permit and all other 21879
outstanding permits until proper insurance coverage is obtained. 21880

(r) The business telephone number of the applicant; 21881

(s) If the applicant seeks an authorization under division 21882
(E) (7) of this section to conduct coal mining and reclamation 21883
operations on areas to be covered by the permit that were 21884
affected by coal mining operations before August 3, 1977, that 21885
have resulted in continuing water pollution from or on the 21886
previously mined areas, such additional information pertaining 21887
to those previously mined areas as may be required by the chief, 21888
including, without limitation, maps, plans, cross sections, data 21889
necessary to determine existing water quality from or on those 21890
areas with respect to pH, iron, and manganese, and a pollution 21891
abatement plan that may improve water quality from or on those 21892
areas with respect to pH, iron, and manganese. 21893

(2) Information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available by the chief to any person with an interest that is or may be adversely affected, except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding information regarding mineral or elemental content that is potentially toxic in the environment, shall be kept confidential and not made a matter of public record.

(3) (a) If the chief finds that the probable total annual production at all locations of any operator will not exceed three hundred thousand tons, the following activities, upon the written request of the operator in connection with a permit application, shall be performed by a qualified public or private laboratory or another public or private qualified entity designated by the chief, and the cost of the activities shall be assumed by the chief, provided that sufficient moneys for such assistance are available:

(i) The determination of probable hydrologic consequences required under division (B) (1) (k) of this section;

(ii) The development of cross-section maps and plans required under division (B) (1) (n) (i) of this section;

(iii) The geologic drilling and statement of results of test borings and core samplings required under division (B) (1) (o) of this section;

(iv) The collection of archaeological information required under division (B) (1) (m) of this section and any other archaeological and historical information required by the chief, and the preparation of plans necessitated thereby;

(v) Pre-blast surveys required under division (B) (5) of section 1513.161 of the Revised Code; 21923
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(vi) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the chief under this chapter. 21925
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(b) A coal operator that has received assistance under division (B) (3) (a) of this section shall reimburse the chief for the cost of the services rendered if the chief finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand tons during the twelve months immediately following the date on which the operator was issued a coal mining and reclamation permit. 21929
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(4) Each applicant for a permit shall submit to the chief as part of the permit application a reclamation plan that meets the requirements of this chapter. 21936
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(5) Each applicant for a coal mining and reclamation permit shall file a copy of the application for a permit, excluding that information pertaining to the coal seam itself, for public inspection with the county recorder or an appropriate public office approved by the chief in the county where the mining is proposed to occur. 21939
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(6) Each applicant for a coal mining and reclamation permit shall submit to the chief as part of the permit application a blasting plan that describes the procedures and standards by which the operator will comply with section 1513.161 of the Revised Code. 21945
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(C) Each reclamation plan submitted as part of a permit application shall include, in the detail necessary to 21950
21951

demonstrate that reclamation required by this chapter can be 21952
accomplished and in the detail necessary for the chief to 21953
determine the estimated cost of reclamation if the reclamation 21954
has to be performed by the division of mineral resources 21955
management in the event of forfeiture of the performance 21956
security by the applicant, a statement of: 21957

(1) The identification of the lands subject to coal mining 21958
operations over the estimated life of those operations and the 21959
size, sequence, and timing of the subareas for which it is 21960
anticipated that individual permits for mining will be sought; 21961

(2) The condition of the land to be covered by the permit 21962
prior to any mining, including all of the following: 21963

(a) The uses existing at the time of the application and, 21964
if the land has a history of previous mining, the uses that 21965
preceded any mining; 21966

(b) The capability of the land prior to any mining to 21967
support a variety of uses, giving consideration to soil and 21968
foundation characteristics, topography, and vegetative cover 21969
and, if applicable, a soil survey prepared pursuant to division 21970
(B) (1) (p) of this section; 21971

(c) The productivity of the land prior to mining, 21972
including appropriate classification as prime farmlands as well 21973
as the average yield of food, fiber, forage, or wood products 21974
obtained from the land under high levels of management. 21975

(3) The use that is proposed to be made of the land 21976
following reclamation, including information regarding the 21977
utility and capacity of the reclaimed land to support a variety 21978
of alternative uses, the relationship of the proposed use to 21979
existing land use policies and plans, and the comments of any 21980

owner of the land and state and local governments or agencies 21981
thereof that would have to initiate, implement, approve, or 21982
authorize the proposed use of the land following reclamation; 21983

(4) A detailed description of how the proposed postmining 21984
land use is to be achieved and the necessary support activities 21985
that may be needed to achieve the proposed land use; 21986

(5) The engineering techniques proposed to be used in 21987
mining and reclamation and a description of the major equipment; 21988
a plan for the control of surface water drainage and of water 21989
accumulation; a plan, where appropriate, for backfilling, soil 21990
stabilization, and compacting, grading, and appropriate 21991
revegetation; a plan for soil reconstruction, replacement, and 21992
stabilization, pursuant to the performance standards in section 21993
1513.16 of the Revised Code, for those food, forage, and forest 21994
lands identified in that section; and a statement as to how the 21995
permittee plans to comply with each of the requirements set out 21996
in section 1513.16 of the Revised Code; 21997

(6) A description of the means by which the utilization 21998
and conservation of the solid fuel resource being recovered will 21999
be maximized so that re-affecting the land in the future can be 22000
minimized; 22001

(7) A detailed estimated timetable for the accomplishment 22002
of each major step in the reclamation plan; 22003

(8) A description of the degree to which the coal mining 22004
and reclamation operations are consistent with surface owner 22005
plans and applicable state and local land use plans and 22006
programs; 22007

(9) The steps to be taken to comply with applicable air 22008
and water quality laws and regulations and any applicable health 22009

and safety standards; 22010

(10) A description of the degree to which the reclamation 22011
plan is consistent with local physical, environmental, and 22012
climatological conditions; 22013

(11) A description of all lands, interests in lands, or 22014
options on such interests held by the applicant or pending bids 22015
on interests in lands by the applicant, which lands are 22016
contiguous to the area to be covered by the permit; 22017

(12) The results of test borings that the applicant has 22018
made at the area to be covered by the permit, or other 22019
equivalent information and data in a form satisfactory to the 22020
chief, including the location of subsurface water, and an 22021
analysis of the chemical properties, including acid forming 22022
properties of the mineral and overburden; except that 22023
information that pertains only to the analysis of the chemical 22024
and physical properties of the coal, excluding information 22025
regarding mineral or elemental contents that are potentially 22026
toxic in the environment, shall be kept confidential and not 22027
made a matter of public record; 22028

(13) A detailed description of the measures to be taken 22029
during the mining and reclamation process to ensure the 22030
protection of all of the following: 22031

(a) The quality of surface and ground water systems, both 22032
on- and off-site, from adverse effects of the mining and 22033
reclamation process; 22034

(b) The rights of present users to such water; 22035

(c) The quantity of surface and ground water systems, both 22036
on- and off-site, from adverse effects of the mining and 22037
reclamation process or, where such protection of quantity cannot 22038

be assured, provision of alternative sources of water. 22039

~~(14) Any other requirements the chief prescribes by rule.~~ 22040

(D) (1) Any information required by division (C) of this 22041
section that is not on public file pursuant to this chapter 22042
shall be held in confidence by the chief. 22043

(2) With regard to requests for an exemption from the 22044
requirements of this chapter for coal extraction incidental to 22045
the extraction of other minerals, as described in division (H) 22046
(1) (a) of section 1513.01 of the Revised Code, confidential 22047
information includes and is limited to information concerning 22048
trade secrets or privileged commercial or financial information 22049
relating to the competitive rights of the persons intending to 22050
conduct the extraction of minerals. 22051

(E) (1) Upon the basis of a complete mining application and 22052
reclamation plan or a revision or renewal thereof, as required 22053
by this chapter, and information obtained as a result of public 22054
notification and public hearing, if any, as provided by section 22055
1513.071 of the Revised Code, the chief shall grant, require 22056
modification of, or deny the application for a permit and notify 22057
the applicant in writing in accordance with division (I) (3) of 22058
this section. An application is deemed to be complete as 22059
submitted to the chief unless the chief, within fourteen days of 22060
the submission, identifies deficiencies in the application in 22061
writing and subsequently submits a copy of a written list of 22062
deficiencies to the applicant. An application shall not be 22063
considered incomplete or denied by reason of right of entry 22064
documentation, provided that the applicant documents the 22065
applicant's legal right to enter and mine at least sixty-seven 22066
per cent of the total area for which coal mining operations are 22067
proposed. 22068

A decision of the chief denying a permit shall state in writing the specific reasons for the denial.

The applicant for a permit or revision of a permit has the burden of establishing that the application is in compliance with all the requirements of this chapter. Within ten days after the granting of a permit, the chief shall notify the boards of township trustees and county commissioners, the mayor, and the legislative authority in the township, county, and municipal corporation in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land. However, failure of the chief to notify the local officials shall not affect the status of the permit.

(2) No permit application or application for revision of an existing permit shall be approved unless the application affirmatively demonstrates and the chief finds in writing on the basis of the information set forth in the application or from information otherwise available, which shall be documented in the approval and made available to the applicant, all of the following:

(a) The application is accurate and complete and all the requirements of this chapter have been complied with.

(b) The applicant has demonstrated that the reclamation required by this chapter can be accomplished under the reclamation plan contained in the application.

(c) (i) Assessment of the probable cumulative impact of all anticipated mining in the general and adjacent area on the hydrologic balance specified in division (B) (1) (k) of this section has been made by the chief, and the proposed operation has been designed to prevent material damage to hydrologic

balance outside the permit area. 22098

(ii) There shall be an ongoing process conducted by the 22099
chief in cooperation with other state and federal agencies to 22100
review all assessments of probable cumulative impact of coal 22101
mining in light of post-mining data and any other hydrologic 22102
information as it becomes available to determine if the 22103
assessments were realistic. The chief shall take appropriate 22104
action as indicated in the review process. 22105

(d) The area proposed to be mined is not included within 22106
an area designated unsuitable for coal mining pursuant to 22107
section 1513.073 of the Revised Code or is not within an area 22108
under study for such designation in an administrative proceeding 22109
commenced pursuant to division (A) (3) (c) or (B) of section 22110
1513.073 of the Revised Code unless in an area as to which an 22111
administrative proceeding has commenced pursuant to division (A) 22112
(3) (c) or (B) of section 1513.073 of the Revised Code, the 22113
operator making the permit application demonstrates that, prior 22114
to January 1, 1977, the operator made substantial legal and 22115
financial commitments in relation to the operation for which a 22116
permit is sought. 22117

(e) In cases where the private mineral estate has been 22118
severed from the private surface estate and surface disturbance 22119
will result from the applicant's proposed use of a strip mining 22120
method, the applicant has submitted to the chief one of the 22121
following: 22122

(i) The written consent of the surface owner to the 22123
surface disturbance that will result from the extraction of coal 22124
by the applicant's proposed strip mining method; 22125

(ii) A conveyance that expressly grants or reserves the 22126

right to extract the coal by strip mining methods that cause 22127
surface disturbance; 22128

(iii) If the conveyance does not expressly grant the right 22129
to extract coal by strip mining methods that cause surface 22130
disturbance, the surface-subsurface legal relationship 22131
concerning surface disturbance shall be determined under the law 22132
of this state. This chapter does not authorize the chief to 22133
adjudicate property rights disputes. 22134

(3) (a) The applicant shall file with the permit 22135
application a schedule listing all notices of violations of any 22136
law, rule, or regulation of the United States or of any 22137
department or agency thereof or of any state pertaining to air 22138
or water environmental protection incurred by the applicant in 22139
connection with any coal mining operation during the three-year 22140
period prior to the date of application. The schedule also shall 22141
indicate the final resolution of such a notice of violation. 22142
Upon receipt of an application, the chief shall provide a 22143
schedule listing all notices of violations of this chapter 22144
pertaining to air or water environmental protection incurred by 22145
the applicant during the three-year period prior to receipt of 22146
the application and the final resolution of all such notices of 22147
violation. The chief shall provide this schedule to the 22148
applicant for filing by the applicant with the application filed 22149
for public review, as required by division (B) (5) of this 22150
section. When the schedule or other information available to the 22151
chief indicates that any coal mining operation owned or 22152
controlled by the applicant is currently in violation of such 22153
laws, the permit shall not be issued until the applicant submits 22154
proof that the violation has been corrected or is in the process 22155
of being corrected to the satisfaction of the regulatory 22156
authority, department, or agency that has jurisdiction over the 22157

violation and that any civil penalties owed to the state for a 22158
violation and not the subject of an appeal have been paid. No 22159
permit shall be issued to an applicant after a finding by the 22160
chief that the applicant or the operator specified in the 22161
application controls or has controlled mining operations with a 22162
demonstrated pattern of willful violations of this chapter of a 22163
nature and duration to result in irreparable damage to the 22164
environment as to indicate an intent not to comply with or a 22165
disregard of this chapter. 22166

(b) For the purposes of division (E) (3) (a) of this 22167
section, any violation resulting from an unanticipated event or 22168
condition at a surface coal mining operation on lands eligible 22169
for remining under a permit held by the person submitting an 22170
application for a coal mining permit under this section shall 22171
not prevent issuance of that permit. As used in this division, 22172
"unanticipated event or condition" means an event or condition 22173
encountered in a remining operation that was not contemplated by 22174
the applicable surface coal mining and reclamation permit. 22175

(4) (a) In addition to finding the application in 22176
compliance with division (E) (2) of this section, if the area 22177
proposed to be mined contains prime farmland as determined 22178
pursuant to division (B) (1) (p) of this section, the chief, after 22179
consultation with the secretary of the United States department 22180
of agriculture and pursuant to regulations issued by the 22181
secretary of the interior with the concurrence of the secretary 22182
of agriculture, may grant a permit to mine on prime farmland if 22183
the chief finds in writing that the operator has the 22184
technological capability to restore the mined area, within a 22185
reasonable time, to equivalent or higher levels of yield as 22186
nonmined prime farmland in the surrounding area under equivalent 22187
levels of management and can meet the soil reconstruction 22188

standards in section 1513.16 of the Revised Code. 22189

(b) Division (E) (4) (a) of this section does not apply to a 22190
permit issued prior to August 3, 1977, or revisions or renewals 22191
thereof. 22192

(5) The chief shall issue an order denying a permit after 22193
finding that the applicant has misrepresented or omitted any 22194
material fact in the application for the permit. 22195

(6) The chief may issue an order denying a permit after 22196
finding that the applicant, any partner, if the applicant is a 22197
partnership, any officer, principal shareholder, or director, if 22198
the applicant is a corporation, or any other person who has a 22199
right to control or in fact controls the management of the 22200
applicant or the selection of officers, directors, or managers 22201
of the applicant has been a sole proprietor or partner, officer, 22202
director, principal shareholder, or person having the right to 22203
control or has in fact controlled the management of or the 22204
selection of officers, directors, or managers of a business 22205
entity that ever has had a coal mining license or permit issued 22206
by this or any other state or the United States suspended or 22207
revoked, ever has forfeited a coal or surface mining bond, 22208
performance security, or similar security deposited in lieu of 22209
bond in this or any other state or with the United States, or 22210
ever has substantially or materially failed to comply with this 22211
chapter. 22212

(7) When issuing a permit under this section, the chief 22213
may authorize an applicant to conduct coal mining and 22214
reclamation operations on areas to be covered by the permit that 22215
were affected by coal mining operations before August 3, 1977, 22216
that have resulted in continuing water pollution from or on the 22217
previously mined areas for the purpose of potentially reducing 22218

the pollution loadings of pH, iron, and manganese from 22219
discharges from or on the previously mined areas. Following the 22220
chief's authorization to conduct such operations on those areas, 22221
the areas shall be designated as pollution abatement areas for 22222
the purposes of this chapter. 22223

The chief shall not grant an authorization under division 22224
(E) (7) of this section to conduct coal mining and reclamation 22225
operations on any such previously mined areas unless the 22226
applicant demonstrates to the chief's satisfaction that all of 22227
the following conditions are met: 22228

(a) The applicant's pollution abatement plan for mining 22229
and reclaiming the previously mined areas represents the best 22230
available technology economically achievable. 22231

(b) Implementation of the plan will potentially reduce 22232
pollutant loadings of pH, iron, and manganese resulting from 22233
discharges of surface waters or ground water from or on the 22234
previously mined areas within the permit area. 22235

(c) Implementation of the plan will not cause any 22236
additional degradation of surface water quality off the permit 22237
area with respect to pH, iron, and manganese. 22238

(d) Implementation of the plan will not cause any 22239
additional degradation of ground water. 22240

(e) The plan meets the requirements governing mining and 22241
reclamation of such previously mined pollution abatement areas 22242
established by the chief in rules adopted under section 1513.02 22243
of the Revised Code. 22244

(f) Neither the applicant; any partner, if the applicant 22245
is a partnership; any officer, principal shareholder, or 22246
director, if the applicant is a corporation; any other person 22247

who has a right to control or in fact controls the management of 22248
the applicant or the selection of officers, directors, or 22249
managers of the applicant; nor any contractor or subcontractor 22250
of the applicant, has any of the following: 22251

(i) Responsibility or liability under this chapter or 22252
rules adopted under it as an operator for treating the 22253
discharges of water pollutants from or on the previously mined 22254
areas for which the authorization is sought; 22255

(ii) Any responsibility or liability under this chapter or 22256
rules adopted under it for reclaiming the previously mined areas 22257
for which the authorization is sought; 22258

(iii) During the eighteen months prior to submitting the 22259
permit application requesting an authorization under division 22260
(E) (7) of this section, had a coal mining and reclamation permit 22261
suspended or revoked under division (D) (3) of section 1513.02 of 22262
the Revised Code for violating this chapter or Chapter 6111. of 22263
the Revised Code or rules adopted under them with respect to 22264
water quality, effluent limitations, or surface or ground water 22265
monitoring; 22266

(iv) Ever forfeited a coal or surface mining bond, 22267
performance security, or similar security deposited in lieu of a 22268
bond in this or any other state or with the United States. 22269

(8) In the case of the issuance of a permit that involves 22270
a conflict of results between various methods of calculating 22271
potential acidity and neutralization potential for purposes of 22272
assessing the potential for acid mine drainage to occur at a 22273
mine site, the permit shall include provisions for monitoring 22274
and record keeping to identify the creation of unanticipated 22275
acid water at the mine site. If the monitoring detects the 22276

creation of acid water at the site, the permit shall impose on 22277
the permittee additional requirements regarding mining practices 22278
and site reclamation to prevent the discharge of acid mine 22279
drainage from the mine site. As used in division (E) (8) of this 22280
section, "potential acidity" and "neutralization potential" have 22281
the same meanings as in section 1513.075 of the Revised Code. 22282

(F) (1) During the term of the permit, the permittee may 22283
submit an application for a revision of the permit, together 22284
with a revised reclamation plan, to the chief. 22285

(2) An application for a revision of a permit shall not be 22286
approved unless the chief finds that reclamation required by 22287
this chapter can be accomplished under the revised reclamation 22288
plan. The revision shall be approved or disapproved within 22289
ninety days after receipt of a complete revision application. 22290
The chief shall establish, by rule, criteria for determining the 22291
extent to which all permit application information requirements 22292
and procedures, including notice and hearings, shall apply to 22293
the revision request, except that any revisions that propose 22294
significant alterations in the reclamation plan, at a minimum, 22295
shall be subject to notice and hearing requirements. 22296

(3) Any extensions to the area covered by the permit 22297
except incidental boundary revisions shall be made by 22298
application for a permit. 22299

(4) Documents or a notarized statement that form the basis 22300
of the applicant's legal right to enter and commence coal mining 22301
operations on land that is located within an area covered by the 22302
permit and that was legally acquired subsequent to the issuance 22303
of the permit for the area shall be submitted with an 22304
application for a revision of the permit. 22305

(G) No transfer, assignment, or sale of the rights granted 22306
under a permit issued pursuant to this chapter shall be made 22307
without the written approval of the chief. 22308

(H) The chief, within a time limit prescribed in the 22309
chief's rules, shall review outstanding permits and may require 22310
reasonable revision or modification of a permit. A revision or 22311
modification shall be based upon a written finding and subject 22312
to notice and hearing requirements established by rule of the 22313
chief. 22314

(I) (1) If an informal conference has been held pursuant to 22315
section 1513.071 of the Revised Code, the chief shall issue and 22316
furnish the applicant for a permit, persons who participated in 22317
the informal conference, and persons who filed written 22318
objections pursuant to division (B) of section 1513.071 of the 22319
Revised Code, with the written finding of the chief granting or 22320
denying the permit in whole or in part and stating the reasons 22321
therefor within sixty days of the conference, provided that the 22322
chief shall comply with the time frames established in division 22323
(I) (3) of this section. 22324

(2) If there has been no informal conference held pursuant 22325
to section 1513.071 of the Revised Code, the chief shall submit 22326
to the applicant for a permit the written finding of the chief 22327
granting or denying the permit in whole or in part and stating 22328
the reasons therefor within the time frames established in 22329
division (I) (3) of this section. 22330

(3) The chief shall grant or deny a permit not later than 22331
two hundred forty days after the submission of a complete 22332
application for the permit. Any time during which the applicant 22333
is making revisions to an application or providing additional 22334
information requested by the chief regarding an application 22335

shall not be included in the two hundred forty days. If the 22336
chief determines that a permit cannot be granted or denied 22337
within the two-hundred-forty-day time frame, the chief, not 22338
later than two hundred ten days after the submission of a 22339
complete application for the permit, shall provide the applicant 22340
with written notice of the expected delay. 22341

(4) If the application is approved, the permit shall be 22342
issued. However, the permit shall prohibit the commencement of 22343
coal mining operations on any land that is located within an 22344
area covered by the permit if the permittee has not provided to 22345
the chief documents that form the basis of the permittee's legal 22346
right to enter and conduct coal mining operations on that land. 22347
If the application is disapproved, specific reasons therefor 22348
shall be set forth in the notification. Within thirty days after 22349
the applicant is notified of the final decision of the chief on 22350
the permit application, the applicant or any person with an 22351
interest that is or may be adversely affected may appeal the 22352
decision to the reclamation commission pursuant to section 22353
1513.13 of the Revised Code. 22354

(5) Any applicant or any person with an interest that is 22355
or may be adversely affected who has participated in the 22356
administrative proceedings as an objector and is aggrieved by 22357
the decision of the reclamation commission, or if the commission 22358
fails to act within the time limits specified in this chapter, 22359
may appeal in accordance with section 1513.14 of the Revised 22360
Code. 22361

Sec. 1513.16. (A) Any permit issued under this chapter to 22362
conduct coal mining operations shall require that the operations 22363
meet all applicable performance standards of this chapter ~~and~~ 22364
~~such other requirements as the chief of the division of mineral~~ 22365

~~resources management shall adopt by rule.~~ General performance 22366
standards shall apply to all coal mining and reclamation 22367
operations and shall require the operator at a minimum to do all 22368
of the following: 22369

(1) Conduct coal mining operations so as to maximize the 22370
utilization and conservation of the solid fuel resource being 22371
recovered so that re-affecting the land in the future through 22372
coal mining can be minimized; 22373

(2) Restore the land affected to a condition capable of 22374
supporting the uses that it was capable of supporting prior to 22375
any mining, or higher or better uses of which there is 22376
reasonable likelihood, so long as the uses do not present any 22377
actual or probable hazard to public health or safety or pose any 22378
actual or probable threat of diminution or pollution of the 22379
waters of the state, and the permit applicants' declared 22380
proposed land uses following reclamation are not considered to 22381
be impractical or unreasonable, to be inconsistent with 22382
applicable land use policies and plans, to involve unreasonable 22383
delay in implementation, or to violate federal, state, or local 22384
law; 22385

(3) Except as provided in division (B) of this section, 22386
with respect to all coal mining operations, backfill, compact 22387
where advisable to ensure stability or to prevent leaching of 22388
toxic materials, and grade in order to restore the approximate 22389
original contour of the land with all highwalls, spoil piles, 22390
and depressions eliminated unless small depressions are needed 22391
in order to retain moisture to assist revegetation or as 22392
otherwise authorized pursuant to this chapter, provided that if 22393
the operator demonstrates that due to volumetric expansion the 22394
amount of overburden and the spoil and waste materials removed 22395

in the course of the mining operation are more than sufficient 22396
to restore the approximate original contour, the operator shall 22397
backfill, grade, and compact the excess overburden and other 22398
spoil and waste materials to attain the lowest grade, but not 22399
more than the angle of repose, and to cover all acid-forming and 22400
other toxic materials in order to achieve an ecologically sound 22401
land use compatible with the surrounding region in accordance 22402
with the approved mining plan. The overburden or spoil shall be 22403
shaped and graded in such a way as to prevent slides, erosion, 22404
and water pollution and shall be revegetated in accordance with 22405
this chapter. 22406

(4) Stabilize and protect all surface areas, including 22407
spoil piles affected by the coal mining and reclamation 22408
operation, to control erosion and attendant air and water 22409
pollution effectively; 22410

(5) Remove the topsoil from the land in a separate layer, 22411
replace it on the backfill area, or, if not utilized 22412
immediately, segregate it in a separate pile from the spoil, and 22413
when the topsoil is not replaced on a backfill area within a 22414
time short enough to avoid deterioration of the topsoil, 22415
maintain a successful cover by quick-growing plants or other 22416
means thereafter so that the topsoil is preserved from wind and 22417
water erosion, remains free of any contamination by acid or 22418
other toxic material, and is in a usable condition for 22419
sustaining vegetation when restored during reclamation. If the 22420
topsoil is of insufficient quantity or of poor quality for 22421
sustaining vegetation or if other strata can be shown to be more 22422
suitable for vegetation requirements, the operator shall remove, 22423
segregate, and preserve in a like manner such other strata as 22424
are best able to support vegetation. 22425

(6) Restore the topsoil or the best available subsoil that is best able to support vegetation; 22426
22427

(7) For all prime farmlands as identified in division (B) 22428
(1) (p) of section 1513.07 of the Revised Code to be mined and 22429
reclaimed, perform soil removal, storage, replacement, and 22430
reconstruction in accordance with specifications established by 22431
the secretary of the United States department of agriculture 22432
under the "Surface Mining Control and Reclamation Act of 1977," 22433
91 Stat. 445, 30 U.S.C.A. 1201. The operator, at a minimum, 22434
shall be required to do all of the following: 22435

(a) Segregate the A horizon of the natural soil, except 22436
where it can be shown that other available soil materials will 22437
create a final soil having a greater productive capacity, and, 22438
if not utilized immediately, stockpile this material separately 22439
from the spoil and provide needed protection from wind and water 22440
erosion or contamination by acid or other toxic material; 22441

(b) Segregate the B horizon of the natural soil, or 22442
underlying C horizons or other strata, or a combination of such 22443
horizons or other strata that are shown to be both texturally 22444
and chemically suitable for plant growth and that can be shown 22445
to be equally or more favorable for plant growth than the B 22446
horizon, in sufficient quantities to create in the regraded 22447
final soil a root zone of comparable depth and quality to that 22448
which existed in the natural soil, and, if not utilized 22449
immediately, stockpile this material separately from the spoil 22450
and provide needed protection from wind and water erosion or 22451
contamination by acid or other toxic material; 22452

(c) Replace and regrade the root zone material described 22453
in division (A) (7) (b) of this section with proper compaction and 22454
uniform depth over the regraded spoil material; 22455

- (d) Redistribute and grade in a uniform manner the surface soil horizon described in division (A) (7) (a) of this section. 22456
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- (8) Create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated by the operator that all of the following conditions will be met: 22458
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- (a) The size of the impoundment is adequate for its intended purposes. 22463
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- (b) The impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under the "Watershed Protection and Flood Prevention Act," 68 Stat. 666 (1954), 16 U.S.C. 1001, as amended. 22465
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- (c) The quality of impounded water will be suitable on a permanent basis for its intended use and discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable federal and state law in the receiving stream. 22470
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- (d) The level of water will be reasonably stable. 22475
- (e) Final grading will provide adequate safety and access for proposed water users. 22476
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- (f) The water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses. 22478
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- (9) Conduct any augering operation associated with strip mining in a manner to maximize recoverability of mineral 22482
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reserves remaining after the operation and reclamation are 22484
complete and seal all auger holes with an impervious and 22485
noncombustible material in order to prevent drainage, except 22486
where the chief determines that the resulting impoundment of 22487
water in such auger holes may create a hazard to the environment 22488
or the public health or safety. The chief may prohibit augering 22489
if necessary to maximize the utilization, recoverability, or 22490
conservation of the solid fuel resources or to protect against 22491
adverse water quality impacts. 22492

(10) Minimize the disturbances to the prevailing 22493
hydrologic balance at the mine site and in associated offsite 22494
areas and to the quality and quantity of water in surface and 22495
ground water systems both during and after coal mining 22496
operations and during reclamation by doing all of the following: 22497

(a) Avoiding acid or other toxic mine drainage by such 22498
measures as, but not limited to: 22499

(i) Preventing or removing water from contact with toxic 22500
producing deposits; 22501

(ii) Treating drainage to reduce toxic content that 22502
adversely affects downstream water upon being released to water 22503
courses in accordance with rules adopted by the chief in 22504
accordance with section 1513.02 of the Revised Code; 22505

(iii) Casing, sealing, or otherwise managing boreholes, 22506
shafts, and wells, and keeping acid or other toxic drainage from 22507
entering ground and surface waters. 22508

(b) (i) Conducting coal mining operations so as to prevent, 22509
to the extent possible using the best technology currently 22510
available, additional contributions of suspended solids to 22511
streamflow or runoff outside the permit area, but in no event 22512

shall contributions be in excess of requirements set by 22513
applicable state or federal laws; 22514

(ii) Constructing any siltation structures pursuant to 22515
division (A) (10) (b) (i) of this section prior to commencement of 22516
coal mining operations. The structures shall be certified by 22517
persons approved by the chief to be constructed as designed and 22518
as approved in the reclamation plan. 22519

(c) Cleaning out and removing temporary or large settling 22520
ponds or other siltation structures from drainways after 22521
disturbed areas are revegetated and stabilized, and depositing 22522
the silt and debris at a site and in a manner approved by the 22523
chief; 22524

(d) Restoring recharge capacity of the mined area to 22525
approximate premining conditions; 22526

(e) Avoiding channel deepening or enlargement in 22527
operations requiring the discharge of water from mines; 22528

(f) Such other actions as the chief may prescribe. 22529

(11) With respect to surface disposal of mine wastes, 22530
tailings, coal processing wastes, and other wastes in areas 22531
other than the mine working areas or excavations, stabilize all 22532
waste piles in designated areas through construction in 22533
compacted layers, including the use of noncombustible and 22534
impervious materials if necessary, and ensure that the final 22535
contour of the waste pile will be compatible with natural 22536
surroundings and that the site can and will be stabilized and 22537
revegetated according to this chapter; 22538

(12) Refrain from coal mining within five hundred feet of 22539
active and abandoned underground mines in order to prevent 22540
breakthroughs and to protect the health or safety of miners. The 22541

chief shall permit an operator to mine near, through, or 22542
partially through an abandoned underground mine or closer than 22543
five hundred feet to an active underground mine if both of the 22544
following conditions are met: 22545

(a) The nature, timing, and sequencing of the approximate 22546
coincidence of specific strip mine activities with specific 22547
underground mine activities are approved by the chief. 22548

(b) The operations will result in improved resource 22549
recovery, abatement of water pollution, or elimination of 22550
hazards to the health and safety of the public. 22551

(13) Design, locate, construct, operate, maintain, 22552
enlarge, modify, and remove or abandon, in accordance with the 22553
standards and criteria developed pursuant to rules adopted by 22554
the chief, all existing and new coal mine waste piles consisting 22555
of mine wastes, tailings, coal processing wastes, or other 22556
liquid and solid wastes, and used either temporarily or 22557
permanently as dams or embankments; 22558

(14) Ensure that all debris, acid-forming materials, toxic 22559
materials, or materials constituting a fire hazard are treated 22560
or buried and compacted or otherwise disposed of in a manner 22561
designed to prevent contamination of ground or surface waters 22562
and that contingency plans are developed to prevent sustained 22563
combustion; 22564

(15) Ensure that all reclamation efforts proceed in an 22565
environmentally sound manner and as contemporaneously as 22566
practicable with the coal mining operations, except that where 22567
the applicant proposes to combine strip mining operations with 22568
underground mining operations to ensure maximum practical 22569
recovery of the mineral resources, the chief may grant a 22570

variance for specific areas within the reclamation plan from the 22571
requirement that reclamation efforts proceed as 22572
contemporaneously as practicable to permit underground mining 22573
operations prior to reclamation if: 22574

(a) The chief finds in writing that: 22575

(i) The applicant has presented, as part of the permit 22576
application, specific, feasible plans for the proposed 22577
underground mining operations. 22578

(ii) The proposed underground mining operations are 22579
necessary or desirable to ensure maximum practical recovery of 22580
the mineral resource and will avoid multiple disturbance of the 22581
surface. 22582

(iii) The applicant has satisfactorily demonstrated that 22583
the plan for the underground mining operations conforms to 22584
requirements for underground mining in this state and that 22585
permits necessary for the underground mining operations have 22586
been issued by the appropriate authority. 22587

(iv) The areas proposed for the variance have been shown 22588
by the applicant to be necessary for the implementing of the 22589
proposed underground mining operations. 22590

(v) No substantial adverse environmental damage, either 22591
on-site or off-site, will result from the delay in completion of 22592
reclamation as required by this chapter. 22593

(vi) Provisions for the off-site storage of spoil will 22594
comply with division (A) (21) of this section. 22595

(b) The chief has adopted specific rules to govern the 22596
granting of such variances in accordance with this division and 22597
has imposed such additional requirements as the chief considers 22598

necessary. 22599

(c) Variances granted under this division shall be 22600
reviewed by the chief not more than three years from the date of 22601
issuance of the permit. 22602

(d) Liability under the performance security filed by the 22603
applicant with the chief pursuant to section 1513.08 of the 22604
Revised Code shall be for the duration of the underground mining 22605
operations and until the requirements of this section and 22606
section 1513.08 of the Revised Code have been fully complied 22607
with. 22608

(16) Ensure that the construction, maintenance, and 22609
postmining conditions of access roads into and across the site 22610
of operations will control or prevent erosion and siltation, 22611
pollution of water, and damage to fish or wildlife or their 22612
habitat, or to public or private property; 22613

(17) Refrain from the construction of roads or other 22614
access ways up a stream bed or drainage channel or in such 22615
proximity to the channel as to seriously alter the normal flow 22616
of water; 22617

(18) Establish, on the regraded areas and all other lands 22618
affected, a diverse, effective, and permanent vegetative cover 22619
of the same seasonal variety native to the area of land to be 22620
affected and capable of self-regeneration and plant succession 22621
at least equal in extent of cover to the natural vegetation of 22622
the area, except that introduced species may be used in the 22623
revegetation process where desirable and necessary to achieve 22624
the approved postmining land use plan; 22625

(19) (a) Assume the responsibility for successful 22626
revegetation, as required by division (A) (18) of this section, 22627

for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to ensure compliance with that division, except that when the chief approves a long-term intensive agricultural postmining land use, the applicable five-year period of responsibility for revegetation shall commence at the date of initial planting for that long-term intensive agricultural postmining land use, and except that when the chief issues a written finding approving a long-term intensive agricultural postmining land use as part of the mining and reclamation plan, the chief may grant an exception to division (A) (18) of this section;

(b) On lands eligible for remining, assume the responsibility for successful revegetation, as required by division (A) (18) of this section, for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to ensure compliance with that division.

(20) Protect off-site areas from slides or damage occurring during the coal mining and reclamation operations and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(21) Place all excess spoil material resulting from coal mining and reclamation operations in such a manner that all of the following apply:

(a) Spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way as to ensure mass stability and to prevent mass movement.

(b) The areas of disposal are within the permit areas for which performance security has been provided. All organic matter

shall be removed immediately prior to spoil placement except in the zoned concept method. 22657
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(c) Appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and mass movement. 22659
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(d) The disposal area does not contain springs, natural watercourses, or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented unless the zoned concept method is used. 22662
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(e) If placed on a slope, the spoil is placed upon the most moderate slope among those slopes upon which, in the judgment of the chief, the spoil could be placed in compliance with all the requirements of this chapter and is placed, where possible, upon, or above, a natural terrace, bench, or berm if that placement provides additional stability and prevents mass movement. 22667
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(f) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed. 22674
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(g) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses. 22677
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(h) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards. 22680
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(i) All other provisions of this chapter are met. 22683

(22) Meet such other criteria as are necessary to achieve 22684

reclamation in accordance with the purpose of this chapter, 22685
taking into consideration the physical, climatological, and 22686
other characteristics of the site; 22687

(23) To the extent possible, using the best technology 22688
currently available, minimize disturbances and adverse impacts 22689
of the operation on fish, wildlife, and related environmental 22690
values, and achieve enhancement of such resources where 22691
practicable; 22692

(24) Provide for an undisturbed natural barrier beginning 22693
at the elevation of the lowest coal seam to be mined and 22694
extending from the outslope for such distance as the chief shall 22695
determine to be retained in place as a barrier to slides and 22696
erosion; 22697

(25) Restore on the permit area streams and wetlands 22698
affected by mining operations unless the chief approves 22699
restoration off the permit area without a permit required by 22700
section 1513.07 or 1513.074 of the Revised Code, instead of 22701
restoration on the permit area, of a stream or wetland or a 22702
portion of a stream or wetland, provided that the chief first 22703
makes all of the following written determinations: 22704

(a) A hydrologic and engineering assessment of the 22705
affected lands, submitted by the operator, demonstrates that 22706
restoration on the permit area is not possible. 22707

(b) The proposed mitigation plan under which mitigation 22708
activities described in division (A) (25) (c) of this section will 22709
be conducted is limited to a stream or wetland, or a portion of 22710
a stream or wetland, for which restoration on the permit area is 22711
not possible. 22712

(c) Mitigation activities off the permit area, including 22713

mitigation banking and payment of in-lieu mitigation fees, will 22714
be performed pursuant to a permit issued under sections 401 and 22715
404 of the "Federal Water Pollution Control Act" as defined in 22716
section 6111.01 of the Revised Code or an isolated wetland 22717
permit issued under Chapter 6111. of the Revised Code or 22718
pursuant to a no-cost reclamation contract for the restoration 22719
of water resources affected by past mining activities pursuant 22720
to section 1513.37 of the Revised Code. 22721

(d) The proposed mitigation plan and mitigation activities 22722
comply with the standards established in this section. 22723

If the chief approves restoration off the permit area in 22724
accordance with this division, the operator shall complete all 22725
mitigation construction or other activities required by the 22726
mitigation plan. 22727

Performance security for reclamation activities on the 22728
permit area shall be released pursuant to division (F) of this 22729
section, except that the release of the remaining portion of 22730
performance security under division (F) (3) (c) of this section 22731
shall not be approved prior to the construction of required 22732
mitigation activities off the permit area. 22733

(B) (1) The chief may permit mining operations for the 22734
purposes set forth in division (B) (3) of this section. 22735

(2) When an applicant meets the requirements of divisions 22736
(B) (3) and (4) of this section, a permit without regard to the 22737
requirement to restore to approximate original contour known as 22738
mountain top removal set forth in divisions (A) (3) or (C) (2) and 22739
(3) of this section may be granted for the mining of coal where 22740
the mining operation will remove an entire coal seam or seams 22741
running through the upper fraction of a mountain, ridge, or 22742

hill, except as provided in division (B) (4) (a) of this section, 22743
by removing all of the overburden and creating a level plateau 22744
or a gently rolling contour with no highwalls remaining, and 22745
capable of supporting postmining uses in accordance with this 22746
division. 22747

(3) In cases where an industrial, commercial, 22748
agricultural, residential, or public facility use, including 22749
recreational facilities, is proposed for the postmining use of 22750
the affected land, the chief may grant a permit for a mining 22751
operation of the nature described in division (B) (2) of this 22752
section when all of the following apply: 22753

(a) After consultation with the appropriate land use 22754
planning agencies, if any, the proposed postmining land use is 22755
considered to constitute an equal or better economic or public 22756
use of the affected land, as compared with premining use. 22757

(b) The applicant presents specific plans for the proposed 22758
postmining land use and appropriate assurances that the use will 22759
be all of the following: 22760

(i) Compatible with adjacent land uses; 22761

(ii) Obtainable according to data regarding expected need 22762
and market; 22763

(iii) Assured of investment in necessary public 22764
facilities; 22765

(iv) Supported by commitments from public agencies where 22766
appropriate; 22767

(v) Practicable with respect to private financial 22768
capability for completion of the proposed use; 22769

(vi) Planned pursuant to a schedule attached to the 22770

reclamation plan so as to integrate the mining operation and 22771
reclamation with the postmining land use; 22772

(vii) Designed by a registered engineer in conformity with 22773
professional standards established to ensure the stability, 22774
drainage, and configuration necessary for the intended use of 22775
the site. 22776

(c) The proposed use is consistent with adjacent land uses 22777
and existing state and local land use plans and programs. 22778

(d) The chief provides the governing body of the unit of 22779
general-purpose local government in which the land is located, 22780
and any state or federal agency that the chief, in the chief's 22781
discretion, determines to have an interest in the proposed use, 22782
an opportunity of not more than sixty days to review and comment 22783
on the proposed use. 22784

(e) All other requirements of this chapter will be met. 22785

(4) In granting a permit pursuant to this division, the 22786
chief shall require that each of the following is met: 22787

(a) The toe of the lowest coal seam and the overburden 22788
associated with it are retained in place as a barrier to slides 22789
and erosion. 22790

(b) The reclaimed area is stable. 22791

(c) The resulting plateau or rolling contour drains inward 22792
from the out slopes except at specified points. 22793

(d) No damage will be done to natural watercourses. 22794

(e) Spoil will be placed on the mountaintop bench as is 22795
necessary to achieve the planned postmining land use, except 22796
that all excess spoil material not retained on the mountaintop 22797

bench shall be placed in accordance with division (A) (21) of 22798
this section. 22799

(f) Stability of the spoil retained on the mountaintop 22800
bench is ensured and the other requirements of this chapter are 22801
met. 22802

(5) The chief shall adopt specific rules to govern the 22803
granting of permits in accordance with divisions (B) (1) to (4) 22804
of this section ~~and may impose such additional requirements as~~ 22805
~~the chief considers necessary.~~ 22806

(6) All permits granted under divisions (B) (1) to (4) of 22807
this section shall be reviewed not more than three years from 22808
the date of issuance of the permit unless the applicant 22809
affirmatively demonstrates that the proposed development is 22810
proceeding in accordance with the terms of the approved schedule 22811
and reclamation plan. 22812

(C) All of the following performance standards apply to 22813
steep-slope coal mining and are in addition to those general 22814
performance standards required by this section, except that this 22815
division does not apply to those situations in which an operator 22816
is mining on flat or gently rolling terrain on which an 22817
occasional steep slope is encountered through which the mining 22818
operation is to proceed, leaving a plain or predominantly flat 22819
area, or where an operator is in compliance with division (B) of 22820
this section: 22821

(1) The operator shall ensure that when performing coal 22822
mining on steep slopes, no debris, abandoned or disabled 22823
equipment, spoil material, or waste mineral matter is placed on 22824
the downslope below the bench or mining cut. Spoil material in 22825
excess of that required for the reconstruction of the 22826

approximate original contour under division (A) (3) or (C) (2) of 22827
this section shall be permanently stored pursuant to division 22828
(A) (21) of this section. 22829

(2) The operator shall complete backfilling with spoil 22830
material to cover completely the highwall and return the site to 22831
the approximate original contour, which material will maintain 22832
stability following mining and reclamation. 22833

(3) The operator shall not disturb land above the top of 22834
the highwall unless the chief finds that the disturbance will 22835
facilitate compliance with the environmental protection 22836
standards of this section, except that any such disturbance 22837
involving land above the highwall shall be limited to that 22838
amount of land necessary to facilitate compliance. 22839

(D) (1) The chief may permit variances for the purposes set 22840
forth in division (D) (3) of this section, provided that the 22841
watershed control of the area is improved and that complete 22842
backfilling with spoil material shall be required to cover 22843
completely the highwall, which material will maintain stability 22844
following mining and reclamation. 22845

(2) Where an applicant meets the requirements of divisions 22846
(D) (3) and (4) of this section, a variance from the requirement 22847
to restore to approximate original contour set forth in division 22848
(C) (2) of this section may be granted for the mining of coal 22849
when the owner of the surface knowingly requests in writing, as 22850
a part of the permit application, that such a variance be 22851
granted so as to render the land, after reclamation, suitable 22852
for an industrial, commercial, residential, or public use, 22853
including recreational facilities, in accordance with divisions 22854
(D) (3) and (4) of this section. 22855

(3) A variance pursuant to division (D) (2) of this section 22856
may be granted if: 22857

(a) After consultation with the appropriate land use 22858
planning agencies, if any, the potential use of the affected 22859
land is considered to constitute an equal or better economic or 22860
public use. 22861

(b) The postmining land condition is designed and 22862
certified by a registered professional engineer in conformity 22863
with professional standards established to ensure the stability, 22864
drainage, and configuration necessary for the intended use of 22865
the site. 22866

(c) After approval of the appropriate state environmental 22867
agencies, the watershed of the affected land is considered to be 22868
improved. 22869

(4) In granting a variance pursuant to division (D) of 22870
this section, the chief shall require that only such amount of 22871
spoil will be placed off the mine bench as is necessary to 22872
achieve the planned postmining land use, ensure stability of the 22873
spoil retained on the bench, and meet all other requirements of 22874
this chapter. All spoil placement off the mine bench shall 22875
comply with division (A) (21) of this section. 22876

(5) The chief shall adopt specific rules to govern the 22877
granting of variances under division (D) of this section ~~and may~~ 22878
~~impose such additional requirements as the chief considers~~ 22879
~~necessary.~~ 22880

(6) All variances granted under division (D) of this 22881
section shall be reviewed not more than three years from the 22882
date of issuance of the permit unless the permittee 22883
affirmatively demonstrates that the proposed development is 22884

proceeding in accordance with the terms of the reclamation plan. 22885

(E) The chief shall establish standards and criteria 22886
regulating the design, location, construction, operation, 22887
maintenance, enlargement, modification, removal, and abandonment 22888
of new and existing coal mine waste piles referred to in 22889
division (A) (13) of this section and division (A) (5) of section 22890
1513.35 of the Revised Code. The standards and criteria shall 22891
conform to the standards and criteria used by the chief of the 22892
United States army corps of engineers to ensure that flood 22893
control structures are safe and effectively perform their 22894
intended function. In addition to engineering and other 22895
technical specifications, the standards and criteria developed 22896
pursuant to this division shall include provisions for review 22897
and approval of plans and specifications prior to construction, 22898
enlargement, modification, removal, or abandonment; performance 22899
of periodic inspections during construction; issuance of 22900
certificates of approval upon completion of construction; 22901
performance of periodic safety inspections; and issuance of 22902
notices for required remedial or maintenance work. 22903

(F) (1) The permittee may file a request with the chief for 22904
release of a part of a performance security under division (F) 22905
(3) of this section. Within thirty days after any request for 22906
performance security release under this section has been filed 22907
with the chief, the operator shall submit a copy of an 22908
advertisement placed at least once a week for four successive 22909
weeks in a newspaper of general circulation in the locality of 22910
the coal mining operation. The advertisement shall be considered 22911
part of any performance security release application and shall 22912
contain a notification of the precise location of the land 22913
affected, the number of acres, the permit number and the date 22914
approved, the amount of the performance security filed and the 22915

portion sought to be released, the type and appropriate dates of 22916
reclamation work performed, and a description of the results 22917
achieved as they relate to the operator's approved reclamation 22918
plan and, if applicable, the operator's pollution abatement 22919
plan. In addition, as part of any performance security release 22920
application, the applicant shall submit copies of the letters 22921
sent to adjoining property owners, local governmental bodies, 22922
planning agencies, and sewage and water treatment authorities or 22923
water companies in the locality in which the coal mining and 22924
reclamation activities took place, notifying them of the 22925
applicant's intention to seek release from the performance 22926
security. 22927

(2) Upon receipt of a copy of the advertisement and 22928
request for release of a performance security under division (F) 22929
(3) (c) of this section, the chief, within thirty days, shall 22930
conduct an inspection and evaluation of the reclamation work 22931
involved. The evaluation shall consider, among other things, the 22932
degree of difficulty to complete any remaining reclamation, 22933
whether pollution of surface and subsurface water is occurring, 22934
the probability of continuation or future occurrence of the 22935
pollution, and the estimated cost of abating the pollution. The 22936
chief shall notify the permittee in writing of the decision to 22937
release or not to release all or part of the performance 22938
security within sixty days after the filing of the request if no 22939
public hearing is held pursuant to division (F) (6) of this 22940
section or, if there has been a public hearing held pursuant to 22941
division (F) (6) of this section, within thirty days thereafter. 22942

(3) The chief may release the performance security if the 22943
reclamation covered by the performance security or portion 22944
thereof has been accomplished as required by this chapter and 22945
rules adopted under it according to the following schedule: 22946

(a) When the operator completes the backfilling, 22947
regrading, and drainage control of an area for which performance 22948
security has been provided in accordance with the approved 22949
reclamation plan, and, if the area covered by the performance 22950
security is one for which an authorization was made under 22951
division (E) (7) of section 1513.07 of the Revised Code, the 22952
operator has complied with the approved pollution abatement plan 22953
and all additional requirements established by the chief in 22954
rules adopted under section 1513.02 of the Revised Code 22955
governing coal mining and reclamation operations on pollution 22956
abatement areas, the chief shall grant a release of fifty per 22957
cent of the performance security for the applicable permit area. 22958

(b) After resoiling and revegetation have been established 22959
on the regraded mined lands in accordance with the approved 22960
reclamation plan, the chief shall grant a release in an amount 22961
not exceeding thirty-five per cent of the original performance 22962
security for all or part of the affected area under the permit. 22963
When determining the amount of performance security to be 22964
released after successful revegetation has been established, the 22965
chief shall retain that amount of performance security for the 22966
revegetated area that would be sufficient for a third party to 22967
cover the cost of reestablishing revegetation for the period 22968
specified for operator responsibility in this section for 22969
reestablishing revegetation. No part of the performance security 22970
shall be released under this division so long as the lands to 22971
which the release would be applicable are contributing suspended 22972
solids to streamflow or runoff outside the permit area in excess 22973
of the requirements of this section or until soil productivity 22974
for prime farmlands has returned to equivalent levels of yield 22975
as nonmined land of the same soil type in the surrounding area 22976
under equivalent management practices as determined from the 22977

soil survey performed pursuant to section 1513.07 of the Revised Code. If the area covered by the performance security is one for which an authorization was made under division (E) (7) of section 1513.07 of the Revised Code, no part of the performance security shall be released under this division until the operator has complied with the approved pollution abatement plan and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas. Where a silt dam is to be retained as a permanent impoundment pursuant to division (A) (10) of this section, the portion of performance security may be released under this division so long as provisions for sound future maintenance by the operator or the landowner have been made with the chief.

(c) When the operator has completed successfully all coal mining and reclamation activities, including, if applicable, all additional requirements established in the pollution abatement plan approved under division (E) (7) of section 1513.07 of the Revised Code and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas, the chief shall release all or any of the remaining portion of the performance security for all or part of the affected area under a permit, but not before the expiration of the period specified for operator responsibility in this section, except that the chief may adopt rules for a variance to the operator period of responsibility considering vegetation success and probability of continued growth and consent of the landowner, provided that no performance security shall be fully released until all reclamation requirements of this chapter are fully met.

(4) If the chief disapproves the application for release of the performance security or portion thereof, the chief shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release, and allowing the opportunity for a public adjudicatory hearing.

(5) When any application for total or partial performance security release is filed with the chief under this section, the chief shall notify the municipal corporation in which the coal mining operation is located by certified mail at least thirty days prior to the release of all or a portion of the performance security.

(6) A person with a valid legal interest that might be adversely affected by release of a performance security under this section or the responsible officer or head of any federal, state, or local government agency that has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or is authorized to develop and enforce environmental standards with respect to such operations may file written objections to the proposed release from the performance security with the chief within thirty days after the last publication of the notice required by division (F) (1) of this section. If written objections are filed and an informal conference is requested, the chief shall inform all interested parties of the time and place of the conference. The date, time, and location of the informal conference shall be advertised by the chief in a newspaper of general circulation in the locality of the coal mining operation proposed for performance security release for at least once a week for two consecutive weeks. The informal conference shall be held in the locality of the coal mining operation proposed for performance

security release or in Franklin county, at the option of the 23040
objector, within thirty days after the request for the 23041
conference. An electronic record shall be made of the conference 23042
proceeding unless waived by all parties. The record shall be 23043
maintained and shall be accessible to the parties until final 23044
release of the performance security at issue. In the event all 23045
parties requesting the informal conference stipulate agreement 23046
prior to the requested informal conference and withdraw their 23047
request, the informal conference need not be held. 23048

(7) If an informal conference has been held pursuant to 23049
division (F) (6) of this section, the chief shall issue and 23050
furnish the applicant and persons who participated in the 23051
conference with the written decision regarding the release 23052
within sixty days after the conference. Within thirty days after 23053
notification of the final decision of the chief regarding the 23054
performance security release, the applicant or any person with 23055
an interest that is or may be adversely affected by the decision 23056
may appeal the decision to the reclamation commission pursuant 23057
to section 1513.13 of the Revised Code. 23058

(8) (a) If the chief determines that a permittee is 23059
responsible for mine drainage that requires water treatment 23060
after reclamation is completed under the terms of the permit or 23061
that a permittee must provide an alternative water supply after 23062
reclamation is completed under the terms of the permit, the 23063
permittee shall provide alternative financial security in an 23064
amount determined by the chief prior to the release of the 23065
remaining portion of performance security under division (F) (3) 23066
(c) of this section. The alternative financial security shall be 23067
in an amount that is equal to or greater than the present value 23068
of the estimated cost over time to develop and implement mine 23069
drainage plans and provide water treatment or in an amount that 23070

is necessary to provide and maintain an alternative water 23071
supply, as applicable. The alternative financial security shall 23072
include a contract, trust, or other agreement or mechanism that 23073
is enforceable under law to provide long-term water treatment or 23074
a long-term alternative water supply, or both. The contract, 23075
trust, or other agreement or mechanism included with the 23076
alternative financial security may provide for the funding of 23077
the alternative financial security incrementally over a period 23078
of time, not to exceed five years, with reliance on guarantees 23079
or other collateral provided by the permittee and approved by 23080
the chief for the balance of the alternative financial security 23081
required until the alternative financial security has been fully 23082
funded by the permittee. 23083

(b) The chief shall adopt rules in accordance with Chapter 23084
119. of the Revised Code that are necessary for the 23085
administration of division (F) (8) (a) of this section. 23086

(c) If the chief determines that a permittee must provide 23087
alternative financial security under division (F) (8) (a) of this 23088
section and the performance security for the permit was provided 23089
under division (C) (2) of section 1513.08 of the Revised Code, 23090
the permittee may fund the alternative financial security 23091
incrementally over a period of time, not to exceed five years, 23092
with reliance on the reclamation forfeiture fund created in 23093
section 1513.18 of the Revised Code for the balance of the 23094
alternative financial security required until the alternative 23095
financial security has been fully funded by the permittee. The 23096
permittee semiannually shall pay to the division of mineral 23097
resources management a fee that is equal to seven and one-half 23098
per cent of the average balance of the alternative financial 23099
security that is being provided by reliance on the reclamation 23100
forfeiture fund over the previous six months. All money received 23101

from the fee shall be credited to the reclamation forfeiture 23102
fund. 23103

(9) Final release of the performance security in 23104
accordance with division (F) (3) (c) of this section terminates 23105
the jurisdiction of the chief under this chapter over the 23106
reclaimed site of a surface coal mining and reclamation 23107
operation or applicable portion of an operation. However, the 23108
chief shall reassert jurisdiction over such a site if the 23109
release was based on fraud, collusion, or misrepresentation of a 23110
material fact and the chief, in writing, demonstrates evidence 23111
of the fraud, collusion, or misrepresentation. Any person with 23112
an interest that is or may be adversely affected by the chief's 23113
determination may appeal the determination to the reclamation 23114
commission in accordance with section 1513.13 of the Revised 23115
Code. 23116

(G) The chief shall adopt rules governing the criteria for 23117
forfeiture of performance security, the method of determining 23118
the forfeited amount, and the procedures to be followed in the 23119
event of forfeiture. Cash received as the result of such 23120
forfeiture is the property of the state. 23121

Sec. 1513.171. (A) For the purpose of claiming a credit 23122
under section 5749.11 of the Revised Code, an operator with a 23123
valid permit issued under section 1513.07 of the Revised Code 23124
may submit an application to the chief of the division of 23125
mineral resources management to perform reclamation on land or 23126
water resources that are not within the area of the applicant's 23127
permit and that have been adversely affected by past coal mining 23128
for which the performance security was forfeited. The chief 23129
shall provide the application form. The application shall 23130
include all of the following: 23131

(1) The operator's name, address, and telephone number;	23132
(2) The valid permit number of the operator;	23133
(3) An identification of the area or areas to be reclaimed;	23134 23135
(4) An identification of the owner of the land;	23136
(5) A reclamation plan that describes the work to be done to reclaim the land or water resources. The plan shall include a description of how the plan is consistent with local physical, environmental, and climatological conditions and the measures to be taken during the reclamation to ensure the protection of water systems.	23137 23138 23139 23140 23141 23142
(6) An estimate of the total cost of the reclamation;	23143
(7) An estimate of the timetables for accomplishing the reclamation;	23144 23145
(8) Any other requirements that the chief prescribes by rule.	23146 23147
The chief shall approve, disapprove, or approve with modifications the application concerning the proposed reclamation work. If the chief approves the application, the applicant may commence reclamation in accordance with the timetables included in the application. Upon the completion of the reclamation to the satisfaction of the chief, the chief shall issue a numbered reclamation tax credit certificate showing the amount of the credit and the identity of the recipient. Prior to the close of the fiscal quarter in which the tax credit certificate is issued, the chief shall certify to the tax commissioner the amount of the credit and the identity of the recipient.	23148 23149 23150 23151 23152 23153 23154 23155 23156 23157 23158 23159

(B) The chief shall determine the amount of the credit in accordance with this section and rules adopted under it. The amount of the credit shall be equal to the cost that the division of mineral resources management would have expended from the reclamation forfeiture fund created in section 1513.18 of the Revised Code to complete the reclamation.

(C) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to administer this section. The rules shall establish all of the following:

(1) A procedure that the chief shall use to determine the amount of the credit issued under this section;

(2) A procedure by which the chief may obtain consent of the owners of land or water resources to allow reclamation work for purposes of this section;

(3) A procedure for delivery of notice to the owners of land or water resources on which the reclamation work is to be performed. The rules shall require the notice to include the date on which the reclamation work is scheduled to begin.

Sec. 1513.18. (A) All money that becomes the property of the state under division (G) of section 1513.16 of the Revised Code shall be deposited in the reclamation forfeiture fund, which is hereby created in the state treasury. Disbursements from the fund shall be made by the chief of the division of mineral resources management for the purpose of reclaiming areas of land affected by coal mining under a coal mining and reclamation permit issued on or after September 1, 1981, on which an operator has defaulted.

(B) The fund also shall consist of all money from the collection of liens under section 1513.081 of the Revised Code,

all money credited to the fund from the fee levied by division 23189
~~(F) (8) (c)~~ (F) (8) (b) of section 1513.16 of the Revised Code, 23190
fines collected under division (E) of section 1513.02 and 23191
section 1513.99 of the Revised Code, fines collected for a 23192
violation of section 2921.31 of the Revised Code that, prior to 23193
July 1, 1996, would have been a violation of division (G) of 23194
section 1513.17 of the Revised Code as it existed prior to that 23195
date, and money collected and credited to it pursuant to section 23196
5749.02 of the Revised Code. Disbursements from the fund shall 23197
be made by the chief in accordance with division (D) of this 23198
section for the purpose of reclaiming areas that an operator has 23199
affected by mining and failed to reclaim under a coal mining and 23200
reclamation permit issued under this chapter. 23201

The chief may expend money from the fund to pay necessary 23202
administrative costs, including engineering and design services, 23203
incurred by the division of mineral resources management in 23204
reclaiming these areas. The chief also may expend money from the 23205
fund to pay necessary administrative costs of the reclamation 23206
forfeiture fund advisory board created in section 1513.182 of 23207
the Revised Code as authorized by the board under that section. 23208
Expenditures from the fund to pay such administrative costs need 23209
not be made under contract. 23210

(C) Except when paying necessary administrative costs 23211
authorized by division (B) of this section, expenditures from 23212
the fund shall be made under contracts entered into by the 23213
chief, with the approval of the director of natural resources, 23214
in accordance with procedures established by the chief, ~~by rules~~ 23215
~~adopted in accordance with section 1513.02 of the Revised Code.~~ 23216
The chief may reclaim the land in the same manner as set forth 23217
in sections 1513.21 to 1513.24 of the Revised Code. Each 23218
contract awarded by the chief shall be awarded to the lowest 23219

responsive and responsible bidder, in accordance with section 23220
9.312 of the Revised Code, after sealed bids are received, 23221
opened, and published at the time and place fixed by the chief. 23222
The chief shall publish notice of the time and place at which 23223
bids will be received, opened, and published, at least once and 23224
at least ten days before the date of the opening of the bids, in 23225
a newspaper of general circulation in the county in which the 23226
area of land to be reclaimed under the contract is located. If, 23227
after advertising, no bids are received at the time and place 23228
fixed for receiving them, the chief may advertise again for 23229
bids, or, if the chief considers the public interest will best 23230
be served, the chief may enter into a contract for the 23231
reclamation of the area of land without further advertisement 23232
for bids. The chief may reject any or all bids received and 23233
again publish notice of the time and place at which bids for 23234
contracts will be received, opened, and published. The chief, 23235
with the approval of the director, may enter into a contract 23236
with the landowner, a coal mine operator or surface mine 23237
operator mining under a current, valid permit issued under this 23238
chapter or Chapter 1514. of the Revised Code, or a contractor 23239
hired by the surety or trustee, if the performance security is 23240
held in trust, to complete reclamation on land affected by coal 23241
mining on which an operator has defaulted, or with a contractor 23242
hired by the trust administrator of an alternative financial 23243
security that is provided in accordance with division (F) (8) of 23244
section 1513.16 of the Revised Code to provide long-term water 23245
treatment or a long-term alternative water supply on areas 23246
affected by coal mining on which a permittee has defaulted or 23247
not fully funded an alternative financial security, without 23248
advertising for bids. 23249

(D) (1) The chief shall expend money credited to the 23250

reclamation forfeiture fund from the forfeiture of the 23251
performance security applicable to an area of land to pay for 23252
the cost of completing reclamation to the standards established 23253
by this chapter and rules adopted under it. 23254

(2) If the performance security for the area of land was 23255
provided under division (C)(1) of section 1513.08 of the Revised 23256
Code, the chief shall use the money from the forfeited 23257
performance security and any alternative financial security 23258
provided under division (F)(8) of section 1513.16 of the Revised 23259
Code to complete the reclamation that the operator failed to do 23260
under the operator's applicable coal mining and reclamation 23261
permit issued under this chapter. 23262

(3) If the performance security for the area of land was 23263
provided under division (C)(2) of section 1513.08 of the Revised 23264
Code, the chief shall use the money from the forfeited 23265
performance security and any alternative financial security 23266
provided under division (F)(8) of section 1513.16 of the Revised 23267
Code to complete the reclamation that the operator failed to do 23268
under the operator's applicable coal mining and reclamation 23269
permit issued under this chapter. If the money credited to the 23270
reclamation forfeiture fund from the forfeiture of the 23271
performance security provided under division (C)(2) of section 23272
1513.08 of the Revised Code and any alternative financial 23273
security provided under division (F)(8) of section 1513.16 of 23274
the Revised Code is not sufficient to complete the reclamation 23275
to the standards established by this chapter and rules adopted 23276
under it, the chief shall notify the reclamation forfeiture fund 23277
advisory board of the amount of the insufficiency. The chief may 23278
expend money credited to the reclamation forfeiture fund under 23279
section 5749.02 of the Revised Code or credited to the 23280
reclamation forfeiture fund from the fee levied by division ~~(F)~~ 23281

~~(8) (e)~~ (F) (8) (b) of section 1513.16 of the Revised Code to 23282
complete the reclamation to the standards established by this 23283
chapter and rules adopted under it. Except as provided in 23284
division (D) (5) of this section, the chief shall not expend 23285
money from the fund in an amount that exceeds the difference 23286
between the amount of the performance security provided under 23287
division (C) (2) of section 1513.08 of the Revised Code and the 23288
estimated cost of reclamation as determined by the chief under 23289
divisions (B) and (E) of that section. 23290

(4) Except as provided in division (D) (5) of this section, 23291
money from the reclamation forfeiture fund shall not be used for 23292
reclamation of land or water resources affected by mine drainage 23293
that requires extended water treatment after reclamation is 23294
completed under the terms of the permit. In addition, money from 23295
the reclamation forfeiture fund shall not be used to supplement 23296
the performance security of an applicant or permittee that has 23297
provided performance security in accordance with division (C) (1) 23298
of section 1513.08 of the Revised Code. 23299

(5) If a permittee relies in part on the reclamation 23300
forfeiture fund for alternative financial security under 23301
division (F) (8) (c) of section 1513.16 of the Revised Code, money 23302
from the reclamation forfeiture fund may be used for reclamation 23303
of the land or water resources affected by mine drainage that 23304
requires water treatment after reclamation is completed under 23305
the terms of the permit or an alternative water supply after 23306
reclamation is completed under the terms of the permit in an 23307
amount not to exceed the balance of the alternative financial 23308
security provided by the reclamation forfeiture fund under that 23309
division. 23310

(E) The chief shall keep a detailed accounting of the 23311

expenditures from the reclamation forfeiture fund to complete 23312
reclamation of the land or water resources, as applicable, and, 23313
upon completion of the reclamation, shall certify the 23314
expenditures to the attorney general. Upon the chief's 23315
certification of the expenditures from the reclamation 23316
forfeiture fund, the attorney general shall bring an action for 23317
that amount of money. The operator is liable for that expense in 23318
addition to any other liabilities imposed by law. Money so 23319
recovered shall be credited to the reclamation forfeiture fund. 23320
The chief shall not postpone the reclamation because of any 23321
action brought by the attorney general under this division. 23322
Prior to completing reclamation, the chief may collect through 23323
the attorney general any additional amount that the chief 23324
believes will be necessary for reclamation in excess of the 23325
forfeited performance security and any alternative financial 23326
security amount applicable to the land or water resources that 23327
the operator should have, but failed to, reclaim. 23328

(F) Except as otherwise provided in division (H) of this 23329
section, if any part of the money in the reclamation forfeiture 23330
fund remains in the fund after the chief has caused the area of 23331
land to be reclaimed and has paid all the reclamation costs and 23332
expenses, the chief may expend ~~those~~ money to complete other 23333
reclamation work performed under this section on forfeiture 23334
areas affected under a coal mining and reclamation permit issued 23335
on or after September 1, 1981. 23336

(G) The chief shall require every contractor performing 23337
reclamation work pursuant to this section to pay workers at the 23338
greater of their regular rate of pay, as established by 23339
contract, agreement, or prior custom or practice, or the average 23340
wage rate paid in this state for the same or similar work as 23341
determined by the chief under section 1513.02 of the Revised 23342

Code.	23343
(H) All investment earnings of the fund shall be credited to the fund and shall be used only for the reclamation of land for which performance security was provided under division (C) (2) of section 1513.08 of the Revised Code.	23344 23345 23346 23347
Sec. 1513.35. (A) In addition to the other requirements of this chapter, each permit issued by the chief of the division of mineral resources management under section 1513.07 of the Revised Code for underground coal mining shall require the operator to:	23348 23349 23350 23351 23352
(1) Implement measures consistent with known technology in order to prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner. This section does not prohibit the standard method of room and pillar mining.	23353 23354 23355 23356 23357 23358 23359 23360
(2) Seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings when no longer needed for mining operations;	23361 23362 23363
(3) Fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible the return of mining and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations;	23364 23365 23366 23367 23368
(4) With respect to the surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all	23369 23370 23371

surface waste piles created by the operator from current 23372
operations through construction in compacted layers, including 23373
the use of noncombustible and impervious materials if necessary, 23374
and ensure that the leachate will not degrade below water 23375
quality standards established pursuant to applicable federal and 23376
state law surface or ground waters, that the final contour of 23377
the waste pile will be compatible with natural surroundings, and 23378
that the site is stabilized and revegetated according to this 23379
section; 23380

(5) Design, locate, construct, operate, maintain, enlarge, 23381
modify, and remove or abandon, in accordance with rules adopted 23382
by the chief, all existing and new coal mine waste piles 23383
consisting of mine wastes, tailings, coal processing wastes, or 23384
other liquid and solid wastes and used either temporarily or 23385
permanently as dams or embankments; 23386

(6) Establish on regraded areas and all other lands 23387
affected, a diverse and permanent vegetative cover capable of 23388
self-regeneration and plant succession and at least equal in 23389
extent of cover to the natural vegetation of the area; 23390

(7) Protect offsite areas from damage that may result from 23391
such mining operations; 23392

(8) Eliminate fire hazards and conditions that may 23393
constitute a hazard to the health and safety of the public; 23394

(9) Minimize the disturbances of the prevailing hydrologic 23395
balance at the minesite and in associated offsite areas and to 23396
the quantity of water in surface and ground water systems both 23397
during and after coal mining operations and during reclamation 23398
by: 23399

(a) Avoiding acid or other toxic mine drainage by such 23400

measures as, but not limited to:	23401
(i) Preventing or removing water from contact with toxic producing deposits;	23402 23403
(ii) Treating drainage to reduce toxic content that adversely affects downstream water upon being released to water courses;	23404 23405 23406
(iii) Casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters.	23407 23408 23409
(b) Conducting coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event shall such contributions be in excess of requirements set by applicable state or federal law, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines.	23410 23411 23412 23413 23414 23415 23416 23417
(10) With respect to other surface impacts not specified in this division, including the construction of new roads or in improvement or use of existing roads for hauling or to gain access to the site, repair areas, storage areas, processing areas, shipping areas, or other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 1513.16 of the Revised Code for such effects that result from coal mining operations. The chief shall make such modifications in the requirements imposed by this division as are necessary to accommodate the difference between strip and underground coal	23418 23419 23420 23421 23422 23423 23424 23425 23426 23427 23428 23429

mining. 23430

(11) Minimize disturbances and adverse impacts of the 23431
operation on wildlife, fish, and related environmental values, 23432
and achieve enhancement of such resources where practicable, to 23433
the extent possible using the best currently available 23434
technology; 23435

(12) Locate openings for all new drift mines working acid- 23436
producing or iron-producing coal seams in such a manner so as to 23437
prevent a gravity discharge of water from the mine in accordance 23438
with rules adopted by the chief. 23439

(B) In order to protect the stability of the land, the 23440
chief shall suspend underground coal mining under urbanized 23441
areas, municipal corporations, or unincorporated communities or 23442
adjacent to industrial or commercial buildings, major 23443
impoundments, or permanent streams, if the chief finds imminent 23444
danger to inhabitants of the urbanized areas, municipal 23445
corporations, and unincorporated communities. 23446

(C) This chapter is applicable to surface operations and 23447
surface impacts incident to an underground coal mine with 23448
modifications as are necessary to accommodate the difference 23449
between surface coal mining and underground coal mining. The 23450
chief shall adopt the modifications by rule in accordance with 23451
~~section 1513.02 and~~ Chapter 119. of the Revised Code. 23452

Sec. 1513.37. (A) There is hereby created in the state 23453
treasury the abandoned mine reclamation fund, which shall be 23454
administered by the chief of the division of mineral resources 23455
management. The fund shall consist of grants from the secretary 23456
of the interior from the federal abandoned mine reclamation fund 23457
established by Title IV of the "Surface Mining Control and 23458

Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201, 23459
regulations adopted under it, and amendments to the act and 23460
regulations and the federal "Infrastructure Investment and Jobs 23461
Act," Pub. L. No. 177-58. Expenditures from the abandoned mine 23462
reclamation fund shall be made by the chief for the following 23463
purposes: 23464

(1) Reclamation and restoration of land and water 23465
resources adversely affected by past coal mining, including, but 23466
not limited to, reclamation and restoration of abandoned strip 23467
mine areas, abandoned coal processing areas, and abandoned coal 23468
refuse disposal areas; sealing and filling of abandoned deep 23469
mine entries and voids; planting of land adversely affected by 23470
past coal mining; prevention of erosion and sedimentation; 23471
prevention, abatement, treatment, and control of water pollution 23472
created by coal mine drainage, including restoration of 23473
streambeds and construction and operation of water treatment 23474
plants; prevention, abatement, and control of burning coal 23475
refuse disposal areas and burning coal in situ; and prevention, 23476
abatement, and control of coal mine subsidence; 23477

(2) Acquisition and filling of voids and sealing of 23478
tunnels, shafts, and entryways of noncoal lands; 23479

(3) Reclaiming land, public or private, affected by 23480
mining, or controlling mine drainage under section 1513.27 of 23481
the Revised Code in accordance with the requirements of the 23482
federal "Infrastructure Investment and Jobs Act," Pub. L. No. 23483
177-58; 23484

(4) Acquisition of land as provided for in this section; 23485

(5) Administrative expenses incurred in accomplishing the 23486
purposes of this section; 23487

(6) All other necessary expenses to accomplish the purposes of this section.	23488 23489
(B) Expenditures of money from the abandoned mine reclamation fund on land and water eligible pursuant to division (C) of this section shall reflect the following priorities in the order stated:	23490 23491 23492 23493
(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices;	23494 23495 23496
(2) The protection of public health, safety, and general welfare from adverse effects of coal mining practices;	23497 23498
(3) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices, including measures for the conservation and development of soil and water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity;	23499 23500 23501 23502 23503 23504
(4) Research and demonstration projects relating to the development of coal mining reclamation and water quality control program methods and techniques;	23505 23506 23507
(5) The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation facilities, and conservation facilities adversely affected by coal mining practices;	23508 23509 23510 23511
(6) The development of publicly owned land adversely affected by coal mining practices, including land acquired as provided in this section for recreation and historic purposes, conservation and reclamation purposes, and open space benefits.	23512 23513 23514 23515

(C) (1) Lands and water eligible for reclamation or 23516
drainage abatement expenditures under this section are those 23517
that were mined for coal or were affected by such mining, 23518
wastebanks, coal processing, or other coal mining processes and 23519
that meet one of the following criteria: 23520

(a) Are lands that were abandoned or left in an inadequate 23521
reclamation status prior to August 3, 1977, and for which there 23522
is no continuing reclamation responsibility under state or 23523
federal laws; 23524

(b) Are lands for which the chief finds that surface coal 23525
mining operations occurred at any time between August 4, 1977, 23526
and August 16, 1982, and that any money for reclamation or 23527
abatement that are available pursuant to a bond, performance 23528
security, or other form of financial guarantee or from any other 23529
source are not sufficient to provide for adequate reclamation or 23530
abatement at the site; 23531

(c) Are lands for which the chief finds that surface coal 23532
mining operations occurred at any time between August 4, 1977, 23533
and November 5, 1990, that the surety of the mining operator 23534
became insolvent during that time, and that, as of November 5, 23535
1990, any money immediately available from proceedings relating 23536
to that insolvency or from any financial guarantee or other 23537
source are not sufficient to provide for adequate reclamation or 23538
abatement at the site. 23539

(2) In determining which sites to reclaim pursuant to 23540
divisions (C) (1) (b) and (c) of this section, the chief shall 23541
follow the priorities stated in divisions (B) (1) and (2) of this 23542
section and shall ensure that priority is given to those sites 23543
that are in the immediate vicinity of a residential area or that 23544
have an adverse economic impact on a local community. 23545

(3) Surface coal mining operations on lands eligible for 23546
remining shall not affect the eligibility of those lands for 23547
reclamation and restoration under this section after the release 23548
of the bond, performance security, or other form of financial 23549
guarantee for any such operation as provided under division (F) 23550
of section 1513.16 of the Revised Code. If the bond, performance 23551
security, or other form of financial guarantee for a surface 23552
coal mining operation on lands eligible for remining is 23553
forfeited, money available under this section may be used if the 23554
amount of the bond, performance security, or other form of 23555
financial guarantee is not sufficient to provide for adequate 23556
reclamation or abatement, except that if conditions warrant, the 23557
chief immediately shall exercise the authority granted under 23558
division (L) of this section. 23559

(D) The chief may submit to the secretary of the interior 23560
a state reclamation plan and annual projects to carry out the 23561
purposes of this section. 23562

(1) The reclamation plan generally shall identify the 23563
areas to be reclaimed, the purposes for which the reclamation is 23564
proposed, the relationship of the lands to be reclaimed and the 23565
proposed reclamation to surrounding areas, the specific criteria 23566
for ranking and identifying projects to be funded, and the legal 23567
authority and programmatic capability to perform the work in 23568
accordance with this section. 23569

(2) On an annual basis, the chief may submit to the 23570
secretary an application for support of the abandoned mine 23571
reclamation fund and implementation of specific reclamation 23572
projects. The annual requests shall include such information as 23573
may be requested by the secretary. 23574

(3) The costs for each proposed project under this section 23575

shall include actual construction costs, actual operation and 23576
maintenance costs of permanent facilities, planning and 23577
engineering costs, construction inspection costs, and other 23578
necessary administrative expenses. 23579

(4) The chief may submit annual and other reports required 23580
by the secretary when funds are provided by the secretary under 23581
either of the following: 23582

(a) Title IV of the "Surface Mining Control and 23583
Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201, 23584
regulations adopted under it, and amendments to the act and 23585
regulations; 23586

(b) The federal "Infrastructure Investment and Jobs Act," 23587
Pub. L. No. 177-58. 23588

(E) (1) There is hereby created in the state treasury the 23589
acid mine drainage abatement and treatment fund, which shall be 23590
administered by the chief. The fund shall consist of grants from 23591
the secretary of the interior from the federal abandoned mine 23592
reclamation fund pursuant to section 402(g) (6) of Title IV of 23593
the "Surface Mining Control and Reclamation Act of 1977," 91 23594
Stat. 445, 30 U.S.C.A. 1201. All investment earnings of the fund 23595
shall be credited to the fund. 23596

(2) The chief shall make expenditures from the fund, in 23597
consultation with the United States department of agriculture, 23598
soil conservation service, to implement acid mine drainage 23599
abatement and treatment plans approved by the secretary. The 23600
plans shall provide for the comprehensive abatement of the 23601
causes and treatment of the effects of acid mine drainage within 23602
qualified hydrologic units affected by coal mining practices and 23603
shall include at least all of the following: 23604

(a) An identification of the qualified hydrologic unit. As used in division (E) of this section, "qualified hydrologic unit" means a hydrologic unit that meets all of the following criteria:	23605 23606 23607 23608
(i) The water quality in the unit has been significantly affected by acid mine drainage from coal mining practices in a manner that has an adverse impact on biological resources.	23609 23610 23611
(ii) The unit contains lands and waters that meet the eligibility requirements established under division (C) of this section and any of the priorities established in divisions (B) (1) to (3) of this section.	23612 23613 23614 23615
(iii) The unit contains lands and waters that are proposed to be the subject of expenditures from the reclamation forfeiture fund created in section 1513.18 of the Revised Code or the mining regulation and safety fund created in section 1513.30 of the Revised Code.	23616 23617 23618 23619 23620
(b) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit;	23621 23622 23623
(c) An identification of the sources of acid mine drainage within the hydrologic unit;	23624 23625
(d) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit;	23626 23627 23628
(e) The cost of undertaking the proposed abatement and treatment measures;	23629 23630
(f) An identification of existing and proposed sources of funding for those measures;	23631 23632

(g) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures. 23633
23634

(3) The chief may make grants of money from the acid mine drainage abatement and treatment fund to watershed groups for conducting projects to accomplish the purposes of this section. 23635
23636
A grant may be made in an amount equal to not more than fifty per cent of each of the following: 23637
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23639

(a) Reasonable and necessary expenses for the collection and analysis of data sufficient to do either or both of the following: 23640
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23642

(i) Identify a watershed as a qualified hydrologic unit; 23643

(ii) Monitor the quality of water in a qualified hydrologic unit before, during, and at any time after completion of the project by the watershed group. 23644
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(b) Engineering design costs and construction costs involved in the project, provided that the project is conducted in a qualified hydrologic unit and the chief considers the project to be a priority. 23647
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A watershed group that wishes to obtain a grant under division (E) (3) of this section shall submit an application to the chief on forms provided by the division of mineral resources management, together with detailed estimates and timetables for accomplishing the stated goals of the project and any other information that the chief requires. 23651
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For the purposes of establishing priorities for awarding grants under division (E) (3) of this section, the chief shall consider each project's feasibility, cost-effectiveness, and environmental benefit, together with the availability of matching funding, including in-kind services, for the project. 23657
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The chief shall enter into a contract for funding with 23662
each applicant awarded a grant to ensure that the money granted 23663
is used for the purposes of this section and that the work that 23664
the project involves is done properly. The contract is not 23665
subject to division (B) of section 127.16 of the Revised Code. 23666
The final payment of grant money shall not be made until the 23667
chief inspects and approves the completed project. 23668

The chief shall require each applicant awarded a grant 23669
under this section who conducts a project involving construction 23670
work to pay workers at the greater of their regular rate of pay, 23671
as established by contract, agreement, or prior custom or 23672
practice, or the average wage rate paid in this state for the 23673
same or similar work performed in the same or a similar locality 23674
by private companies doing similar work on similar projects. 23675

As used in division (E) (3) of this section, "watershed 23676
group" means a charitable organization as defined in section 23677
1716.01 of the Revised Code that has been established for the 23678
purpose of conducting reclamation of land and waters adversely 23679
affected by coal mining practices and specifically for 23680
conducting acid mine drainage abatement. 23681

(F) (1) If the chief makes a finding of fact that land or 23682
water resources have been adversely affected by past coal mining 23683
practices; the adverse effects are at a stage where, in the 23684
public interest, action to restore, reclaim, abate, control, or 23685
prevent the adverse effects should be taken; the owners of the 23686
land or water resources where entry must be made to restore, 23687
reclaim, abate, control, or prevent the adverse effects of past 23688
coal mining practices are not known or are not readily 23689
available; or the owners will not give permission for the state, 23690
political subdivisions, or their agents, employees, or 23691

contractors to enter upon the property to restore, reclaim, 23692
abate, control, or prevent the adverse effects of past coal 23693
mining practices; then, upon giving notice by mail to the 23694
owners, if known, or, if not known, by posting notice upon the 23695
premises and advertising once in a newspaper of general 23696
circulation in the municipal corporation or county in which the 23697
land lies, the chief or the chief's agents, employees, or 23698
contractors may enter upon the property adversely affected by 23699
past coal mining practices and any other property to have access 23700
to the property to do all things necessary or expedient to 23701
restore, reclaim, abate, control, or prevent the adverse 23702
effects. The entry shall be construed as an exercise of the 23703
police power for the protection of the public health, safety, 23704
and general welfare and shall not be construed as an act of 23705
condemnation of property nor of trespass on it. The money 23706
expended for the work and the benefits accruing to any such 23707
premises so entered upon shall be chargeable against the land 23708
and shall mitigate or offset any claim in or any action brought 23709
by any owner of any interest in the premises for any alleged 23710
damages by virtue of the entry, but this provision is not 23711
intended to create new rights of action or eliminate existing 23712
immunities. 23713

(2) The chief or the chief's authorized representatives 23714
may enter upon any property for the purpose of conducting 23715
studies or exploratory work to determine the existence of 23716
adverse effects of past coal mining practices and to determine 23717
the feasibility of restoration, reclamation, abatement, control, 23718
or prevention of such adverse effects. The entry shall be 23719
construed as an exercise of the police power for the protection 23720
of the public health, safety, and general welfare and shall not 23721
be construed as an act of condemnation of property nor trespass 23722

on it. 23723

(3) The chief may acquire any land by purchase, donation, 23724
or condemnation that is adversely affected by past coal mining 23725
practices if the chief determines that acquisition of the land 23726
is necessary to successful reclamation and that all of the 23727
following apply: 23728

(a) The acquired land, after restoration, reclamation, 23729
abatement, control, or prevention of the adverse effects of past 23730
coal mining practices, will serve recreation and historic 23731
purposes, serve conservation and reclamation purposes, or 23732
provide open space benefits. 23733

(b) Permanent facilities such as a treatment plant or a 23734
relocated stream channel will be constructed on the land for the 23735
restoration, reclamation, abatement, control, or prevention of 23736
the adverse effects of past coal mining practices. 23737

(c) Acquisition of coal refuse disposal sites and all coal 23738
refuse thereon will serve the purposes of this section or public 23739
ownership is desirable to meet emergency situations and prevent 23740
recurrences of the adverse effects of past coal mining 23741
practices. 23742

(4) (a) Title to all lands acquired pursuant to this 23743
section shall be in the name of the state. The price paid for 23744
land acquired under this section shall reflect the market value 23745
of the land as adversely affected by past coal mining practices. 23746

(b) The chief may receive grants on a matching basis from 23747
the secretary of the interior for the purpose of carrying out 23748
this section. 23749

(5) (a) Where land acquired pursuant to this section is 23750
considered to be suitable for industrial, commercial, 23751

residential, or recreational development, the chief may sell the 23752
land by public sale under a system of competitive bidding at not 23753
less than fair market value and under other requirements imposed 23754
by rule to ensure that the lands are put to proper use 23755
consistent with local and state land use plans, if any, as 23756
determined by the chief. 23757

(b) The chief, when requested, and after appropriate 23758
public notice, shall hold a public meeting in the county, 23759
counties, or other appropriate political subdivisions of the 23760
state in which lands acquired pursuant to this section are 23761
located. The meetings shall be held at a time that shall afford 23762
local citizens and governments the maximum opportunity to 23763
participate in the decision concerning the use or disposition of 23764
the lands after restoration, reclamation, abatement, control, or 23765
prevention of the adverse effects of past coal mining practices. 23766

(6) In addition to the authority to acquire land under 23767
division (F)(3) of this section, the chief may use money in the 23768
fund to acquire land by purchase, donation, or condemnation, and 23769
to reclaim and transfer acquired land to a political 23770
subdivision, or to any person, if the chief determines that it 23771
is an integral and necessary element of an economically feasible 23772
plan for the construction or rehabilitation of housing for 23773
persons disabled as the result of employment in the mines or 23774
work incidental to that employment, persons displaced by 23775
acquisition of land pursuant to this section, persons dislocated 23776
as the result of adverse effects of coal mining practices that 23777
constitute an emergency as provided in the "Surface Mining 23778
Control and Reclamation Act of 1977," 91 Stat. 466, 30 U.S.C.A. 23779
1240, or amendments to it, or persons dislocated as the result 23780
of natural disasters or catastrophic failures from any cause. 23781
Such activities shall be accomplished under such terms and 23782

conditions as the chief requires, which may include transfers of 23783
land with or without monetary consideration, except that to the 23784
extent that the consideration is below the fair market value of 23785
the land transferred, no portion of the difference between the 23786
fair market value and the consideration shall accrue as a profit 23787
to those persons. No part of the funds provided under this 23788
section may be used to pay the actual construction costs of 23789
housing. The chief may carry out the purposes of division (F) (6) 23790
of this section directly or by making grants and commitments for 23791
grants and may advance money under such terms and conditions as 23792
the chief may require to any agency or instrumentality of the 23793
state or any public body or nonprofit organization designated by 23794
the chief. 23795

(G) (1) Within six months after the completion of projects 23796
to restore, reclaim, abate, control, or prevent adverse effects 23797
of past coal mining practices on privately owned land, the chief 23798
shall itemize the money so expended and may file a statement of 23799
the expenditures in the office of the county recorder of the 23800
county in which the land lies, together with a notarized 23801
appraisal by an independent appraiser of the value of the land 23802
before the restoration, reclamation, abatement, control, or 23803
prevention of adverse effects of past coal mining practices if 23804
the money so expended result in a significant increase in 23805
property value. The statement shall constitute a lien upon the 23806
land as of the date of the expenditures of the money and shall 23807
have priority as a lien second only to the lien of real property 23808
taxes imposed upon the land. The lien shall not exceed the 23809
amount determined by the appraisal to be the increase in the 23810
fair market value of the land as a result of the restoration, 23811
reclamation, abatement, control, or prevention of the adverse 23812
effects of past coal mining practices. No lien shall be filed 23813

under division (G) of this section against the property of any 23814
person who owned the surface prior to May 2, 1977, and did not 23815
consent to, participate in, or exercise control over the mining 23816
operation that necessitated the reclamation performed. 23817

(2) The landowner may petition, within sixty days after 23818
the filing of the lien, to determine the increase in the fair 23819
market value of the land as a result of the restoration, 23820
reclamation, abatement, control, or prevention of the adverse 23821
effects of past coal mining practices. The amount reported to be 23822
the increase in value of the premises shall constitute the 23823
amount of the lien and shall be recorded with the statement 23824
provided in this section. Any party aggrieved by the decision 23825
may appeal as provided by state law. 23826

(3) The lien provided in division (G) of this section 23827
shall be recorded and indexed, under the name of the state and 23828
the landowner, in the official records in the office of the 23829
county recorder of the county in which the land lies. The county 23830
recorder shall impose no charge for the recording or indexing of 23831
the lien. If the land is registered, the county recorder shall 23832
make a notation and enter a memorial of the lien upon the page 23833
of the register in which the last certificate of title to the 23834
land is registered, stating the name of the claimant, amount 23835
claimed, volume and page of the record where recorded, and exact 23836
time the memorial was entered. 23837

(4) The lien shall continue in force so long as any 23838
portion of the amount of the lien remains unpaid. If the lien 23839
remains unpaid at the time of conveyance of the land on which 23840
the lien was placed, the conveyance may be set aside. Upon 23841
repayment in full of the money expended under this section, the 23842
chief promptly shall issue a certificate of release of the lien. 23843

Upon presentation of the certificate of release, the county 23844
recorder of the county in which the lien is recorded shall 23845
record the lien as having been discharged. 23846

(5) A lien imposed under this section shall be foreclosed 23847
upon the substantial failure of a landowner to pay any portion 23848
of the amount of the lien. Before foreclosing any lien under 23849
this section, the chief shall make a written demand upon the 23850
landowner for payment. If the landowner does not pay the amount 23851
due within sixty days, the chief shall refer the matter to the 23852
attorney general, who shall institute a civil action to 23853
foreclose the lien. 23854

(H) (1) The chief may fill voids, seal abandoned tunnels, 23855
shafts, and entryways, and reclaim surface impacts of 23856
underground or strip mines that the chief determines could 23857
endanger life and property, constitute a hazard to the public 23858
health and safety, or degrade the environment. 23859

(2) In those instances where mine waste piles are being 23860
reworked for conservation purposes, the incremental costs of 23861
disposing of the wastes from those operations by filling voids 23862
and sealing tunnels may be eligible for funding, provided that 23863
the disposal of these wastes meets the purposes of this section. 23864

(3) The chief may acquire by purchase, donation, easement, 23865
or otherwise such interest in land as the chief determines 23866
necessary to carry out division (H) of this section. 23867

(I) The chief shall report annually to the secretary of 23868
the interior on operations under the fund and include 23869
recommendations as to its future uses. 23870

(J) (1) The chief may engage in any work and do all things 23871
necessary or expedient, ~~including~~ except the adoption of rules, 23872

to implement and administer this section. 23873

(2) The chief may engage in cooperative projects under 23874
this section with any agency of the United States, any other 23875
state, or their governmental agencies or with any state 23876
university or college as defined in section 3345.27 of the 23877
Revised Code. The cooperative projects are not subject to 23878
division (B) of section 127.16 of the Revised Code. 23879

(3) The chief may request the attorney general to initiate 23880
in any court of competent jurisdiction an action in equity for 23881
an injunction to restrain any interference with the exercise of 23882
the right to enter or to conduct any work provided in this 23883
section, which remedy is in addition to any other remedy 23884
available under this section. 23885

(4) The chief may construct or operate a plant or plants 23886
for the control and treatment of water pollution resulting from 23887
mine drainage. The extent of this control and treatment may be 23888
dependent upon the ultimate use of the water. Division (J)(4) of 23889
this section does not repeal or supersede any portion of the 23890
"Federal Water Pollution Control Act," 70 Stat. 498 (1965), 33 23891
U.S.C.A. 1151, as amended, and no control or treatment under 23892
division (J)(4) of this section, in any way, shall be less than 23893
that required by that act. The construction of a plant or plants 23894
may include major interceptors and other facilities appurtenant 23895
to the plant. 23896

(5) The chief may transfer money from the abandoned mine 23897
reclamation fund and the acid mine drainage abatement and 23898
treatment fund to other appropriate state agencies or to state 23899
universities or colleges in order to carry out the reclamation 23900
activities authorized by this section. 23901

(K) The chief may contract for any part of work to be performed under this section, with or without advertising for bids, if the chief determines that a condition exists that could reasonably be expected to cause substantial physical harm to persons, property, or the environment and to which persons or improvements on real property are currently exposed.

The chief shall require every contractor performing reclamation work under this section to pay its workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate paid in this state for the same or similar work as determined by the chief under section 1513.02 of the Revised Code.

(L) (1) The chief may contract for the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of mining practices on eligible lands if the chief determines that an emergency exists constituting a danger to the public health, safety, or welfare and that no other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent those adverse effects. The chief may enter into a contract for emergency work under division (L) of this section without advertising for bids. Any such contract or any purchase of materials for emergency work under division (L) of this section is not subject to division (B) of section 127.16 of the Revised Code.

(2) The chief or the chief's agents, employees, or contractors may enter on any land where such an emergency exists, and on other land in order to have access to that land, in order to restore, reclaim, abate, control, or prevent the adverse effects of mining practices and to do all things

necessary or expedient to protect the public health, safety, or welfare. Such an entry shall be construed as an exercise of the police power and shall not be construed as an act of condemnation of property or of trespass. The money expended for the work and the benefits accruing to any premises so entered upon shall be chargeable against the land and shall mitigate or offset any claim in or any action brought by any owner of any interest in the premises for any alleged damages by virtue of the entry. This provision is not intended to create new rights of action or eliminate existing immunities.

Sec. 1513.372. (A) As used in this section:

(1) "Abandoned mine land" means land or water resources adversely affected by coal mining practices to which one of the following applies:

(a) The coal mining practices occurred prior to August 3, 1977, and there is no continuing reclamation responsibility under state or federal law.

(b) The coal mining practices occurred prior to April 10, 1972.

(c) The coal mining practices were conducted pursuant to a license that was issued prior to April 10, 1972.

(2) "Eligible landowner" means a landowner who provides access without charge or other consideration to abandoned mine land that is located on the landowner's property for the purpose of allowing the implementation of a reclamation project on the abandoned mine land. "Eligible landowner" does not include a person that is responsible under state or federal law to reclaim the land or address acid mine drainage existing or emanating from the abandoned mine land.

- (3) "Landowner" means a person who holds a fee interest in real property. 23961
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- (4) "Nonprofit organization" means a corporation, association, group, institution, society, or other organization that is exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501(c)(3), as amended, that provides funding or services at no cost or at cost for a reclamation project. 23963
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- (5) "Reclamation project" means an acid mine drainage abatement project that is conducted in compliance with this chapter and rules adopted under it on abandoned mine land that is located on property owned by an eligible landowner. 23969
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- (6) "Reclamation project work area" means the portion of a parcel of real property on which a reclamation project is conducted and the roads providing ingress to and egress from the reclamation project. 23973
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- (B) Except as provided in divisions (C) and (D) of this section, an eligible landowner or nonprofit organization is immune from liability as follows: 23977
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- (1) For any injury to or damage suffered by a person working under the direct supervision of the division of mineral resources management while the person is within the reclamation project work area; 23980
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- (2) For any injury to or damage suffered by a third party that arises out of or occurs as a result of an act or omission of the division during the construction, operation, and maintenance of the reclamation project; 23984
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- (3) For any failure of an acid mine drainage abatement facility constructed or installed during a reclamation project 23988
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that is supervised by the division;	23990
(4) For the operation, maintenance, or repair of any acid mine drainage abatement facility constructed or installed during a reclamation project unless the eligible landowner negligently damages or destroys the acid mine drainage abatement facility or denies access to the division of mineral resources management that is responsible for the operation, maintenance, or repair of the acid mine drainage abatement facility.	23991 23992 23993 23994 23995 23996 23997
(C) The eligible landowner shall notify the division of a known, latent, dangerous condition located at a reclamation project work area that is not the subject of the reclamation project. The immunity established in division (B) of this section does not apply to any injury, damage, or pollution resulting from the eligible landowner's failure to notify the division of such a known, latent, dangerous condition.	23998 23999 24000 24001 24002 24003 24004
(D) The immunity established in division (B) of this section does not apply in both of the following circumstances:	24005 24006
(1) An injury to a person within the reclamation project work area that results from an eligible landowner's or nonprofit organization's acts or omissions that are reckless or constitute gross negligence or willful or wanton misconduct;	24007 24008 24009 24010
(2) An eligible landowner or nonprofit organization who engages in any unlawful activities with respect to a reclamation project.	24011 24012 24013
(E) The chief of the division of mineral resources management shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to implement this section.	24014 24015 24016
Sec. 1517.23. The chief of the division of natural areas and preserves shall do both of the following:	24017 24018

(A) Formulate policies and plans and establish a program 24019
incorporating them for the identification and protection of the 24020
state's cave resources ~~and adopt, amend, or rescind rules in~~ 24021
~~accordance with Chapter 119. of the Revised Code to implement~~ 24022
~~that program;~~ 24023

(B) Provide technical assistance and management advice to 24024
owners upon request concerning the protection of caves on their 24025
land. 24026

Sec. 1520.03. (A) The director of natural resources may 24027
appropriate real property in accordance with Chapter 163. of the 24028
Revised Code for the purpose of administering this chapter. 24029

(B) (1) The director shall operate and maintain all canals 24030
and canal reservoirs owned by the state except those canals that 24031
are operated by the Ohio history connection on July 1, 1989. 24032

(2) On behalf of the director, the division of parks and 24033
watercraft shall have the care and control of all canals and 24034
canal reservoirs owned by the state, the water in them, and 24035
canal lands and shall protect, operate, and maintain them and 24036
keep them in repair. The chief of the division may remove 24037
obstructions from or on them and shall make any alterations or 24038
changes in or to them and construct any feeders, dikes, 24039
reservoirs, dams, locks, or other works, devices, or 24040
improvements in or on them that are necessary in the discharge 24041
of the chief's duties. 24042

~~In accordance with Chapter 119. of the Revised Code, the~~ 24043
~~chief may adopt, amend, and rescind rules that are necessary for~~ 24044
~~the administration of this division.~~ 24045

(C) The director may sell or lease water from any canal or 24046
canal reservoir that the director operates and maintains only to 24047

the extent that the water is in excess of the quantity that is 24048
required for navigation, recreation, and wildlife purposes. ~~With~~ 24049
~~the approval of the director, the chief may adopt, amend, and~~ 24050
~~rescind rules in accordance with Chapter 119. of the Revised~~ 24051
~~Code necessary to administer this division.~~ 24052

The withdrawal of water from any canal or canal reservoir 24053
for domestic use is exempt from this division. However, the 24054
director may require water conservation measures for water that 24055
is withdrawn from any canal or canal reservoir for domestic use 24056
during drought conditions or other emergencies declared by the 24057
governor. 24058

(D) No person shall take or divert water from any canal or 24059
canal reservoir operated and maintained by the director except 24060
in accordance with division (C) of this section. 24061

(E) At the request of the director, the attorney general 24062
may commence a civil action for civil penalties and injunctions, 24063
in a court of common pleas, against any person who has violated 24064
or is violating division (D) of this section. The court of 24065
common pleas in which an action for injunctive relief is filed 24066
has jurisdiction to and shall grant preliminary and permanent 24067
injunctive relief upon a showing that the person against whom 24068
the action is brought has violated or is violating that 24069
division. 24070

Upon a finding of a violation, the court shall assess a 24071
civil penalty of not more than one thousand dollars for each day 24072
of each violation if the violator is an individual who took or 24073
diverted the water in question for residential or agricultural 24074
use. The court shall assess a civil penalty of not more than 24075
five thousand dollars for each day of each violation if the 24076
violator is any other person who took or diverted the water in 24077

question for industrial or commercial use excluding agricultural 24078
use. Moneys from civil penalties assessed under this division 24079
shall be paid into the state treasury to the credit of the canal 24080
lands fund created in section 1520.05 of the Revised Code. 24081

Any action under this division is a civil action, governed 24082
by the rules of civil procedure and other rules of practice and 24083
procedure applicable to civil actions. 24084

(F) As used in this section, "person" means any agency of 24085
this state, any political subdivision of this state or of the 24086
United States, or any legal entity defined as a person under 24087
section 1.59 of the Revised Code. 24088

Sec. 1521.062. (A) All dams and levees constructed in this 24089
state and not exempted by this section or by the chief of the 24090
division of water resources under section 1521.06 of the Revised 24091
Code shall be inspected periodically by the chief, except for 24092
classes of dams that, in accordance with rules adopted under 24093
this section, are required to be inspected by registered 24094
professional engineers who have been approved for that purpose 24095
by the chief. The inspection shall ensure that continued 24096
operation and use of the dam or levee does not constitute a 24097
hazard to life, health, or property. Periodic inspections shall 24098
not be required of the following structures: 24099

(1) A dam that is less than ten feet in height and has a 24100
storage capacity of not more than fifty acre-feet at the 24101
elevation of the top of the dam, as determined by the chief. For 24102
the purposes of this section, the height of a dam shall be 24103
measured from the natural stream bed or lowest ground elevation 24104
at the downstream or outside limit of the dam to the elevation 24105
of the top of the dam. 24106

(2) A dam, regardless of height, that has a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief; 24107
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(3) A dam, regardless of storage capacity, that is six feet or less in height, as determined by the chief; 24110
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(4) A dam or levee belonging to a class exempted by the chief; 24112
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(5) A dam or levee that has been exempted in accordance with rules adopted under section 1521.064 of the Revised Code. 24114
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(B) In accordance with rules adopted under this section, the owner of a dam that is in a class of dams that is designated in the rules for inspection by registered professional engineers shall obtain the services of a registered professional engineer who has been approved by the chief to conduct the periodic inspection of dams pursuant to schedules and other standards and procedures established in the rules. The registered professional engineer shall prepare a report of the inspection in accordance with the rules and provide the inspection report to the dam owner who shall submit it to the chief. A dam that is designated under the rules for inspection by a registered professional engineer, but that is not inspected within a five-year period may be inspected by the chief at the owner's expense. 24116
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(C) Intervals between periodic inspections shall be determined by the chief, but shall not exceed five years. 24129
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(D) In the case of a dam or levee that the chief inspects, the chief shall furnish a report of the inspection to the owner of the dam or levee. With regard to a dam or levee that has been inspected, either by the chief or by a registered professional engineer, and that is the subject of an inspection report 24131
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prepared or received by the chief, the chief shall inform the 24136
owner of any required repairs, maintenance, investigations, and 24137
other remedial and operational measures. The chief shall order 24138
the owner to perform such repairs, maintenance, investigations, 24139
or other remedial or operational measures as the chief considers 24140
necessary to safeguard life, health, or property. The order 24141
shall permit the owner a reasonable time in which to perform the 24142
needed repairs, maintenance, investigations, or other remedial 24143
measures, and the cost thereof shall be borne by the owner. All 24144
orders of the chief are subject to appeal as provided in Chapter 24145
119. of the Revised Code. 24146

(E) The owner of a dam or levee shall monitor, maintain, 24147
and operate the structure and its appurtenances safely in 24148
accordance with state rules, terms and conditions of permits, 24149
orders, and other requirements issued pursuant to this section 24150
or section 1521.06 of the Revised Code. The owner shall fully 24151
and promptly notify the division of water resources and other 24152
responsible authorities of any condition that threatens the 24153
safety of the structure and shall take all necessary actions to 24154
safeguard life, health, and property. 24155

(F) Before commencing the repair, improvement, alteration, 24156
or removal of a dam or levee, the owner shall file an 24157
application including plans, specifications, and other required 24158
information with the division and shall secure written approval 24159
of the application by the chief. Emergency actions by the owner 24160
required to safeguard life, health, or property are exempt from 24161
this requirement. The chief may, by rule, define maintenance, 24162
repairs, or other remedial measures of a routine nature that are 24163
exempt from this requirement. 24164

(G) The chief may remove or correct, at the expense of the 24165

owner, any unsafe structures found to be constructed or 24166
maintained in violation of this section or section 1521.06 of 24167
the Revised Code. In the case of an owner other than a 24168
governmental agency, the cost of removal or correction of any 24169
unsafe structure, together with a description of the property on 24170
which the unsafe structure is located, shall be certified by the 24171
chief to the county auditor and placed by the county auditor 24172
upon the tax duplicate. This cost is a lien upon the lands from 24173
the date of entry and shall be collected as other taxes and 24174
returned to the division. In the case of an owner that is a 24175
governmental agency, the cost of removal or correction of any 24176
unsafe structure shall be recoverable from the owner by 24177
appropriate action in a court of competent jurisdiction. 24178

(H) If the condition of any dam or levee is found, in the 24179
judgment of the chief, to be so dangerous to the safety of life, 24180
health, or property as not to permit time for the issuance and 24181
enforcement of an order relative to repair, maintenance, or 24182
operation, the chief shall employ any of the following remedial 24183
means necessary to protect life, health, and property: 24184

(1) Lower the water level of the lake or reservoir by 24185
releasing water; 24186

(2) Completely drain the lake or reservoir; 24187

(3) Take such other measures or actions as the chief 24188
considers necessary to safeguard life, health, and property. 24189

The chief shall continue in full charge and control of the 24190
dam or levee until the structure is rendered safe. The cost of 24191
the remedy shall be recoverable from the owner of the structure 24192
by appropriate action in a court of competent jurisdiction. 24193

(I) The chief may accept and expend gifts, bequests, and 24194

grants from the United States government or from any other 24195
public or private source and may contract with the United States 24196
government or any other agency or entity for the purpose of 24197
carrying out the dam safety functions set forth in this section 24198
and section 1521.06 of the Revised Code. 24199

(J) In accordance with Chapter 119. of the Revised Code, 24200
the chief may adopt, and may amend or rescind, rules that do all 24201
of the following: 24202

(1) Designate classes of dams for which dam owners must 24203
obtain the services of a registered professional engineer to 24204
periodically inspect the dams and to prepare reports of the 24205
inspections for submittal to the chief; 24206

(2) Establish standards in accordance with which the chief 24207
must approve or disapprove registered professional engineers to 24208
inspect dams together with procedures governing the approval 24209
process; 24210

(3) Establish schedules, standards, and procedures 24211
governing periodic inspections and standards and procedures 24212
governing the preparation and submittal of inspection reports; 24213

~~(4) Establish provisions regarding the enforcement of this 24214
section and rules adopted under it. 24215~~

(K) The owner of a dam or levee shall notify the chief in 24216
writing of a change in ownership of the dam or levee prior to 24217
the exchange of the property. 24218

Sec. 1521.063. (A) Except for the federal government, the 24219
owner of a dam, that is classified as a class I, class II, or 24220
class III dam under rules adopted under section 1521.06 of the 24221
Revised Code and subject to section 1521.062 of the Revised Code 24222
shall pay an annual fee in accordance with the annual fee 24223

schedule established in rules adopted under division (B) of this section. The fee shall be paid to the division of water resources on or before the thirtieth day of June of each year.

All fees collected under this section shall be deposited in the dam safety fund created in section 1521.06 of the Revised Code. Any owner who fails to pay any annual fee required by this section within sixty days after the due date shall be assessed a penalty of ten per cent of the annual fee plus interest at the rate of one-half per cent per month from the due date until the date of payment.

There is hereby created the compliant dam discount program to be administered by the chief of the division of water resources. Under the program, the chief may reduce the amount of the annual fee that an owner of a dam is required to pay in accordance with rules adopted by the chief under division (B) of this section if the owner is in compliance with section 1521.062 of the Revised Code and has developed an emergency action plan—~~pursuant to standards established in rules adopted under this section.~~ The chief shall not discount an annual fee by more than twenty-five per cent of the total annual fee that is due. In addition, the chief shall not discount the annual fee that is due from the owner of a dam who has been assessed a penalty under this section.

~~(B) (1) The chief shall, in accordance with Chapter 119. of the Revised Code and subject to the prior approval of the director of natural resources, adopt, and may amend or rescind, rules for the collection of fees and the administration, implementation, and enforcement of this section.~~

~~(2)~~ The chief shall, in accordance with Chapter 119. of the Revised Code, adopt rules for the establishment of an annual

fee schedule for purposes of this section. 24254

~~(3)~~(2) The annual fee schedule must be based on the height 24255
of the dam, the linear foot length of the dam, and the per-acre 24256
foot of volume of water impounded by the dam. For purposes of 24257
this section, the height of a dam is the vertical height, to the 24258
nearest foot, as determined by the division under section 24259
1521.062 of the Revised Code. 24260

(C) No person, political subdivision, or state 24261
governmental agency shall violate or fail to comply with this 24262
section or any rule or order adopted or issued under it. 24263

(D) As used in this section, "political subdivision" 24264
includes townships, municipal corporations, counties, school 24265
districts, municipal universities, park districts, sanitary 24266
districts, and conservancy districts and subdivisions thereof. 24267

Sec. 1521.13. (A) Development in one-hundred-year 24268
floodplain areas shall be protected to at least the one-hundred- 24269
year flood level, and flood water conveyance shall be 24270
maintained, at a minimum, in accordance with standards 24271
established under the national flood insurance program. This 24272
division does not preclude a state agency or political 24273
subdivision from establishing flood protection standards that 24274
are more restrictive than this division. 24275

(B) Prior to the expenditure of money for or the 24276
construction of buildings, structures, roads, bridges, or other 24277
facilities in locations that may be subject to flooding or flood 24278
damage, all state agencies and political subdivisions shall 24279
notify and consult with the division of water resources and 24280
shall furnish information that the division reasonably requires 24281
in order to avoid the uneconomic, hazardous, or unnecessary use 24282

of floodplains in connection with such facilities.	24283
(C) The chief of the division of water resources shall do	24284
all of the following:	24285
(1) Coordinate the floodplain management activities of	24286
state agencies and political subdivisions with the floodplain	24287
management activities of the United States, including the	24288
national flood insurance program;	24289
(2) Collect, prepare, and maintain technical data and	24290
information on floods and floodplain management and make the	24291
data and information available to the public, state agencies,	24292
political subdivisions, and agencies of the United States;	24293
(3) Cooperate and enter into agreements with persons for	24294
the preparation of studies and reports on floods and floodplain	24295
management;	24296
(4) Assist any county, municipal corporation, or state	24297
agency in developing comprehensive floodplain management	24298
programs;	24299
(5) Provide technical assistance to any county, municipal	24300
corporation, or state agency through engineering assistance,	24301
data collection, preparation of model laws, training, and other	24302
activities relating to floodplain management;	24303
(6) For the purpose of reducing damages and the threat to	24304
life, health, and property in the event of a flood, cooperate	24305
with state agencies, political subdivisions, and the United	24306
States in the development of flood warning systems, evacuation	24307
plans, and flood emergency preparedness plans;	24308
(7) Upon request, assist the emergency management agency	24309
established by section 5502.22 of the Revised Code in the	24310

preparation of flood hazard mitigation reports required as a 24311
condition for receiving federal disaster aid under the "Disaster 24312
Relief Act of 1974," 88 Stat. 143, 42 U.S.C.A. 5121, as amended, 24313
and regulations adopted under it; 24314

~~(8) Adopt, and may amend or rescind, rules in accordance~~ 24315
~~with Chapter 119. of the Revised Code for the administration,~~ 24316
~~implementation, and enforcement of this section and sections~~ 24317
~~1521.14 and 1521.18 of the Revised Code;~~ 24318

~~(9)~~ Establish, by rule, technical standards for the 24319
delineation and mapping of floodplains and for the conduct of 24320
engineering studies to determine the vertical and horizontal 24321
limits of floodplains and for the assessment of development 24322
impacts on flood heights and flood conveyance. The standards 24323
established in rules adopted under this division shall be 24324
consistent with and no more stringent than the analogous 24325
standards established under the national flood insurance 24326
program. 24327

~~(10)~~(9) On behalf of the director of natural resources, 24328
administer section 1506.04 of the Revised Code. 24329

In addition to the duties imposed in divisions (C)(1) to 24330
~~(10)~~(9) of this section, and with respect to existing publicly 24331
owned facilities that have suffered flood damage or that may be 24332
subject to flood damage, the chief may conspicuously mark past 24333
and probable flood heights in order to assist in creating public 24334
awareness of and knowledge about flood hazards. 24335

(D)(1) Development that is funded, financed, undertaken, 24336
or preempted by state agencies shall comply with division (A) of 24337
this section and with rules adopted under division ~~(C)~~(9)~~(C)~~(8) 24338
of this section. 24339

(2) State agencies shall apply floodproofing measures in order to reduce potential additional flood damage of existing publicly owned facilities that have suffered flood damage.

(3) Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a one-hundred-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with division (A) of this section, rules adopted under division ~~(C)~~ (8) of this section, and any applicable local floodplain management resolution or ordinance.

(4) Prior to the disbursement of any state disaster assistance money in connection with any incident of flooding to or within a county or municipal corporation that is not listed by the chief as being in compliance under division (D) (1) of section 1521.18 of the Revised Code, a state agency that has authority to disburse such money shall require the county or municipal corporation to establish or reestablish compliance as provided in that division.

(E) (1) Subject to section 1521.18 of the Revised Code, a county or a municipal corporation may do all of the following:

(a) Adopt floodplain maps that reflect the best available data and that indicate the areas to be regulated under a floodplain management resolution or ordinance, as applicable;

(b) Develop and adopt a floodplain management resolution or ordinance, as applicable;

(c) Adopt floodplain management standards that exceed the standards that are established under the national flood insurance program.

(2) A county or municipal corporation shall examine and apply, where economically feasible, floodproofing measures in order to reduce potential additional flood damage of existing publicly owned facilities that have suffered flood damage.

(3) A county that adopts a floodplain management resolution shall do so in accordance with the procedures established in section 307.37 of the Revised Code. The county may enforce the resolution by issuing stop work orders, seeking injunctive relief, or pursuing other civil actions that the county considers necessary to ensure compliance with the resolution. In addition, failure to comply with the floodplain management resolution constitutes a violation of division (D) of section 307.37 of the Revised Code.

(4) No action challenging the validity of a floodplain management resolution adopted by a county or a floodplain management ordinance adopted by a municipal corporation, or an amendment to such a resolution or ordinance, because of a procedural error in the adoption of the resolution, ordinance, or amendment shall be brought more than two years after the adoption of the resolution, ordinance, or amendment.

~~Sec. 1521.21. (A) The chief of the division of water resources shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code for the implementation, administration, and enforcement of sections 1521.21 to 1521.36 of the Revised Code.~~

~~(B) Sections 1521.21 to 1521.36 of the Revised Code do not affect common law riparian rights.~~

Sec. 1531.01. As used in this chapter and Chapter 1533. of the Revised Code:

- (A) "Person" means a person as defined in section 1.59 of the Revised Code or a company; an employee, agent, or officer of such a person or company; a combination of individuals; the state; a political subdivision of the state; an interstate body created by a compact; or the federal government or a department, agency, or instrumentality of it. 24398
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- (B) "Resident" means either of the following: 24404
- (1) An individual who has resided in this state for not less than six months preceding the date of making application for a license or permit; 24405
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- (2) An individual who is a full-time student enrolled in an accredited Ohio public or private college or university and who resides in this state at the time the individual makes application for a license or permit and who attests to the individual's full-time student status in a manner determined by the chief of the division of wildlife. 24408
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- (C) "Nonresident" means any individual who does not qualify as a resident. 24414
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- (D) "Division rule" or "rule" means any rule adopted by the chief of the division of wildlife ~~under section 1531.10 of the Revised Code~~ unless the context indicates otherwise. 24416
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- (E) "Closed season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is prohibited. 24419
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- (F) "Open season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is permitted. 24422
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- (G) "Take or taking" includes pursuing, shooting, hunting, 24425

killing, trapping, angling, fishing with a trotline, or netting 24426
any clam, mussel, crayfish, aquatic insect, fish, frog, turtle, 24427
wild bird, or wild quadruped, and any lesser act, such as 24428
wounding, or placing, setting, drawing, or using any other 24429
device for killing or capturing any wild animal, whether it 24430
results in killing or capturing the animal or not. "Take or 24431
taking" includes every attempt to kill or capture and every act 24432
of assistance to any other person in killing or capturing or 24433
attempting to kill or capture a wild animal. 24434

(H) "Possession" means both actual and constructive 24435
possession and any control of things referred to. 24436

(I) "Bag limit" means the number, measurement, or weight 24437
of any kind of crayfish, aquatic insects, fish, frogs, turtles, 24438
wild birds, and wild quadrupeds permitted to be taken. 24439

(J) "Transport and transportation" means carrying or 24440
moving or causing to be carried or moved. 24441

(K) "Sell and sale" means barter, exchange, or offer or 24442
expose for sale. 24443

(L) "Whole to include part" means that every provision 24444
relating to any wild animal protected by this chapter and 24445
Chapter 1533. of the Revised Code applies to any part of the 24446
wild animal with the same effect as it applies to the whole. 24447

(M) "Angling" means fishing with not more than two hand 24448
lines, not more than two units of rod and line, or a combination 24449
of not more than one hand line and one rod and line, either in 24450
hand or under control at any time while fishing. The hand line 24451
or rod and line shall have attached to it not more than three 24452
baited hooks, not more than three artificial fly rod lures, or 24453
one artificial bait casting lure equipped with not more than 24454

three sets of three hooks each.	24455
(N) "Trotline" means a device for catching fish that consists of a line having suspended from it, at frequent intervals, vertical lines with hooks attached.	24456 24457 24458
(O) "Fish" means a cold-blooded vertebrate having fins.	24459
(P) "Measurement of fish" means length from the end of the nose to the longest tip or end of the tail.	24460 24461
(Q) "Wild birds" includes game birds and nongame birds.	24462
(R) "Game" includes game birds, game quadrupeds, and fur-bearing animals.	24463 24464
(S) "Game birds" includes mourning doves, ringneck pheasants, bobwhite quail, ruffed grouse, sharp-tailed grouse, pinnated grouse, wild turkey, Hungarian partridge, Chukar partridge, woodcocks, black-breasted plover, golden plover, Wilson's snipe or jacksnipe, greater and lesser yellowlegs, rail, coots, gallinules, duck, geese, brant, and crows.	24465 24466 24467 24468 24469 24470
(T) "Nongame birds" includes all other wild birds not included and defined as game birds or migratory game birds.	24471 24472
(U) "Wild quadrupeds" includes game quadrupeds, fur-bearing animals, and wild boar or feral swine.	24473 24474
(V) "Game quadrupeds" includes cottontail rabbits, gray squirrels, black squirrels, fox squirrels, red squirrels, flying squirrels, chipmunks, groundhogs or woodchucks, white-tailed deer, elk, and black bears.	24475 24476 24477 24478
(W) "Fur-bearing animals" includes minks, weasels, raccoons, skunks, opossums, muskrats, fox, beavers, badgers, otters, coyotes, and bobcats.	24479 24480 24481

(X) "Wild animals" includes mollusks, crustaceans, aquatic
insects, fish, reptiles, amphibians, wild birds, wild
quadrupeds, and all other wild mammals, but does not include
domestic deer.

(Y) "Hunting" means pursuing, shooting, killing, following
after or on the trail of, lying in wait for, shooting at, or
wounding wild birds or wild quadrupeds while employing any
device commonly used to kill or wound wild birds or wild
quadrupeds whether or not the acts result in killing or
wounding. "Hunting" includes every attempt to kill or wound and
every act of assistance to any other person in killing or
wounding or attempting to kill or wound wild birds or wild
quadrupeds.

(Z) "Trapping" means securing or attempting to secure
possession of a wild bird or wild quadruped by means of setting,
placing, drawing, or using any device that is designed to close
upon, hold fast, confine, or otherwise capture a wild bird or
wild quadruped whether or not the means results in capture.
"Trapping" includes every act of assistance to any other person
in capturing wild birds or wild quadrupeds by means of the
device whether or not the means results in capture.

(AA) "Muskrat spear" means any device used in spearing
muskrats.

(BB) "Channels and passages" means those narrow bodies of
water lying between islands or between an island and the
mainland in Lake Erie.

(CC) "Island" means a rock or land elevation above the
waters of Lake Erie having an area of five or more acres above
water.

(DD) "Reef" means an elevation of rock, either broken or 24511
in place, or gravel shown by the latest United States chart to 24512
be above the common level of the surrounding bottom of the lake, 24513
other than the rock bottom, or in place forming the base or 24514
foundation rock of an island or mainland and sloping from the 24515
shore of it. "Reef" also means all elevations shown by that 24516
chart to be above the common level of the sloping base or 24517
foundation rock of an island or mainland, whether running from 24518
the shore of an island or parallel with the contour of the shore 24519
of an island or in any other way and whether formed by rock, 24520
broken or in place, or from gravel. 24521

(EE) "Fur farm" means any area used exclusively for 24522
raising fur-bearing animals or in addition thereto used for 24523
hunting game, the boundaries of which are plainly marked as 24524
such. 24525

(FF) "Waters" includes any lake, pond, reservoir, stream, 24526
channel, lagoon, or other body of water, or any part thereof, 24527
whether natural or artificial. 24528

(GG) "Crib" or "car" refers to that particular compartment 24529
of the net from which the fish are taken when the net is lifted. 24530

(HH) "Commercial fish" means those species of fish 24531
permitted to be taken, possessed, bought, or sold unless 24532
otherwise restricted by the Revised Code or division rule and 24533
are alewife (*Alosa pseudoharengus*), American eel (*Anguilla* 24534
rostrata), bowfin (*Amia calva*), burbot (*Lota lota*), carp 24535
(*Cyprinus carpio*), smallmouth buffalo (*Ictiobus bubalus*), 24536
bigmouth buffalo (*Ictiobus cyprinellus*), black bullhead 24537
(*Ictalurus melas*), yellow bullhead (*Ictalurus natalis*), brown 24538
bullhead (*Ictalurus nebulosus*), channel catfish (*Ictalurus* 24539
punctatus), flathead catfish (*Pylodictis olivaris*), whitefish 24540

(Coregonus sp.), cisco (Coregonus sp.), freshwater drum or 24541
sheepshead (Aplodinotus grunniens), gar (Lepisosteus sp.), 24542
gizzard shad (Dorosoma cepedianum), goldfish (Carassius 24543
auratus), lake trout (Salvelinus namaycush), mooneye (Hiodon 24544
tergisus), quillback (Carpiodes cyprinus), smelt (Allosmerus 24545
elongatus, Hypomesus sp., Osmerus sp., Spirinchus sp.), sturgeon 24546
(Acipenser sp., Scaphirhynchus sp.), sucker other than buffalo 24547
and quillback (Carpiodes sp., Catostomus sp., Hypentelium sp., 24548
Minytrema sp., Moxostoma sp.), white bass (Morone chrysops), 24549
white perch (Roccus americanus), and yellow perch (Perca 24550
flavescens). When the common name of a fish is used in this 24551
chapter or Chapter 1533. of the Revised Code, it refers to the 24552
fish designated by the scientific name in this definition. 24553

(II) "Fishing" means taking or attempting to take fish by 24554
any method, and all other acts such as placing, setting, 24555
drawing, or using any device commonly used to take fish whether 24556
resulting in a taking or not. 24557

(JJ) "Fillet" means the pieces of flesh taken or cut from 24558
both sides of a fish, joined to form one piece of flesh. 24559

(KK) "Part fillet" means a piece of flesh taken or cut 24560
from one side of a fish. 24561

(LL) "Round" when used in describing fish means with head 24562
and tail intact. 24563

(MM) "Migrate" means the transit or movement of fish to or 24564
from one place to another as a result of natural forces or 24565
instinct and includes, but is not limited to, movement of fish 24566
induced or caused by changes in the water flow. 24567

(NN) "Spreader bar" means a brail or rigid bar placed 24568
across the entire width of the back, at the top and bottom of 24569

the cars in all trap, crib, and fyke nets for the purpose of 24570
keeping the meshes hanging squarely while the nets are fishing. 24571

(OO) "Fishing guide" means any person who, for 24572
consideration or hire, operates a boat, rents, leases, or 24573
otherwise furnishes angling devices, ice fishing shanties or 24574
shelters of any kind, or other fishing equipment, and 24575
accompanies, guides, directs, or assists any other person in 24576
order for the other person to engage in fishing. 24577

(PP) "Net" means fishing devices with meshes composed of 24578
twine or synthetic material and includes, but is not limited to, 24579
trap nets, fyke nets, crib nets, carp aprons, dip nets, and 24580
seines, except minnow seines and minnow dip nets. 24581

(QQ) "Commercial fishing gear" means seines, trap nets, 24582
fyke nets, dip nets, carp aprons, trotlines, other similar gear, 24583
and any boat used in conjunction with that gear, but does not 24584
include gill nets. 24585

(RR) "Native wildlife" means any species of the animal 24586
kingdom indigenous to this state. 24587

(SS) "Gill net" means a single section of fabric or 24588
netting seamed to a float line at the top and a lead line at the 24589
bottom, which is designed to entangle fish in the net openings 24590
as they swim into it. 24591

(TT) "Tag fishing tournament" means a contest in which a 24592
participant pays a fee, or gives other valuable consideration, 24593
for a chance to win a prize by virtue of catching a tagged or 24594
otherwise specifically marked fish within a limited period of 24595
time. 24596

(UU) "Tenant" means an individual who resides on land for 24597
which the individual pays rent and whose annual income is 24598

primarily derived from agricultural production conducted on that 24599
land, as "agricultural production" is defined in section 929.01 24600
of the Revised Code. 24601

(VV) "Nonnative wildlife" means any wild animal not 24602
indigenous to this state, but does not include domestic deer. 24603

(WW) "Reptiles" includes common musk turtle (*sternotherus* 24604
odoratus), common snapping turtle (*Chelydra serpentina* 24605
serpentina), spotted turtle (*Clemmys guttata*), eastern box 24606
turtle (*Terrapene carolina carolina*), Blanding's turtle 24607
(*Emydoidea blandingii*), common map turtle (*Graptemys* 24608
geographica), ouachita map turtle (*Graptemys pseudogeographica* 24609
ouachitensis), midland painted turtle (*Chrysemys picta* 24610
marginata), red-eared slider (*Trachemys scripta elegans*), 24611
eastern spiny softshell turtle (*Apalone spinifera spinifera*), 24612
midland smooth softshell turtle (*Apalone mutica mutica*), 24613
northern fence lizard (*Sceloporus undulatus hyacinthinus*), 24614
ground skink (*Scincella lateralis*), five-lined skink (*Eumeces* 24615
fasciatus), broadhead skink (*Eumeces laticeps*), northern coal 24616
skink (*Eumeces anthracinus anthracinus*), European wall lizard 24617
(*Podarcis muralis*), queen snake (*Regina septemvittata*), 24618
Kirtland's snake (*Clonophis kirtlandii*), northern water snake 24619
(*Nerodia sipedon sipedon*), Lake Erie watersnake (*Nerodia sipedon* 24620
insularum), copperbelly water snake (*Nerodia erythrogaster* 24621
neglecta), northern brown snake (*Storeria dekayi dekayi*), 24622
midland brown snake (*Storeria dekayi wrightorum*), northern 24623
redbelly snake (*Storeria occipitomaculata occipitomaculata*), 24624
eastern garter snake (*Thamnophis sirtalis sirtalis*), eastern 24625
plains garter snake (*Thamnophis radix radix*), Butler's garter 24626
snake (*Thamnophis butleri*), shorthead garter snake (*Thamnophis* 24627
brachystoma), eastern ribbon snake (*Thamnophis sauritus* 24628
sauritus), northern ribbon snake (*Thamnophis sauritus* 24629

septentrionalis), eastern hognose snake (<i>Heterodon platirhinos</i>),	24630
eastern smooth earth snake (<i>Virginia valeriae valeriae</i>),	24631
northern ringneck snake (<i>Diadophis punctatus edwardsii</i>), midwest	24632
worm snake (<i>Carphophis amoenus helenae</i>), eastern worm snake	24633
(<i>Carphophis amoenus amoenus</i>), black racer (<i>Coluber constrictor</i>	24634
<i>constrictor</i>), blue racer (<i>Coluber constrictor foxii</i>), rough	24635
green snake (<i>Opheodrys aestivus</i>), smooth green snake (<i>Opheodrys</i>	24636
<i>vernalis vernalis</i>), black rat snake (<i>Elaphe obsoleta obsoleta</i>),	24637
eastern fox snake (<i>Elaphe vulpina gloydi</i>), black kingsnake	24638
(<i>Lampropeltis getula nigra</i>), eastern milk snake (<i>Lampropeltis</i>	24639
<i>triangulum triangulum</i>), northern copperhead (<i>Agkistrodon</i>	24640
<i>contortrix mokasen</i>), eastern massasauga (<i>Sistrurus catenatus</i>	24641
<i>catenatus</i>), and timber rattlesnake (<i>Crotalus horridus horridus</i>).	24642
(XX) "Amphibians" includes eastern hellbender	24643
(<i>Cryptobranchus alleganiensis alleganiensis</i>), mudpuppy (<i>Necturus</i>	24644
<i>maculosus maculosus</i>), red-spotted newt (<i>Notophthalmus</i>	24645
<i>viridescens viridescens</i>), Jefferson salamander (<i>Ambystoma</i>	24646
<i>jeffersonianum</i>), spotted salamander (<i>Ambystoma maculatum</i>), blue-	24647
spotted salamander (<i>Ambystoma laterale</i>), smallmouth salamander	24648
(<i>Ambystoma texanum</i>), streamside salamander (<i>Ambystoma barbouri</i>),	24649
marbled salamander (<i>Ambystoma opacum</i>), eastern tiger salamander	24650
(<i>Ambystoma tigrinum tigrinum</i>), northern dusky salamander	24651
(<i>Desmognathus fuscus fuscus</i>), mountain dusky salamander	24652
(<i>Desmognathus ochrophaeus</i>), redback salamander (<i>Plethodon</i>	24653
<i>cinereus</i>), ravine salamander (<i>Plethodon richmondi</i>), northern	24654
slimy salamander (<i>Plethodon glutinosus</i>), Wehrle's salamander	24655
(<i>Plethodon wehrlei</i>), four-toed salamander (<i>Hemidactylium</i>	24656
<i>scutatum</i>), Kentucky spring salamander (<i>Gyrinophilus</i>	24657
<i>porphyriticus duryi</i>), northern spring salamander (<i>Gyrinophilus</i>	24658
<i>porphyriticus porphyriticus</i>), mud salamander (<i>Pseudotriton</i>	24659
<i>montanus</i>), northern red salamander (<i>Pseudotriton ruber ruber</i>),	24660

green salamander (<i>Aneides aeneus</i>), northern two-lined salamander	24661
(<i>Eurycea bislineata</i>), longtail salamander (<i>Eurycea longicauda</i>	24662
<i>longicauda</i>), cave salamander (<i>Eurycea lucifuga</i>), southern two-	24663
lined salamander (<i>Eurycea cirrigera</i>), Fowler's toad (<i>Bufo</i>	24664
<i>woodhousii fowleri</i>), American toad (<i>Bufo americanus</i>), eastern	24665
spadefoot (<i>Scaphiopus holbrookii</i>), Blanchard's cricket frog	24666
(<i>Acris crepitans blanchardi</i>), northern spring peeper (<i>Pseudacris</i>	24667
<i>crucifer crucifer</i>), gray treefrog (<i>Hyla versicolor</i>), Cope's gray	24668
treefrog (<i>Hyla chrysoscelis</i>), western chorus frog (<i>Pseudacris</i>	24669
<i>triseriata triseriata</i>), mountain chorus frog (<i>Pseudacris</i>	24670
<i>brachyphona</i>), bullfrog (<i>Rana catesbeiana</i>), greenfrog (<i>Rana</i>	24671
<i>clamitans melanota</i>), northern leopard frog (<i>Rana pipiens</i>),	24672
pickerel frog (<i>Rana palustris</i>), southern leopard frog (<i>Rana</i>	24673
<i>utricularia</i>), and wood frog (<i>Rana sylvatica</i>).	24674
(YY) "Deer" means white-tailed deer (<i>Odocoileus</i>	24675
<i>virginianus</i>).	24676
(ZZ) "Domestic deer" means nonnative deer that have been	24677
legally acquired or their offspring and that are held in private	24678
ownership for primarily agricultural purposes.	24679
(AAA) "Migratory game bird" includes waterfowl (<i>Anatidae</i>);	24680
doves (<i>Columbidae</i>); cranes (<i>Gruidae</i>); cormorants	24681
(<i>Phalacrocoracidae</i>); rails, coots, and gallinules (<i>Rallidae</i>);	24682
and woodcock and snipe (<i>Scolopacidae</i>).	24683
(BBB) "Accompany" means to go along with another person	24684
while staying within a distance from the person that enables	24685
uninterrupted, unaided visual and auditory communication.	24686
(CCC) "All-purpose vehicle" means any vehicle that is	24687
designed primarily for cross-country travel on land, water, or	24688
land and water and that is steered by wheels, caterpillar	24689

treads, or a combination of wheels and caterpillar treads and 24690
includes vehicles that operate on a cushion of air, vehicles 24691
commonly known as all-terrain vehicles, all-season vehicles, 24692
mini-bikes, and trail bikes. 24693

(DDD) "Wholly enclosed preserve" means an area of land 24694
that is surrounded by a fence that is at least six feet in 24695
height, unless otherwise specified in division rule, and is 24696
constructed of a woven wire mesh, or another enclosure that the 24697
division of wildlife may approve, where game birds, game 24698
quadrupeds, reptiles, amphibians, or fur-bearing animals are 24699
raised and may be sold under the authority of a commercial 24700
propagating license or captive white-tailed deer propagation 24701
license obtained under section 1533.71 of the Revised Code. 24702

(EEE) "Commercial bird shooting preserve" means an area of 24703
land where game birds are released and hunted by shooting as 24704
authorized by a commercial bird shooting preserve license 24705
obtained under section 1533.72 of the Revised Code. 24706

(FFF) "Wild animal hunting preserve" means an area of land 24707
where game, captive white-tailed deer, and nonnative wildlife, 24708
other than game birds, are released and hunted as authorized by 24709
a wild animal hunting preserve license obtained under section 24710
1533.721 of the Revised Code. 24711

(GGG) "Captive white-tailed deer" means legally acquired 24712
deer that are held in private ownership at a facility licensed 24713
under section 943.03 or 943.031 of the Revised Code and under 24714
section 1533.71 or 1533.721 of the Revised Code. 24715

(HHH) "Wild boar" or "feral swine" means a hog, boar, or 24716
pig that appears to be untamed, undomesticated, or in a wild 24717
state. "Wild boar" or "feral swine" includes both of the 24718

following:	24719
(1) Except for <i>Sus scrofa domesticus</i> that is legally	24720
confined or held in captivity, members of the family <i>suidae</i> ,	24721
including all of the following:	24722
(a) Wild pig, wild hog, feral hog, and feral pig;	24723
(b) Old world swine, razorbacks, European wild boar, and	24724
Russian wild boar, and any hybrids or crossbreeds thereof;	24725
(c) Wild pig, wild hog, feral hog, or feral pig that	24726
appear contained in a wild animal hunting preserve licensed	24727
under section 1533.721 of the Revised Code or a wholly enclosed	24728
preserve for hunting or trapping.	24729
(2) Members of the family <i>tayassuidae</i> , including collared	24730
peccary and javelina, and any hybrids or crossbreeds of members	24731
of the family <i>tayassuidae</i> .	24732
Sec. 1531.06. (A) The chief of the division of wildlife,	24733
with the approval of the director of natural resources, may	24734
acquire by gift, lease, purchase, or otherwise lands or surface	24735
rights upon lands and waters or surface rights upon waters for	24736
wild animals, fish or game management, preservation,	24737
propagation, and protection, outdoor and nature activities,	24738
public fishing and hunting grounds, and flora and fauna	24739
preservation. The chief, with the approval of the director, may	24740
receive by grant, devise, bequest, donation, or assignment	24741
evidences of indebtedness, the proceeds of which are to be used	24742
for the purchase of such lands or surface rights upon lands and	24743
waters or surface rights upon waters.	24744
(B) (1) The chief shall adopt rules for the protection of	24745
state-owned or leased lands and waters and property under the	24746
control of the division of wildlife against wrongful use or	24747

occupancy that will ensure the carrying out of the intent of 24748
this section, protect those lands, waters, and property from 24749
depredations, and preserve them from molestation, spoilation, 24750
destruction, or any improper use or occupancy thereof, including 24751
rules with respect to recreational activities and for the 24752
government and use of such lands, waters, and property. 24753

(2) The chief may adopt rules benefiting wild animals, 24754
fish or game management, preservation, propagation, and 24755
protection, outdoor and nature activities, public fishing and 24756
hunting grounds, and flora and fauna preservation, and 24757
regulating the taking and possession of wild animals on any 24758
lands or waters owned or leased or under the division's 24759
supervision and control and, for a specified period of years, 24760
may prohibit or recall the taking and possession of any wild 24761
animal on any portion of such lands or waters. The division 24762
clearly shall define and mark the boundaries of the lands and 24763
waters owned or leased or under its supervision and control upon 24764
which the taking of any wild animal is prohibited. 24765

(C) The chief, with the approval of the director, may 24766
acquire by gift, lease, or purchase land for the purpose of 24767
establishing state fish hatcheries and game farms and may erect 24768
on it buildings or structures that are necessary. 24769

The title to or lease of such lands and waters shall be 24770
taken by the chief in the name of the state. The lease or 24771
purchase price of all such lands and waters may be paid from 24772
hunting and trapping and fishing licenses and any other funds. 24773

(D) To provide more public recreation, stream and lake 24774
agreements for public fishing only may be obtained under rules 24775
adopted by the chief. 24776

(E) The chief, with the approval of the director, may 24777
establish user fees for the use of special public facilities or 24778
participation in special activities on lands and waters 24779
administered by the division. The special facilities and 24780
activities may include hunting or fishing on special designated 24781
public lands and waters intensively managed or stocked with 24782
artificially propagated game birds or fish, field trial 24783
facilities, wildlife nature centers, firearm ranges, boat 24784
mooring facilities, camping sites, and other similar special 24785
facilities and activities. The chief shall determine whether the 24786
user fees are refundable and shall ensure that that information 24787
is provided at the time the user fees are paid. 24788

(F) The chief, with the approval of the director, may 24789
enter into lease agreements for rental of concessions or other 24790
special projects situated on state-owned or leased lands or 24791
waters or other property under the division's control. The chief 24792
shall set and collect the fees for concession rentals or other 24793
special projects; regulate through contracts between the 24794
division and concessionaires the sale of tangible objects at 24795
concessions or other special projects; and keep a record of all 24796
such fee payments showing the amount received, from whom 24797
received, and for what purpose the fee was collected. 24798

(G) The chief may sell or donate conservation-related 24799
items or items that promote wildlife conservation, including, 24800
but not limited to, stamps, pins, badges, books, bulletins, 24801
maps, publications, calendars, and any other educational article 24802
or artifact pertaining to wild animals; sell confiscated or 24803
forfeited items; and sell surplus structures and equipment, and 24804
timber or crops from lands owned, administered, leased, or 24805
controlled by the division. The chief, with the approval of the 24806
director, also may engage in campaigns and special events that 24807

promote wildlife conservation by selling or donating wildlife- 24808
related materials, memberships, and other items of promotional 24809
value. 24810

(H) The chief may sell, lease, or transfer minerals or 24811
mineral rights, with the approval of the director, when the 24812
chief and the director determine it to be in the best interest 24813
of the state. Upon approval of the director, the chief may make, 24814
execute, and deliver contracts, including leases, to mine, 24815
drill, or excavate iron ore, stone, coal, salt, and other 24816
minerals, other than oil or gas, upon and under lands owned by 24817
the state and administered by the division to any person who 24818
complies with the terms of such a contract. No such contract 24819
shall be valid for more than fifty years from its effective 24820
date. Consideration for minerals and mineral rights shall be by 24821
rental or royalty basis as prescribed by the chief and payable 24822
as prescribed by contract. Moneys collected under this division 24823
shall be paid into the state treasury to the credit of the 24824
wildlife habitat fund created in section 1531.33 of the Revised 24825
Code. Contracts entered into under this division also may 24826
provide for consideration for minerals or mineral rights in the 24827
form of acquisition of lands as provided under divisions (A) and 24828
(C) of this section. 24829

(I) All moneys received under divisions (E), (F), and (G) 24830
of this section shall be paid into the state treasury to the 24831
credit of a fund that shall be used for the purposes outlined in 24832
section 1533.15 of the Revised Code and for the management of 24833
other wild animals for their ecological and nonconsumptive 24834
recreational value or benefit. 24835

(J) The chief, with the approval of the director, may 24836
barter or sell wild animals to other states, state or federal 24837

agencies, and conservation or zoological organizations. Moneys 24838
received from the sale of wild animals shall be deposited into 24839
the wildlife fund created in section 1531.17 of the Revised 24840
Code. 24841

(K) The chief shall adopt rules establishing standards and 24842
guidelines for the administration of contraceptive chemicals to 24843
noncaptive wild animals. The rules may specify chemical delivery 24844
methods and devices and monitoring requirements. 24845

The chief shall establish criteria for the issuance of and 24846
shall issue permits for the administration of contraceptive 24847
chemicals to noncaptive wild animals. No person shall administer 24848
contraceptive chemicals to noncaptive wild animals without a 24849
permit issued by the chief. 24850

(L) All fees set by the chief under this section shall be 24851
approved by the wildlife council. 24852

(M) Information contained in the wildlife diversity 24853
database that is established pursuant to division (B) (2) of this 24854
section and section 1531.25 of the Revised Code may be made 24855
available to any individual or public or private agency for 24856
research, educational, environmental, land management, or other 24857
similar purposes that are not detrimental to the conservation of 24858
a species or feature. Information regarding sensitive site 24859
locations of species that are listed pursuant to section 1531.25 24860
of the Revised Code and of features that are included in the 24861
wildlife diversity database is not subject to section 149.43 of 24862
the Revised Code if the chief determines that the release of the 24863
information could be detrimental to the conservation of a 24864
species or feature. 24865

(N) Not later than ~~one year after the effective date of~~ 24866

~~this amendment~~ September 29, 2018, the chief shall establish and 24867
adopt rules in accordance with Chapter 119. of the Revised Code 24868
related to both of the following: 24869

(1) A risk assessment policy for aquatic species that 24870
provides for both of the following: 24871

(a) An evaluation of the overall risk of a species based 24872
on the best available biological information derived from 24873
professionally accepted science and practices in fisheries or 24874
aquatic invasive species management; 24875

(b) A determination of whether a species shall be listed 24876
as an injurious aquatic invasive species. 24877

(2) A definition of injurious invasive aquatic species. 24878

~~The chief shall adopt rules in accordance with section~~ 24879
~~1531.10 of the Revised Code necessary to administer division (N)~~ 24880
~~of this section.~~ 24881

Sec. 1531.08. In conformity with Section 36 of Article II, 24882
Ohio Constitution, providing for the passage of laws for the 24883
conservation of the natural resources of the state, including 24884
streams, lakes, submerged lands, and swamplands, and in 24885
conformity with this chapter and Chapter 1533. of the Revised 24886
Code, the chief of the division of wildlife has authority and 24887
control in all matters pertaining to the protection, 24888
preservation, propagation, possession, and management of wild 24889
animals ~~and may adopt rules under section 1531.10 of the Revised~~ 24890
~~Code for the management of wild animals. Notwithstanding~~ 24891
~~division (B) of section 119.03 of the Revised Code, such rules~~ 24892
~~in proposed form shall be filed under this section. Each year~~ 24893
~~there shall be a public fish hearing and public game hearing.~~ 24894
~~The results of the investigation and public hearing shall be~~ 24895

~~filed in the office of the chief and shall be kept open for~~ 24896
~~public inspection during all regular office hours. Modifying or~~ 24897
~~rescinding such rules does not require a public hearing.~~ 24898

~~The chief may adopt, amend, rescind, and enforce rules~~ 24899
~~throughout the state or in any part or waters thereof as~~ 24900
~~provided by sections 1531.08 to 1531.12 and other sections of~~ 24901
~~the Revised Code. The rules shall be filed in proposed form and~~ 24902
~~available at the central wildlife office and at each of the~~ 24903
~~wildlife district offices, including the Lake Erie unit located~~ 24904
~~at Sandusky, at least thirty days prior to the date of the~~ 24905
~~hearing required by division (D) of section 119.03 of the~~ 24906
~~Revised Code. The rules shall be based upon a public hearing and~~ 24907
~~investigation of the best available biological information~~ 24908
~~derived from professionally accepted practices in wildlife and~~ 24909
~~fisheries management.~~ 24910

~~Each rule adopted under this section shall clearly and~~ 24911
~~distinctly describe and set forth the waters or area or part~~ 24912
~~thereof affected by the rule and whether the rule is applicable~~ 24913
~~to all wild animals or only to certain kinds of species~~ 24914
~~designated therein.~~ 24915

The chief may ~~regulate~~ adopt rules in accordance with 24916
Chapter 119. of the Revised Code related to any of the 24917
following: 24918

(A) Taking and possessing wild animals, at any time and 24919
place or in any number, quantity, or length, and in any manner, 24920
and with such devices as the chief prescribes; 24921

(B) Transportation of such animals or any part thereof; 24922

(C) Buying, selling, offering for sale, or exposing for 24923
sale any such animal or part thereof; 24924

(D) Taking, possessing, transporting, buying, selling, 24925
offering for sale, and exposing for sale commercial fish or any 24926
part thereof, including species taken, length, weight, method of 24927
taking, mesh sizes, specifications of nets and other fishing 24928
devices, seasons, and time and place of taking. 24929

When the chief increases the size of a fish named in 24930
section 1533.63 of the Revised Code, any fish that were legally 24931
taken, caught, or possessed prior to the increase may be 24932
possessed after the increase if the possession of the fish has 24933
been reported to the chief prior to the increase, but on or 24934
after the date of the increase the fish may not be sold to a 24935
buyer in this state. 24936

Sec. 1531.101. ~~In addition to any other authority~~ 24937
~~conferred on the chief of the division of wildlife, the~~ The 24938
chief of the division of wildlife may adopt rules under section 24939
111.15 of the Revised Code that are necessary to establish 24940
acceptable methods of taking migratory game birds together with 24941
bag limits and designated seasons, areas, and hours for hunting 24942
them. 24943

Sec. 1531.40. (A) As used in this section: 24944

(1) "Nuisance wild animal" means a wild animal that 24945
interferes with the use or enjoyment of property, is causing a 24946
threat to public safety, or may cause damage or harm to a 24947
structure, property, or person. 24948

(2) "Commercial nuisance wild animal control operator" 24949
means an individual or business that provides nuisance wild 24950
animal removal or control services for hire to the owner, the 24951
operator, or the owner's or operator's authorized agent of 24952
property or a structure. 24953

(B) (1) No person shall provide nuisance wild animal removal or control services for hire without obtaining a license under this section from the chief of the division of wildlife.

(2) An applicant shall pay a license fee of forty dollars for the license. The license shall be renewed annually prior to the first day of March and shall expire on the last day of February. All money collected under this division shall be deposited in the state treasury to the credit of the wildlife fund created in section 1531.17 of the Revised Code.

(3) An individual who is providing nuisance wild animal removal or control services for hire under a license issued under this section is exempt from obtaining a hunting license under section 1533.10 of the Revised Code, a fur taker permit under section 1533.111 of the Revised Code, or a fishing license under section 1533.32 of the Revised Code for the purposes of performing those services.

(4) An individual who is employed by the state, a county, or a municipal corporation and who performs nuisance wild animal removal or control services on land that is owned by the state, county, or municipal corporation, as applicable, as part of the individual's employment is exempt from obtaining a license under this section.

(C) (1) Unless otherwise specified by division rule, a commercial nuisance wild animal control operator and any individual who is employed by an operator that is engaged in activities that are part of or related to the removal or control of nuisance wild animals, including setting or maintaining traps, shall obtain a certification of completion of a course of instruction that complies with rules adopted under division (F) of this section. A certification shall be renewed every three

years. 24984

(2) Except as provided in division (H) of this section, an individual who provides nuisance wild animal removal or control services under a license issued under this section shall comply with division (C)(1) of this section. 24985
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(D) An operator that holds a license issued under this section is responsible for the acts of each of the operator's employees in the removal or control of a nuisance wild animal. 24989
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(E) If an individual who is licensed under this section uses a pesticide in the removal or control of a nuisance wild animal, the individual shall obtain the appropriate license under Chapter 921. of the Revised Code. 24992
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(F) Except as provided in division (H) of this section, the chief shall adopt rules ~~under section 1531.10 in accordance~~ with Chapter 119. of the Revised Code establishing all of the following: 24996
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24999

(1) Appropriate methods for trapping, capturing, removing, relocating, and controlling nuisance wild animals by operators licensed under this section; 25000
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(2) Procedures for issuing, denying, suspending, and revoking a license under this section; 25003
25004

(3) Requirements governing the certification course required by division (C)(1) of this section. The rules shall specify the minimum contents of such a course, including public safety and health, animal life history, the use of nuisance wild animal removal and control devices, and the laws and rules governing those activities. The rules also shall specify who may conduct such a course. The rules shall require that, in order for an operator to receive a certification of completion, the 25005
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operator shall pass an examination.	25013
(4) Any other requirements and procedures necessary to administer and enforce this section.	25014 25015
Rules shall be adopted under division (F) of this section only with the approval of the director of natural resources.	25016 25017
(G) In accordance with Chapter 119. of the Revised Code and with rules adopted under this section, the chief may suspend or revoke a license issued under this section if the chief finds that the holder of the license is violating or has violated this chapter, Chapter 1533. of the Revised Code, or rules adopted under those chapters.	25018 25019 25020 25021 25022 25023
(H) The chief shall issue a license to provide nuisance wild animal removal or control services in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:	25024 25025 25026 25027
(1) The applicant holds a license in another state.	25028
(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as an individual who provides nuisance wild animal removal or control services in a state that does not issue that license.	25029 25030 25031 25032 25033
Sec. 1533.081. (A) As used in this section:	25034
(1) "Energy" has the same meaning as in section 1551.01 of the Revised Code.	25035 25036
(2) "Energy facility" means a facility at which energy is produced.	25037 25038
(B) A person operating an energy facility whose operation	25039

may result in the incidental taking of a wild animal shall 25040
obtain a permit to do so from the chief of the division of 25041
wildlife under this section. ~~The chief shall adopt rules under~~ 25042
~~section 1531.10 of the Revised Code that are necessary to~~ 25043
~~administer this section.~~ 25044

Sec. 1533.102. The chief of the division of wildlife may 25045
adopt rules ~~under section 1531.10~~ in accordance with Chapter 25046
119. of the Revised Code that the chief considers to be 25047
necessary to administer the issuance of apprentice hunting 25048
licenses and apprentice fur taker permits under sections 1533.10 25049
and 1533.111 of the Revised Code, respectively, and their use, 25050
except that the rules shall not establish fee amounts for those 25051
licenses and permits that differ from the fee amounts 25052
established in those sections, as applicable. 25053

Unless otherwise provided by division rule, an apprentice 25054
license or permit is valid beginning on the first day of March 25055
and ending at midnight on the last day of February of the 25056
following year. 25057

Any type of apprentice hunting license authorizes the 25058
holder of such a license to hunt only while accompanied by 25059
another person who is twenty-one years of age or older and who 25060
possesses a valid hunting license. Any type of apprentice fur 25061
taker permit authorizes the holder of such a permit to hunt or 25062
trap fur-bearing animals only while accompanied by another 25063
person who is twenty-one years of age or older and who possesses 25064
a valid fur taker permit. No holder of a valid hunting license 25065
or fur taker permit shall accompany more than two holders of any 25066
type of apprentice hunting license or apprentice fur taker 25067
permit at one time. 25068

Sec. 1533.103. The chief of the division of wildlife shall 25069

adopt rules ~~under section 1531.10~~ in accordance with Chapter 25070
119. of the Revised Code that are necessary to administer the 25071
issuance of permits for the use of all-purpose vehicles or motor 25072
vehicles by persons with mobility impairments to hunt wild 25073
quadrupeds or game birds in public and private areas. The rules 25074
shall establish eligibility requirements, an application 25075
procedure, the duration of a permit, and identification and 25076
designation of public and private areas in which all-purpose 25077
vehicles or motor vehicles may be used by permit holders, ~~and~~ 25078
~~any other procedures and requirements governing the permits that~~ 25079
~~the chief determines are necessary.~~ The chief shall not charge a 25080
fee for the issuance of a permit under this section. 25081

Sec. 1533.11. (A) (1) Except as provided in this section or 25082
section 1533.731 of the Revised Code, no person shall hunt deer 25083
on lands of another without first obtaining an annual deer 25084
permit. Except as provided in this section, no person shall hunt 25085
wild turkeys on lands of another without first obtaining an 25086
annual wild turkey permit. A deer or wild turkey permit is valid 25087
during the hunting license year in which the permit is 25088
purchased. Except as provided in rules adopted under division 25089
(B) of section 1533.12 of the Revised Code, each applicant for a 25090
deer or wild turkey permit shall pay an annual fee for each 25091
permit in accordance with the following schedule: 25092

25093

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A	Deer permit - resident	\$30.00
B	Deer permit - nonresident	\$210.00
C	Youth deer permit - resident and nonresident	\$15.00

D	Senior deer permit - resident	\$11.00
E	Wild turkey permit - resident	\$30.00
F	Wild turkey permit - nonresident	\$37.00
G	Youth wild turkey permit - resident and nonresident	\$15.00
H	Senior wild turkey permit - resident	\$11.00

(2) As used in division (A) (1) of this section:	25094
(a) "Youth" means an applicant who is under the age of	25095
eighteen years at the time of application for a permit.	25096
(b) "Senior" means an applicant who is sixty-five years of	25097
age or older at the time of application for a permit.	25098
(3) The money received shall be paid into the state	25099
treasury to the credit of the wildlife fund, created in section	25100
1531.17 of the Revised Code, exclusively for the use of the	25101
division of wildlife in the acquisition and development of land	25102
for deer or wild turkey management, for investigating deer or	25103
wild turkey problems, and for the stocking, management, and	25104
protection of deer or wild turkey.	25105
(4) Every person, while hunting deer or wild turkey on	25106
lands of another, shall carry the person's deer or wild turkey	25107
permit and exhibit it to any enforcement officer so requesting.	25108
Failure to so carry and exhibit such a permit constitutes an	25109
offense under this section.	25110
(5) The chief of the division of wildlife shall adopt any	25111
additional rules the chief considers necessary to carry out this	25112
section and section 1533.10 of the Revised Code.	25113

~~(6)~~ An owner who is a resident of this state or an owner 25114
who is exempt from obtaining a hunting license under section 25115
1533.10 of the Revised Code and the spouse, parents, children of 25116
any age, and grandchildren under eighteen years of age of the 25117
owner of lands in this state may hunt deer or wild turkey 25118
thereon without a deer or wild turkey permit. If the owner of 25119
land in this state is a limited liability company or a limited 25120
liability partnership that consists of three or fewer individual 25121
members or partners, as applicable, an individual member or 25122
partner who is a resident of this state and the member's or 25123
partner's parents, children of any age, and grandchildren under 25124
eighteen years of age may hunt deer or wild turkey on the land 25125
owned by the limited liability company or limited liability 25126
partnership without a deer or wild turkey permit. In addition, 25127
if the owner of land in this state is a trust that has a total 25128
of three or fewer trustees and beneficiaries, an individual who 25129
is a trustee or beneficiary and who is a resident of this state 25130
and the individual's parents, children of any age, and 25131
grandchildren under eighteen years of age may hunt deer or wild 25132
turkey on the land owned by the trust without a deer or wild 25133
turkey permit. The tenant and children of the tenant may hunt 25134
deer or wild turkey on lands where they reside without a deer or 25135
wild turkey permit. 25136

(B) A deer or wild turkey permit is not transferable. No 25137
person shall carry a deer or wild turkey permit issued in the 25138
name of another person. 25139

(C) The wildlife refunds fund is hereby created in the 25140
state treasury. The fund shall consist of money received from 25141
application fees for deer permits that are not issued. Money in 25142
the fund shall be used to make refunds of such application fees. 25143

(D) If the division establishes a system for the 25144
electronic submission of information regarding deer or wild 25145
turkey that are taken, the division shall allow the owner and 25146
the children of the owner of lands in this state to use the 25147
owner's name or address for purposes of submitting that 25148
information electronically via that system. 25149

Sec. 1533.111. (A) Except as provided in this section or 25150
division (A) (2) of section 1533.12 of the Revised Code, no 25151
person shall hunt or trap fur-bearing animals on land of another 25152
without first obtaining some type of an annual fur taker permit. 25153

(B) (1) Except as otherwise provided in rules adopted under 25154
division (B) of section 1533.12 of the Revised Code, each 25155
applicant for a fur taker permit or an apprentice fur taker 25156
permit shall pay an annual fee for each annual permit in 25157
accordance with the following schedule: 25158
25159

	1	2
A	Fur taker permit	\$14.00
B	Apprentice fur taker permit	\$14.00
C	Senior fur taker permit - resident only	\$7.00
D	Apprentice senior fur taker permit - resident only	\$7.00
E	Special youth fur taker permit	\$7.00
F	Apprentice youth fur taker permit	\$7.00

(2) As used in division (B) (1) of this section: 25160

(a) "Youth" means an applicant who is under the age of 25161

eighteen years at the time of application for a permit. 25162

(b) "Senior" means an applicant who is sixty-five years of 25163
age or older at the time of application for a permit. 25164

(C) Each type of fur taker permit is valid during the 25165
hunting license year in which the permit is purchased. The money 25166
received shall be paid into the state treasury to the credit of 25167
the fund established in section 1533.15 of the Revised Code. 25168
Apprentice fur taker permits and apprentice youth fur taker 25169
permits are subject to the requirements established under 25170
section 1533.102 of the Revised Code and rules adopted pursuant 25171
to it. 25172

(D) (1) No person shall issue a fur taker permit to an 25173
applicant unless it is accompanied by a written explanation of 25174
the law in section 1533.17 of the Revised Code and the penalty 25175
for its violation, including a description of terms of 25176
imprisonment and fines that may be imposed. 25177

(2) No person shall issue a fur taker permit, other than 25178
an apprentice fur taker permit or an apprentice youth fur taker 25179
permit, to an applicant unless the applicant presents to the 25180
agent authorized to issue a fur taker permit a previously held 25181
hunting license or trapping or fur taker permit or evidence of 25182
having held such a license or permit in content and manner 25183
approved by the chief of the division of wildlife, a certificate 25184
of completion issued upon completion of a trapper education 25185
course approved by the chief, or evidence of equivalent training 25186
in content and manner approved by the chief. A previously held 25187
apprentice hunting license, apprentice fur taker permit, or 25188
apprentice youth fur taker permit does not satisfy the 25189
requirement concerning the presentation of a previously held 25190
hunting license or fur taker permit or evidence of such a 25191

license or permit. 25192

(3) No person shall issue a fur taker permit, other than 25193
an apprentice fur taker permit or an apprentice youth fur taker 25194
permit, to any person who fails to present the evidence required 25195
by this section. No person shall purchase or obtain a fur taker 25196
permit, other than an apprentice fur taker permit or an 25197
apprentice youth fur taker permit, without presenting to the 25198
issuing agent the evidence required by this section. Issuance of 25199
a fur taker permit in violation of the requirements of this 25200
section is an offense by both the purchaser of the illegally 25201
obtained permit and the clerk or agent who issued the permit. 25202
Any fur taker permit issued in violation of this section is 25203
void. 25204

(E) The chief, with approval of the wildlife council, 25205
shall adopt rules prescribing a trapper education course for 25206
first-time fur taker permit buyers, other than buyers of 25207
apprentice fur taker permits or apprentice youth fur taker 25208
permits, and for volunteer instructors. The course shall consist 25209
of subjects that include, but are not limited to, trapping 25210
techniques, animal habits and identification, trapping tradition 25211
and ethics, the trapper and conservation, the law in section 25212
1533.17 of the Revised Code along with the penalty for its 25213
violation, including a description of terms of imprisonment and 25214
fines that may be imposed, and other law relating to trapping. 25215
Authorized personnel of the division of wildlife or volunteer 25216
instructors approved by the chief shall conduct the courses with 25217
such frequency and at such locations throughout the state as to 25218
reasonably meet the needs of permit applicants. The chief shall 25219
issue a certificate of completion to each person who 25220
successfully completes the course and passes an examination 25221
prescribed by the chief. 25222

(F) Every person, while hunting or trapping fur-bearing animals on lands of another, shall carry the person's fur taker permit with the person's signature written on the permit. Failure to carry such a signed permit constitutes an offense under this section. ~~The chief shall adopt any additional rules the chief considers necessary to carry out this section.~~

(G) An owner who is a resident of this state or an owner who is exempt from obtaining a hunting license under section 1533.10 of the Revised Code and the spouse, parents, children of any age, and grandchildren under eighteen years of age of the owner of lands in this state may hunt or trap fur-bearing animals thereon without a fur taker permit. If the owner of land in this state is a limited liability company or a limited liability partnership that consists of three or fewer individual members or partners, as applicable, an individual member or partner who is a resident of this state and the member's or partner's parents, children of any age, and grandchildren under eighteen years of age may hunt or trap fur-bearing animals on the land owned by the limited liability company or limited liability partnership without a fur taker permit. In addition, if the owner of land in this state is a trust that has a total of three or fewer trustees and beneficiaries, an individual who is a trustee or beneficiary and who is a resident of this state and the individual's parents, children of any age, and grandchildren under eighteen years of age may hunt or trap fur-bearing animals on the land owned by the trust without a fur taker permit. The tenant and children of the tenant may hunt or trap fur-bearing animals on lands where they reside without a fur taker permit.

(H) A fur taker permit is not transferable. No person shall carry a fur taker permit issued in the name of another

person. 25254

(I) A fur taker permit entitles a nonresident to take from 25255
this state fur-bearing animals taken and possessed by the 25256
nonresident as provided by law or division rule. 25257

Sec. 1533.112. Except as provided in this section or 25258
unless otherwise provided by division rule, no person shall hunt 25259
ducks, geese, or brant on the lands of another without first 25260
obtaining an annual wetlands habitat stamp. The annual fee for 25261
the wetlands habitat stamp is fourteen dollars for each stamp 25262
unless otherwise provided in rules adopted under division (B) of 25263
section 1533.12 of the Revised Code. 25264

Moneys received from the stamp fee shall be paid into the 25265
state treasury to the credit of the wetlands habitat fund, which 25266
is hereby established. Moneys shall be paid from the fund on the 25267
order of the director of natural resources for the following 25268
purposes: 25269

(A) Sixty per cent for projects that the division approves 25270
for the acquisition, development, management, or preservation of 25271
waterfowl areas within the state; 25272

(B) Forty per cent for contribution by the division to an 25273
appropriate nonprofit organization for the acquisition, 25274
development, management, or preservation of lands and waters 25275
within the United States or Canada that provide or will provide 25276
habitat for waterfowl with migration routes that cross this 25277
state. 25278

No moneys derived from the issuance of wetlands habitat 25279
stamps shall be spent for purposes other than those specified by 25280
this section. All investment earnings of the fund shall be 25281
credited to the fund. 25282

Wetlands habitat stamps shall be furnished by and in a 25283
form prescribed by the chief of the division of wildlife and 25284
issued by clerks and other agents authorized to issue licenses 25285
and permits under section 1533.13 of the Revised Code. The 25286
record of stamps kept by the clerks and other agents shall be 25287
uniform throughout the state, in such form or manner as the 25288
director prescribes, and open at all reasonable hours to the 25289
inspection of any person. Unless otherwise provided by rule, 25290
each stamp shall remain in force until midnight of the thirty- 25291
first day of August next ensuing. Wetlands habitat stamps may be 25292
issued in any manner to any person on any date, whether or not 25293
that date is within the period in which they are effective. 25294

Every person to whom this section applies, while hunting 25295
ducks, geese, or brant, shall carry an unexpired wetlands 25296
habitat stamp that is validated by the person's signature 25297
written on the stamp in ink and shall exhibit the stamp to any 25298
enforcement officer so requesting. No person shall fail to carry 25299
and exhibit the person's stamp. 25300

A wetlands habitat stamp is not transferable. 25301

The chief shall establish a procedure to obtain subject 25302
matter to be printed on the wetlands habitat stamp and shall 25303
use, dispose of, or distribute the subject matter as the chief 25304
considers necessary. ~~The chief also shall adopt rules necessary~~ 25305
~~to administer this section.~~ 25306

This section does not apply to persons under sixteen years 25307
of age nor to persons exempted from procuring a hunting license 25308
under section 1533.10 or division (A) (2) of section 1533.12 of 25309
the Revised Code. 25310

Sec. 1533.113. If the chief of the division of wildlife 25311

determines that the licenses, permits, and stamps issued under 25312
this chapter and Chapter 1531. of the Revised Code are 25313
insufficient for proper wildlife management in specific 25314
geographic areas or for specific species of wild animals, the 25315
chief may adopt rules in accordance with ~~section 1531.10~~ Chapter
119. of the Revised Code doing all of the following: 25316
25317

(A) Providing for the issuance of management permits; 25318

(B) Establishing requirements governing those permits that 25319
modify the requirements established under this chapter and 25320
Chapter 1531. of the Revised Code governing licenses, permits, 25321
and stamps; 25322

(C) Establishing fees for management permits that shall 25323
not exceed the fees established under this chapter and Chapter 25324
1531. of the Revised Code for licenses, permits, and stamps. 25325

Rules adopted under division (C) of this section shall be 25326
adopted only upon approval of the controlling board and the 25327
wildlife council created in section 1531.03 of the Revised Code. 25328

Sec. 1533.12. (A) (1) Except as otherwise provided in 25329
division (A) (2) of this section, every person on active duty in 25330
the armed forces of the United States who is stationed in this 25331
state and who wishes to engage in an activity for which a 25332
license, permit, or stamp is required under this chapter first 25333
shall obtain the requisite license, permit, or stamp. Such a 25334
person is eligible to obtain a resident hunting or fishing 25335
license regardless of whether the person qualifies as a resident 25336
of this state. To obtain a resident hunting or fishing license, 25337
the person shall present a card or other evidence identifying 25338
the person as being on active duty in the armed forces of the 25339
United States and as being stationed in this state. 25340

(2) Every person on active duty in the armed forces of the United States, while on leave or furlough, may take or catch fish of the kind lawfully permitted to be taken or caught within the state, may hunt any wild bird or wild quadruped lawfully permitted to be hunted within the state, and may trap fur-bearing animals lawfully permitted to be trapped within the state, without procuring a fishing license, a hunting license, a fur taker permit, or a wetlands habitat stamp required by this chapter, provided that the person shall carry on the person when fishing, hunting, or trapping, a card or other evidence identifying the person as being on active duty in the armed forces of the United States, and provided that the person is not otherwise violating any of the hunting, fishing, and trapping laws of this state.

In order to hunt deer or wild turkey, any such person shall obtain a deer or wild turkey permit, as applicable, under section 1533.11 of the Revised Code. Such a person is eligible to obtain a deer or wild turkey permit at the resident rate, regardless of whether the person is a resident of this state. However, the person need not obtain a hunting license in order to obtain such a permit.

(B) The chief of the division of wildlife shall provide by rule adopted ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code all of the following:

(1) Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor

vehicles has issued a set of license plates under section 25371
4503.41 of the Revised Code, shall be issued a fishing license, 25372
hunting license, fur taker permit, deer or wild turkey permit, 25373
or wetlands habitat stamp, or any combination of those licenses, 25374
permits, and stamp, free of charge on an annual, multi-year, or 25375
lifetime basis as determined appropriate by the chief when 25376
application is made to the chief in the manner prescribed by and 25377
on forms provided by the chief. 25378

(2) Every resident of the state who was born on or before 25379
December 31, 1937, shall be issued an annual fishing license, 25380
hunting license, fur taker permit, deer or wildturkey permit, 25381
or wetlands habitat stamp, or any combination of those licenses, 25382
permits, and stamp, free of charge when application is made to 25383
the chief in the manner prescribed by and on forms provided by 25384
the chief. 25385

(3) Every resident of state or county institutions, 25386
charitable institutions, and military homes in this state shall 25387
be issued an annual fishing license free of charge when 25388
application is made to the chief in the manner prescribed by and 25389
on forms provided by the chief. 25390

(4) As used in division (B)(4) of this section, "blind" 25391
and "person with a mobility impairment" have the same meanings 25392
as in section 955.011 of the Revised Code. 25393

Any person with a mobility impairment or blind person who 25394
is a resident of this state and who is unable to engage in 25395
fishing without the assistance of another person shall be issued 25396
an annual fishing license free of charge when application is 25397
made to the chief in the manner prescribed by and on forms 25398
provided by the chief. The person who is assisting the person 25399
with a mobility impairment or blind person may assist in taking 25400

or catching fish of the kind permitted to be taken or caught 25401
without procuring the license required under section 1533.32 of 25402
the Revised Code, provided that only one line is used by both 25403
persons. 25404

(5) As used in division (B) (5) of this section, "prisoner 25405
of war" means any regularly appointed, enrolled, enlisted, or 25406
inducted member of the military forces of the United States who 25407
was captured, separated, and incarcerated by an enemy of the 25408
United States. 25409

Any person who has been a prisoner of war, was honorably 25410
discharged from the military forces, and is a resident of this 25411
state shall be issued a fishing license, hunting license, fur 25412
taker permit, or wetlands habitat stamp, or any combination of 25413
those licenses, permits, and stamp, free of charge on an annual, 25414
multi-year, or lifetime basis as determined appropriate by the 25415
chief when application is made to the chief in the manner 25416
prescribed by and on forms provided by the chief. 25417

(C) The chief shall adopt rules pursuant to section 25418
1531.08 of the Revised Code designating not more than two days, 25419
which need not be consecutive, in each year as "free sport 25420
fishing days" on which any resident may exercise the privileges 25421
accorded the holder of a fishing license issued under section 25422
1533.32 of the Revised Code without procuring such a license, 25423
provided that the person is not otherwise violating any of the 25424
fishing laws of this state. 25425

Sec. 1533.131. The chief of the division of wildlife may 25426
sell gift certificates that may be used to obtain, pay for, or 25427
purchase licenses, permits, stamps, user fees, and conservation- 25428
related items provided for under this chapter or Chapter 1531. 25429
of the Revised Code. The chief may adopt rules in accordance 25430

with ~~section 1531.10~~ Chapter 119. of the Revised Code ~~necessary~~ 25431
~~to administer this section, including providing~~ all of the 25432
following: 25433

(A) Designating which licenses, permits, stamps, user 25434
fees, and conservation-related items may be obtained, paid for, 25435
or purchased with a gift certificate; 25436

(B) Prescribing the form for the gift certificates; 25437

(C) Authorizing persons who are designated and authorized 25438
under section 1533.13 of the Revised Code to sell licenses and 25439
permits under this chapter also to sell gift certificates under 25440
this section. 25441

Nothing in this section or rules adopted under it relieves 25442
an individual who receives a gift certificate for a hunting 25443
license from complying with the requirement established under 25444
section 1533.10 of the Revised Code to present, when applying 25445
for the license, a previously held hunting license or evidence 25446
of having held such a license in content and manner approved by 25447
the chief, a certificate of completion issued upon completion of 25448
a hunter education and conservation course approved by the 25449
chief, or evidence of equivalent training in content and manner 25450
approved by the chief. 25451

Nothing in this section or rules adopted under it relieves 25452
an individual who receives a gift certificate for a fur taker 25453
permit from complying with the requirements established under 25454
section 1533.111 of the Revised Code to present, when applying 25455
for the permit, a previously held hunting license or trapping or 25456
fur taker permit or evidence of having held such a license or 25457
permit in content and manner approved by the chief, a 25458
certificate of completion issued upon completion of a trapper 25459

education course approved by the chief, or evidence of 25460
equivalent training in content and manner approved by the chief. 25461

Sec. 1533.191. Organized field trial clubs or individuals 25462
may purchase domestically raised quails, chukar partridges, 25463
pheasants, black and mallard ducks, and other game birds from 25464
licensed breeders, and may shoot quails, chukar partridges, 25465
pheasants, ducks or other game birds and common pigeons that are 25466
approved by the division of wildlife at any time during the 25467
daylight hours, only on grounds designated by the division of 25468
wildlife as "dog training grounds," and only as provided in this 25469
section ~~and under such additional regulations as the chief of~~ 25470
~~the division of wildlife may prescribe subject to sections~~ 25471
~~119.01 to 119.13, inclusive, of the Revised Code, for the~~ 25472
~~purpose of the establishment, operation, and control of such~~ 25473
~~areas as he deems necessary.~~ Failure to comply with all rules 25474
~~and regulations established by the chief of the division of~~ 25475
~~wildlife pursuant to this section shall be sufficient cause for~~ 25476
refusal to issue a permit or for revocation of an existing 25477
permit. 25478

Bands furnished by the division of wildlife shall be used 25479
to designate each quail, chukar partridge, pheasant, duck, or 25480
other game bird used on such designated grounds and shall be 25481
attached to quails, chukar partridges, pheasants, ducks, or 25482
other game birds, as prescribed by the chief of the division of 25483
wildlife, prior to being released. The division of wildlife 25484
shall provide such bands and collect a nominal fee for each 25485
band. 25486

If unbanded wild quails, chukar partridges, pheasants, 25487
ducks, or other game birds are accidentally shot on such grounds 25488
they shall be immediately banded with a band furnished by the 25489

division of wildlife and be replaced by releasing an equal 25490
number of live quails, chukar partridges, pheasants, ducks, or 25491
other game birds under the supervision of the division of 25492
wildlife. 25493

"Designated grounds" are areas of land not exceeding fifty 25494
acres where permission from the owner or lessee has first been 25495
obtained and the exact location and description of the area 25496
together with the name of the club or individual operator has 25497
been furnished in writing to the division of wildlife. The 25498
division shall formulate and provide suitable signs to be placed 25499
around the boundaries of such grounds and a nominal fee shall be 25500
collected for such signs. The division may then issue a permit, 25501
which shall expire at midnight on the thirtieth day of April 25502
following the date of issuance, when it is satisfied that the 25503
use thereof is a bona fide use in accordance with the provisions 25504
of this section. 25505

Any permit issued to a club or individual under the 25506
provisions of this section may be revoked at any time for cause, 25507
by the chief of the division of wildlife, and no other permit 25508
shall be issued to such club or individual during the period for 25509
which such revoked permit was issued. 25510

Each quail, chukar partridge, pheasant, duck, or other 25511
game bird or common pigeon taken in violation of this section 25512
constitutes a separate offense. 25513

Dog training grounds shall not be used to conduct shooting 25514
trials except as provided in section 1533.19 of the Revised 25515
Code. 25516

Sec. 1533.32. (A) Except as provided in this section or 25517
division (A) (2) or (C) of section 1533.12 of the Revised Code or 25518

as exempted at the discretion of the chief of the division of 25519
wildlife, no person, including nonresidents, shall take or catch 25520
any fish by angling in any of the waters in the state or engage 25521
in fishing in those waters without a license. No person shall 25522
take or catch frogs or turtles without a valid fishing license, 25523
except as provided in this section. Persons fishing in privately 25524
owned ponds, lakes, or reservoirs to or from which fish are not 25525
accustomed to migrate are exempt from the license requirements 25526
set forth in this section. Persons fishing in privately owned 25527
ponds, lakes, or reservoirs that are open to public fishing 25528
through an agreement or lease with the division of wildlife 25529
shall comply with the license requirements set forth in this 25530
section. 25531

(B) (1) Except as otherwise provided in rules adopted under 25532
division (B) of section 1533.12 of the Revised Code, each 25533
applicant for a fishing license shall pay a fee for each license 25534
in accordance with the following schedule: 25535
25536

1

2

A	Annual fishing license - resident	\$24.00
B	Annual fishing license - nonresident that is not a resident of a reciprocal state	\$74.00
C	Annual fishing license - nonresident that is a resident of a reciprocal state	\$24.00
D	Annual senior fishing license - resident	\$9.00
E	Three-day tourist fishing license - nonresident that is not a resident of a	\$50.00

	reciprocal state	
F	One-day fishing license - resident	\$13.00
G	One-day fishing license - nonresident that is not a resident of a reciprocal state	\$26.00
H	One-day fishing license - nonresident that is a resident of a reciprocal state	\$13.00
	(2) As used in division (B) (1) of this section:	25537
	(a) "Reciprocal state" means a state that is a party to an agreement under section 1533.91 of the Revised Code.	25538 25539
	(b) "Senior" means an applicant who is sixty-five years of age or older at the time of application for a license.	25540 25541
	(3) Any person under the age of sixteen years may take or catch frogs and turtles and take or catch fish by angling without a license.	25542 25543 25544
	(C) (1) The chief of the division of wildlife may issue a tourist's license expiring three days from the effective date of the license to a resident of a state that is not a party to an agreement under section 1533.91 of the Revised Code.	25545 25546 25547 25548
	(2) The chief shall adopt rules under section 1531.10 in <u>accordance with Chapter 119.</u> of the Revised Code providing for the issuance of a one-day fishing license to a resident of this state or of any other state. A one-day fishing license shall allow the holder to take or catch fish by angling in the waters in the state, engage in fishing in those waters, or take or catch frogs or turtles in those waters for one day without obtaining an annual license or a tourist's license under this	25549 25550 25551 25552 25553 25554 25555 25556

section. At the request of a holder of a one-day fishing license 25557
who wishes to obtain an annual license, a clerk or agent 25558
authorized to issue licenses under section 1533.13 of the 25559
Revised Code, not later than the last day on which the one-day 25560
license would be valid if it were an annual license, shall 25561
credit the amount of the fee paid for the one-day license toward 25562
the fee charged for the annual license if so authorized by the 25563
chief. The clerk or agent shall issue the annual license upon 25564
presentation of the one-day license and payment of a fee in an 25565
amount equal to the difference between the fee for the annual 25566
license and the fee for the one-day license. 25567

(3) Unless otherwise provided by division rule, each 25568
annual license shall begin on the date of issuance and expire a 25569
year from the date of issuance. 25570

(4) Unless otherwise provided by division rule, each 25571
multi-year license issued in accordance with section 1533.321 of 25572
the Revised Code shall begin on the date of issuance and expire 25573
three years, five years, or ten years from the date of issuance, 25574
as applicable. 25575

(5) No person shall alter a fishing license or possess a 25576
fishing license that has been altered. 25577

(6) No person shall procure or attempt to procure a 25578
fishing license by fraud, deceit, misrepresentation, or any 25579
false statement. 25580

(7) A resident of this state who owns land over, through, 25581
upon, or along which any water flows or stands, except where the 25582
land is in or borders on state parks or state-owned lakes, 25583
together with the members of the immediate families of such 25584
owners, may take frogs and turtles and may take or catch fish of 25585

the kind permitted to be taken or caught therefrom without 25586
procuring a license provided for in this section. This exemption 25587
extends to tenants actually residing upon such lands and to the 25588
members of the immediate families of the tenants. A resident of 25589
any other state who owns land in this state over, through, upon, 25590
or along which any water flows or stands, except where the land 25591
is in or borders on state parks or state-owned lakes, and the 25592
spouse and children living with the owner, may take frogs and 25593
turtles and may take or catch fish of the kind permitted to be 25594
taken or caught from that water without obtaining a license 25595
under this section, provided that the state of residence of the 25596
owner allows residents of this state owning real property in 25597
that state, and the spouse and children living with such a 25598
property owner, to take frogs and turtles and take or catch fish 25599
without a license. If the owner of such land in this state is a 25600
limited liability company or a limited liability partnership 25601
that consists of three or fewer individual members or partners, 25602
as applicable, an individual member or partner who is a resident 25603
of this state and the member's or partner's children of any age 25604
may take frogs and turtles and may take or catch fish of the 25605
kind permitted to be taken or caught therefrom without procuring 25606
a license provided for in this section. In addition, if the 25607
owner of such land in this state is a trust that has a total of 25608
three or fewer trustees and beneficiaries, an individual who is 25609
a trustee or beneficiary and who is a resident of this state and 25610
the individual's children of any age may take frogs and turtles 25611
and may take or catch fish of the kind permitted to be taken or 25612
caught therefrom without procuring a license provided for in 25613
this section. Residents of state or county institutions, 25614
charitable institutions, and military homes in this state may 25615
take frogs and turtles without procuring the required license, 25616
provided that a member of the institution or home has an 25617

identification card, which shall be carried on that person when 25618
fishing. 25619

(8) Every fisher required to be licensed, while fishing or 25620
taking or attempting to take frogs or turtles, shall carry the 25621
license and exhibit it to any person. Failure to so carry and 25622
exhibit the license constitutes an offense under this section. 25623

Sec. 1533.321. (A) The chief of the division of wildlife 25624
may issue any of the following: 25625

(1) Multi-year hunting or fishing licenses for three-, 25626
five-, or ten-year terms to a resident of this state; 25627

(2) Lifetime hunting or fishing licenses to a resident of 25628
this state; 25629

(3) A package consisting of any combination of license, 25630
stamp, or permit that the chief is authorized to issue under 25631
this chapter. 25632

(B) The chief may adopt rules in accordance with ~~section~~ 25633
~~1531.10~~ Chapter 119. of the Revised Code governing multi-year 25634
hunting and fishing licenses, lifetime hunting and fishing 25635
licenses, and combination packages, including rules establishing 25636
fees for the combination packages. The chief shall ensure that 25637
the price for a combination package is not discounted by more 25638
than five per cent of the total fees for the licenses, permits, 25639
or stamps that a person would otherwise pay for those licenses, 25640
permits, or stamps if the person purchased them individually. 25641

(C) (1) The multi-year and lifetime license fund is hereby 25642
created in the state treasury. The fund shall consist of money 25643
received from application fees for multi-year and lifetime 25644
hunting and fishing licenses. 25645

(2) Each fiscal year, a prorated amount of the money from each multi-year and lifetime license fee shall be transferred from the multi-year and lifetime license fund to the fund into which the applicable single year license fee would otherwise be deposited. The prorated amount shall equal the total amount of the fee charged for the license divided by the number of years the license is valid. The chief shall adopt rules in accordance with ~~section 1531.10 Chapter 119.~~ of the Revised Code ~~for the administration of this division, including establishing to~~ establish a system that prorates lifetime license fees for deposit each year into the wildlife fund created in section 1531.17 of the Revised Code.

(3) Each fiscal year, all previous year's investment earnings from the multi-year and lifetime license fund shall be transferred into the wildlife fund created in section 1531.17 of the Revised Code.

(D) (1) Each applicant for a multi-year or lifetime fishing license who is a resident of this state shall pay a fee for each license in accordance with the following schedule:

	1	2
A	Senior 3-year fishing license	\$26.00
B	Senior 5-year fishing license	\$43.34
C	Senior lifetime fishing license	\$81.00
D	3-year fishing license	\$69.34
E	5-year fishing license	\$115.56

F	10-year fishing license	\$231.12
G	Lifetime fishing license	\$576.00
H	Youth lifetime fishing license	\$414.00

(2) As used in division (D)(1) of this section: 25666

(a) "Youth" means an applicant who is under the age of 25667
 sixteen years at the time of application for a license. 25668

(b) "Senior" means an applicant who is sixty-five years of 25669
 age or older at the time of application for a license. 25670

(E)(1) Each applicant for a multi-year or lifetime hunting 25671
 license who is a resident of this state shall pay a fee for each 25672
 license in accordance with the following schedule: 25673
 25674

1

2

A	Senior 3-year hunting license	\$26.00
B	Senior 5-year hunting license	\$43.34
C	Senior lifetime hunting license	\$81.00
D	Youth 3-year hunting license	\$26.00
E	Youth 5-year hunting license	\$43.34
F	Youth 10-year hunting license	\$86.67
G	Youth lifetime hunting license	\$414.00
H	3-year hunting license	\$52.00

I	5-year hunting license	\$86.67
J	10-year hunting license	\$173.34
K	Lifetime hunting license	\$432.00

(2) As used in division (E) (1) of this section: 25675

(a) "Youth" means an applicant who is under the age of 25676
eighteen years at the time of application for a license. 25677

(b) "Senior" means an applicant who is sixty-five years of 25678
age or older at the time of application for a license. 25679

(F) If a person who is issued a multi-year hunting or 25680
fishing license or lifetime hunting or fishing license in 25681
accordance with division (A) of this section subsequently 25682
becomes a nonresident after issuance of the license, the 25683
person's license remains valid in this state during its term, 25684
regardless of residency status. 25685

Sec. 1533.45. No person shall lay out, pull, lift, draw, 25686
set, place, locate, or maintain any net or seine, except a 25687
minnow seine, on any of the reefs of the Lake Erie fishing 25688
district, except by permission of the chief of the division of 25689
wildlife, or lay out, pull, lift, draw, set, place, locate, or 25690
maintain any net or seine in any channel or passage lying 25691
between any islands or between any island and the mainland in 25692
Lake Erie at a greater distance from the shore of the islands or 25693
mainland than one-fourth the distance across the channel or 25694
passage. No person shall lay out, pull, lift, draw, set, place, 25695
locate, or maintain any net or seine, except a minnow seine, in 25696
any other area of Lake Erie where that activity is prohibited by 25697
the chief in rules adopted for the purposes of this section. The 25698

chief shall adopt rules ~~under section 1531.10~~ in accordance with 25699
Chapter 119. of the Revised Code establishing no-fishing zones 25700
throughout the Ohio waters of the Lake Erie fishing district. 25701

No net shall be set in less than three feet of water in 25702
either of the fishing districts of the state except seines and 25703
minnow seines. The division may establish in Sandusky bay, with 25704
the consent of the coast guard, any buoys or markers that are 25705
necessary for information to the public or as aids to 25706
navigation, but nothing in this section shall be construed as 25707
permitting the division to place any buoys or markers that will 25708
in any way interfere with the use, laying out, or pulling of 25709
seines in any part of Sandusky bay as permitted pursuant to this 25710
section. 25711

Sec. 1533.55. Except as otherwise provided by division 25712
rule, no person shall draw, set, place, locate, or maintain any 25713
net, except a seine, within one-fourth of a mile of any reef in 25714
Lake Erie between the first day of May and the tenth day of May, 25715
both dates inclusive, and within one-fourth mile of any island 25716
or the mainland bordering Lake Erie between the fifteenth day of 25717
June and the fifteenth day of September, both dates inclusive. 25718
No seine or net of any kind except a minnow net shall be placed, 25719
located, pulled, or maintained in Sandusky bay from one hour 25720
after sunset on Saturday until one hour before sunrise on the 25721
following Monday, or from one hour before sunset on the day 25722
before Memorial Day, Independence Day, and Labor Day until one 25723
hour before sunrise on the day following Memorial Day, 25724
Independence Day, and Labor Day. No seine shall be set, placed, 25725
located, or maintained in Sandusky bay and the inland fishing 25726
district during the nighttime from one hour after sunset until 25727
one hour before sunrise. No person shall place, set, locate, 25728
pull, or maintain a seine, except a minnow seine, in the Lake 25729

Erie fishing district during the time from one-half hour after sunset until one-half hour before sunrise, except that a licensee may place, set, locate, pull, or maintain a seine other than a minnow seine in any waters of the Lake Erie fishing district other than Sandusky bay at those times, upon prior notification to the chief of the division of wildlife, or the chief's designated agent, during not more than one week per notification. The notification shall be in writing and shall state the licensee's name and address, date and time of fishing, and location of fishing grounds.

No trap net, crib net, fyke net, or other fishing devices, except a seine which has been authorized to be hauled during the nighttime, shall be lifted, pulled, hauled, or set, nor shall fish be removed therefrom, except during the time from one-half hour before sunrise to one-half hour after sunset. Each net or other device set, maintained, placed, pulled, lifted, or hauled in violation of this section constitutes a separate offense.

All fish taken from a net or other fishing device, except a seine that has been authorized to be hauled during the nighttime, shall be brought ashore during the time from one-half hour before sunrise to one-half hour after sunset.

The chief may adopt rules ~~under section 1531.10 in~~ accordance with Chapter 119. of the Revised Code providing that no person shall lay out, pull, lift, draw, set, place, locate, or maintain any net or seine at any other place or places in the Lake Erie fishing district and in other waters wherein fishing with nets or seines is licensed by law wherein such a prohibition is needed for the protection, preservation, or propagation of fish.

No person shall leave a commercial fishing device in a

slack manner, or torn parts thereof, in the waters of the Lake 25760
Erie fishing district for more than five consecutive days. For 25761
the purposes of this section, a fishing device is slack when the 25762
anchors to various parts of the device are not holding it in the 25763
normal extended manner. 25764

No person shall set or use a net, trotline, or other 25765
fishing device, except a trap net or fyke net, in the Lake Erie 25766
fishing district without removing all of the fish therefrom at 25767
least once during a period of five consecutive days. A trap or 25768
fyke net shall have all of the fish removed from the crib or car 25769
at least once during such time. 25770

Any net, gill net, or other fishing device set, lifted, 25771
pulled, hauled, or used in violation of this chapter or Chapter 25772
1531. of the Revised Code or division rule is a public nuisance 25773
and each wildlife officer, or other officer with like authority, 25774
may seize and safely keep such a fishing device or part thereof, 25775
and the illegal results therefrom, for evidence or forfeiture 25776
proceedings unless otherwise ordered by the chief. 25777

No person shall fail to comply with any provision of this 25778
section or division rule adopted pursuant to it. 25779

In addition to other penalties provided in the Revised 25780
Code, the license of any person who is convicted of two 25781
violations of this section that occurred within a twelve-month 25782
period is suspended upon the second such conviction by operation 25783
of law for a period of five fishing season days immediately 25784
following that conviction. 25785

In addition to other penalties provided in the Revised 25786
Code, the license of any person who is convicted of three or 25787
more violations of this section that occurred within a twelve- 25788

month period is suspended upon the third or subsequent such 25789
conviction by operation of law for a period of twenty fishing 25790
season days immediately following that conviction. 25791

During any period of suspension, no person shall use or 25792
engage in fishing within commercial gear owned, used, or 25793
controlled at the time of conviction by the licensee whose 25794
license has been suspended. 25795

Sec. 1533.731. (A) No wild animal hunting preserve shall 25796
be less than eighty acres in area. Each such preserve shall be 25797
in one continuous block of land, except that the block of land 25798
may be intersected by highways or roads. No wild animal hunting 25799
preserve shall be located within one thousand five hundred feet 25800
of another such preserve. 25801

The boundaries of each wild animal hunting preserve shall 25802
be clearly defined by posting, at intervals of not more than 25803
four hundred feet, with signs prescribed by the division of 25804
wildlife. Each wild animal hunting preserve shall be surrounded 25805
by a fence at least eight feet in height, with a minimal 25806
deviation not to exceed four per cent, that is constructed of a 25807
woven wire mesh, or such other enclosure approved by the chief 25808
of the division of wildlife. 25809

(B) (1) Except as provided in divisions (B) (2), (3), and 25810
(4) of this section, game and nonnative wildlife that have been 25811
approved by the chief for such use and that have been legally 25812
acquired or propagated under the authority of a propagating 25813
license issued under section 1533.71 of the Revised Code or 25814
propagated within the confines of a licensed wild animal hunting 25815
preserve may be released and hunted within the confines of the 25816
licensed wild animal hunting preserve between one-half hour 25817
before sunrise and one-half hour after sunset, without regard to 25818

sex, bag limit, or open season, by hunters authorized by the 25819
holder of the wild animal hunting preserve license to hunt on 25820
those lands. The chief shall establish, by rule, the allowable 25821
methods of taking game and nonnative wildlife in a wild animal 25822
hunting preserve. 25823

(2) No game or nonnative wildlife on the federal 25824
endangered species list established in accordance with the 25825
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C.A. 25826
1531, as amended, or the state endangered species list 25827
established in rules adopted under section 1531.25 of the 25828
Revised Code, no bears native to North America, and no large 25829
carnivores of the family Felidae shall be released for hunting 25830
or hunted in any wild animal hunting preserve in this state. 25831

(3) No person shall release for hunting or hunt within a 25832
wild animal hunting preserve any game or nonnative wildlife not 25833
listed in the application for a license for that preserve. 25834

(4) No person shall knowingly release for hunting or hunt 25835
wild boar or feral swine in any wild animal hunting preserve in 25836
this state. 25837

(C) Unless otherwise specified by division rule, all game 25838
and nonnative wildlife released on a wild animal hunting 25839
preserve shall be identified with a tag that shall bear upon it 25840
a symbol identifying the preserve. 25841

(D) No person shall remove living game or nonnative 25842
wildlife from a wild animal hunting preserve unless the game or 25843
nonnative wildlife are being transferred to another wild animal 25844
hunting preserve in accordance with rules adopted by the 25845
director of agriculture under section 943.24 of the Revised 25846
Code. 25847

(E) The holder of a wild animal hunting preserve license 25848
shall keep a record of all animals that have been released into 25849
the preserve. The record shall include all of the following: 25850

(1) The date on which each animal was released into the 25851
preserve; 25852

(2) The number of each species of animals; 25853

(3) The number of males and females of each species of 25854
animals; 25855

(4) The name and address of each person from whom each 25856
animal was obtained. 25857

The licensee shall record in a manner specified by the 25858
division the name and address of each person that takes any game 25859
or nonnative wildlife from the preserve. The licensee shall 25860
maintain those records for a period of two years and make them 25861
available for inspection by the division at all reasonable times 25862
in conjunction with an active criminal investigation. 25863

(F) In addition to complying with the requirements 25864
established by division (E) of this section, the holder of a 25865
wild animal hunting preserve license who has captive white- 25866
tailed deer in the preserve shall keep a record of all known 25867
escapes of those deer, deaths of those deer that were not a 25868
result of hunting, and laboratory results for testing for 25869
chronic wasting disease of those deer that is required by 25870
section 943.21 of the Revised Code and rules adopted under 25871
section 943.24 of the Revised Code. 25872

(G) For the purposes of division (B) of section 1533.02 of 25873
the Revised Code, the owner or operator of a wild animal hunting 25874
preserve shall furnish each person who takes any game or 25875
nonnative wildlife from the preserve a certificate bearing a 25876

description of the animal, the date the animal was taken, and 25877
the name of the preserve. 25878

(H) The holder of a wild animal hunting preserve license 25879
prominently shall display the license at the place of business 25880
that is specified in the license. 25881

(I) The chief shall adopt rules ~~under section 1531.10 in~~ 25882
accordance with Chapter 119. of the Revised Code that provide 25883
for the safety of the public and for the protection of the game 25884
and nonnative wildlife to be hunted in a wild animal hunting 25885
preserve prior to their release in the preserve. 25886

(J) No holder of a wild animal hunting preserve license 25887
shall violate this chapter or Chapter 1531. of the Revised Code 25888
or any division rule. 25889

(K) This section does not authorize the hunting of game 25890
birds in a licensed wild animal hunting preserve unless the 25891
licensee also possesses a valid commercial bird shooting 25892
preserve license issued under section 1533.72 of the Revised 25893
Code for the same land for which the wild animal hunting 25894
preserve license was issued. 25895

(L) A person may hunt game and nonnative wildlife in a 25896
licensed wild animal hunting preserve without obtaining a 25897
hunting license otherwise required by section 1533.10 of the 25898
Revised Code or a deer permit otherwise required by section 25899
1533.11 of the Revised Code. 25900

Sec. 1533.74. No game birds, game quadrupeds, or fur- 25901
bearing animals held under the authority of a license issued 25902
under section 1533.71, 1533.72, or 1533.721 of the Revised Code 25903
shall be sold for food unless the carcass of each game bird, 25904
game quadruped, or fur-bearing animal is tagged with a suitable 25905

tag or seal approved by the division of wildlife. Game birds, 25906
game quadrupeds, and fur-bearing animals so killed and tagged 25907
may be possessed, bought, or sold at any time. Common carriers 25908
shall receive and transport game birds, game quadrupeds, and 25909
fur-bearing animals so tagged, but to every package containing 25910
them shall be affixed a tag or label upon which shall be plainly 25911
printed or written the name of the person to whom the license 25912
was issued, the name of the person to whom they are to be 25913
transported, the number of game birds, game quadrupeds, or fur- 25914
bearing animals contained in the package, and a statement to the 25915
effect that they were killed and tagged in accordance with 25916
sections 1533.71 to 1533.79 of the Revised Code. 25917

~~The chief of the division of wildlife may adopt rules 25918
under section 1531.10 of the Revised Code necessary to 25919
administer this section. 25920~~

~~This section and rules adopted pursuant to it do does not 25921
apply to meat that has been inspected by the department of 25922
agriculture under Chapter 918. of the Revised Code and rules 25923
adopted under it and that has been marked with an official 25924
inspection mark, stamp, or brand pursuant to that inspection. 25925~~

Sec. 1533.77. (A) Each holder of a noncommercial or 25926
commercial propagating license issued under section 1533.71 of 25927
the Revised Code shall keep the license prominently displayed at 25928
the place of business specified in the license, and shall keep 25929
accurate written records that shall include the total number of 25930
game birds, game quadrupeds, or fur-bearing animals possessed on 25931
the date of application for the license, the number subsequently 25932
propagated or acquired by purchase or gift, the number that 25933
escaped, the number that were released, the number that died, 25934
and the name and address of each person or corporation from whom 25935

or to whom game birds, game quadrupeds, or fur-bearing animals were received as a gift or given as a gift or purchased or sold alive or sold for food, and the date of each transaction. These records shall be kept permanently on the premises stated in the license, and shall be open for inspection by any authorized representative of the division of wildlife at all reasonable times.

(B) Each holder of a captive white-tailed deer propagation license issued under section 1533.71 of the Revised Code shall maintain all records that are required in rules adopted under section 943.24 of the Revised Code. The records shall be kept permanently on the premises stated in the license and shall be open for inspection by any authorized representative of the department of agriculture at all reasonable times and of the division of wildlife at all reasonable times in conjunction with an active criminal investigation.

(C) The holder of a captive white-tailed deer propagation license shall not knowingly falsify any record or tag that is required in rules adopted under section 943.24 of the Revised Code or in rules adopted ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code.

Sec. 1533.84. The chief of the division of wildlife, in accordance with ~~section 1531.10~~ Chapter 119. of the Revised Code, shall adopt rules establishing generally accepted standards for shooting ranges. These rules shall be no more stringent than national rifle association standards, and include standards for the limitation and suppression of noise, standards for the hours of operation of shooting ranges of the various types and at the various locations of ranges, and standards for public safety. The rules may include standards for the

reconstruction, enlargement, remodeling, or repair of any 25966
structure or facility that is part of a shooting range provided 25967
that any local laws creating standards for the reconstruction, 25968
enlargement, remodeling, or repair of structures or facilities 25969
that apply generally to all structures or facilities and not 25970
exclusively or primarily to shooting ranges also shall apply to 25971
shooting ranges. Nothing in this section limits the authority of 25972
a county or township board of zoning appeals to issue or deny 25973
conditional zoning certificates for the reconstruction, 25974
enlargement, remodeling, or repair of an existing shooting range 25975
pursuant to division (C) of section 303.14 or division (C) of 25976
section 519.14 of the Revised Code or the authority of a board 25977
of county commissioners or board of township trustees relating 25978
to the completion, restoration, reconstruction, extension, or 25979
substitution of nonconforming uses pursuant to section 303.19 or 25980
519.19 of the Revised Code. At the time of its establishment, a 25981
shooting range shall comply with all existing local ordinances, 25982
regulations, or laws. 25983

The chief of the division of wildlife shall consult with a 25984
representative sample of persons and organizations that own, 25985
operate, or use shooting ranges and persons and organizations 25986
that represent counties, townships, municipal corporations, and 25987
holders of real property adjoining shooting ranges prior to 25988
filing or amending the rules required or authorized under this 25989
section in accordance with ~~section 1531.10~~ Chapter 119. of the 25990
Revised Code. A draft copy of the chief's proposed rules or any 25991
subsequent amendments to the rules shall be submitted to 25992
representatives of the above-listed organizations, who shall be 25993
given thirty days to review and submit written comments on the 25994
draft rules to the chief. The chief shall consider but not be 25995
bound by the written comments and, after giving due regard to 25996

the public interests, shall file the initial rules in accordance 25997
with ~~section 1531.10~~ Chapter 119. of the Revised Code within one 25998
hundred eighty days after ~~the effective date of this section~~ 25999
November 21, 1997. 26000

Sec. 1533.88. The chief of the division of wildlife shall 26001
adopt the following rules ~~under section 1531.10~~ in accordance 26002
with Chapter 119. of the Revised Code ~~as necessary to carry out~~ 26003
~~the purposes of sections 1533.86 to 1533.90 of the Revised Code,~~ 26004
~~including, but not limited to:~~ 26005

(A) Establishing a harvest season for wild ginseng; 26006

(B) Establishing a certification program for all legally 26007
harvested ginseng, including setting a certification fee; 26008

(C) Establishing a buying season for ginseng that has not 26009
yet been certified in accordance with rules adopted under 26010
division (B) of this section; 26011

(D) Establishing a registration permit system to authorize 26012
ginseng dealers to buy or otherwise acquire or convey ginseng 26013
for resale and export; 26014

(E) Establishing a record system to be kept by collectors, 26015
dealers, and growers of ginseng; 26016

(F) Developing educational materials about ginseng, 26017
ginseng regulation, and the Ohio ginseng management program. 26018

Sec. 1546.04. (A) Except as provided in this section, the 26019
chief of the division of parks and watercraft, with the approval 26020
of the director of natural resources, shall adopt rules in 26021
accordance with Chapter 119. of the Revised Code ~~that are~~ 26022
~~necessary for the proper management of state parks, bodies of~~ 26023
~~water, and the lands adjacent to them under its jurisdiction and~~ 26024

control, including rules <u>that do all of the following:</u>	26025
(1) Governing <u>Govern</u> the opening and closing times and dates of state parks;	26026 26027
(2) Establishing <u>Establish</u> fees and charges for use of facilities in state parks;	26028 26029
(3) Governing <u>Govern</u> camps, camping, and fees for camps and camping;	26030 26031
(4) Governing <u>Govern</u> the application for and rental of, rental fees for, and the use of cottages;	26032 26033
(5) Relating <u>Relate</u> to public use of state park lands, and governing <u>govern</u> the operation of motor vehicles, including speeds and parking on those lands;	26034 26035 26036
(6) Governing <u>Govern</u> all advertising within state parks and requirements for the operation of places selling tangible personal property and food service sales on lands and waters under the control of the division. The rules shall establish uniform requirements for those operations and sales.	26037 26038 26039 26040 26041
(7) Providing <u>Provide</u> uniform standards relating to the size, type, location, construction, and maintenance of structures and devices used for fishing or moorage of watercraft, rowboats, sailboats, and powercraft over waters under the control of the division and establishing reasonable fees for the construction of, and annual use permits for, those structures and devices;	26042 26043 26044 26045 26046 26047 26048
(8) Governing <u>Govern</u> state beaches, swimming, inflatable devices, and fees for them;	26049 26050
(9) Governing <u>Govern</u> the removal and disposition of any watercraft, rowboat, sailboat, or powercraft left unattended for	26051 26052

more than seven days on any lands or waters under the control of the division; 26053
26054

(10) ~~Governing~~Govern the establishment and collection of check collection charges for checks that are returned to the division or dishonored for any reason; 26055
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(11) ~~Governing~~Govern natural resources officers in all parks and bodies of water and lands adjacent to those bodies under the supervision and control of the division as are necessary to the proper management of such parks and bodies of water. 26058
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(B) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a discount program for all persons who are issued a golden buckeye card under section 173.06 of the Revised Code. The discount program shall provide a discount for all park services and rentals, but shall not provide a discount for the purchase of merchandise. 26063
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(C) The chief, with the approval of the director of natural resources, may adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following: 26069
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(1) Requirements governing the administration of state parks; 26072
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(2) Requirements considered necessary by the chief to supplement the identification, operation, titling, use, registration, and numbering of watercraft or vessels as provided in Chapters 1547. and 1548. of the Revised Code; 26074
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(3) Requirements governing the navigation of vessels on waters in this state, including rules regarding steering and sailing, the conduct of vessels in sight of one another or in restricted visibility, lights and shapes of lights used on 26078
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vessels, and sound and light signals. As the chief considers 26082
necessary, the chief shall ensure that those rules are 26083
consistent with and equivalent to the regulations and 26084
interpretive rulings governing inland waters adopted or issued 26085
under the "Inland Navigational Rules Act of 1980," 94 Stat. 26086
3415, 33 U.S.C. 151, 1604, 1605, 1608, 2001 to 2008, and 2071 to 26087
2073. 26088

(4) Requirements and procedures governing vessel safety 26089
inspection checkpoints, including procedures that comply with 26090
statutory and constitutional provisions governing searches and 26091
seizures by law enforcement officers; 26092

(5) Fees and charges for all of the following: 26093

(a) Boating skill development classes and other 26094
educational classes; 26095

(b) Law enforcement services provided at special events 26096
when the services are in addition to normal enforcement duties; 26097

(c) Inspections of vessels or motors conducted under 26098
Chapter 1547. or Chapter 1548. of the Revised Code. 26099

(D) The chief shall not adopt rules under this section 26100
establishing fees or charges for parking a motor vehicle in a 26101
state park or for admission to a state park. 26102

(E) If the chief adopts rules under this section for the 26103
issuance of a permit for preventing or limiting ice formation on 26104
the surface of water that is located in a state park on property 26105
owned or managed by the division, the chief shall not levy a fee 26106
for the issuance of the permit. 26107

Sec. 1546.10. (A) The chief of the division of parks and 26108
watercraft, with the approval of the director of natural 26109

resources, may dispose of any of the following by sale, 26110
donation, trade, trade-in, recycling, or any other lawful means, 26111
in a manner that will benefit the division: 26112

(1) Standing timber that as a result of wind, storm, 26113
pestilence, or any other natural occurrence may present a hazard 26114
to life or property, timber that has weakened or fallen on lands 26115
under the control and management of the division, or any timber 26116
or other forest products that require management to improve 26117
wildlife habitat, protect against wildfires, provide access to 26118
recreational facilities, implement sustainable forestry 26119
practices, or improve the safety, quality, or appearance of any 26120
state park area; 26121

(2) Spoils of a dredging operation conducted by the 26122
division in waters under the control and management of the 26123
division. Prior to the disposition of any spoils under this 26124
division, the chief shall notify the director of environmental 26125
protection of the chief's intent so that the director may 26126
determine if the spoils constitute solid wastes or hazardous 26127
waste, as those terms are defined in section 3734.01 of the 26128
Revised Code, that must be disposed of in accordance with 26129
Chapter 3734. of the Revised Code. If the director does not 26130
notify the chief within thirty days after receiving notice of 26131
the disposition that the spoils must be disposed of in 26132
accordance with Chapter 3734. of the Revised Code, the chief may 26133
proceed with the disposition. 26134

(3) Notwithstanding sections 125.12 to 125.14 of the 26135
Revised Code, excess supplies and surplus supplies, as those 26136
terms are defined in section 125.12 of the Revised Code; 26137

(4) Agricultural products that are grown or raised by the 26138
division. As used in this division, "agricultural products" 26139

includes products of apiculture, animal husbandry, or poultry 26140
husbandry, field crops, fruits, and vegetables. 26141

(5) Abandoned personal property, including golf balls that 26142
are found on property under the control and management of the 26143
division. 26144

~~(B) In accordance with Chapter 119. of the Revised Code,~~ 26145
~~the chief shall adopt, and may amend and rescind, such rules as~~ 26146
~~are necessary to administer this section.~~ 26147

~~(C)~~ Except as provided in division ~~(D)~~ (C) of this section, 26148
proceeds from the disposition of items under this section shall 26149
be deposited in the state treasury to the credit of the state 26150
park fund created in section 1546.21 of the Revised Code. 26151

~~(D)~~ (C) The chief of the division of parks and watercraft 26152
may enter into a memorandum of understanding with the chief of 26153
the division of forestry to allow the division of forestry to 26154
administer the sale of timber and forest products on lands that 26155
are owned or controlled by the division of parks and watercraft. 26156
Proceeds from the sale of timber or forest products pursuant to 26157
the memorandum of understanding shall be apportioned as follows: 26158

(1) Seventy-five per cent of the proceeds shall be 26159
deposited in the state treasury to the credit of the state park 26160
fund. 26161

(2) Twenty-five per cent of the proceeds shall be 26162
deposited in the state treasury to the credit of the state 26163
forest fund created in section 1503.05 of the Revised Code. 26164

Sec. 1546.18. A natural resources officer appointed under 26165
section 1501.24 of the Revised Code may take possession of and 26166
hold a boat or other property if such action appears necessary 26167
in the course of making an arrest of a person violating sections 26168

~~1546.15 to 1546.16~~ and 1546.17 of the Revised Code. A natural 26169
resources officer shall not be held liable for the loss of or 26170
any damage done to such boat or other property taken and held by 26171
reason of the failure to comply with such sections, provided 26172
ordinary care is exercised in the handling of such property. No 26173
person shall take possession of a boat or other property which 26174
has been taken in charge by a natural resources officer as 26175
provided in this section, until the officer has released same. 26176

Sec. 1546.99. Whoever violates sections ~~1546.15~~ 1546.16 to 26177
1546.20 of the Revised Code or any rules of the division of 26178
parks and watercraft shall be fined not less than ten nor more 26179
than one hundred dollars. 26180

Sec. 1547.38. No person who lets vessels for hire, or the 26181
agent or employee thereof, shall rent, lease, charter, or 26182
otherwise permit the use of a vessel, unless the person provides 26183
the vessel with the equipment required under sections 1547.25, 26184
1547.251, 1547.26, 1547.27, 1547.28, 1547.29, and 1547.31 of the 26185
Revised Code and rules regarding the equipment of vessels, and 26186
complies with the requirements of sections 1547.24, 1547.40, 26187
1547.53, 1547.57, and either 1547.54 or 1547.542 of the Revised 26188
Code and rules ~~to implement and enforce~~ adopted under those 26189
sections. 26190

Sec. 1548.02. The chief of the division of parks and 26191
watercraft ~~shall adopt such rules as the chief considers~~ 26192
~~necessary to ensure uniform and orderly operation of this~~ 26193
~~chapter, and the clerks of the courts of common pleas shall~~ 26194
~~conform to those rules. The chief shall~~ receive and file in the 26195
chief's office all information forwarded to the chief by the 26196
clerks under this chapter and shall maintain indexes covering 26197
the state at large for that information. These indexes shall be 26198

for the state at large and not for individual counties. 26199

The chief shall check with the chief's record all 26200
duplicate certificates of title received in the chief's office 26201
from the clerks. 26202

If it appears that any certificate of title has been 26203
improperly issued or is no longer required, the chief shall 26204
cancel the certificate. Upon the cancellation of any certificate 26205
of title, the chief shall notify the clerk who issued it, and 26206
the clerk shall enter the cancellation in the clerk's records. 26207
The chief also shall notify the person to whom the certificate 26208
of title was issued, as well as any lienholders appearing on it, 26209
of the cancellation and, if it is a physical certificate of 26210
title, shall demand the surrender of the certificate of title, 26211
but the cancellation shall not affect the validity of any lien 26212
noted on it. The holder of a physical certificate of title shall 26213
return it to the chief immediately. 26214

The clerks shall keep on hand a sufficient supply of blank 26215
forms that, except certificate of title and memorandum 26216
certificate forms, shall be furnished and distributed without 26217
charge to registered manufacturers or dealers or to other 26218
persons residing within the county. The clerks shall provide the 26219
certificates of title and ribbons, cartridges, or other devices 26220
necessary for the operation of the certificate of title 26221
processing equipment as determined by the automated title 26222
processing board pursuant to division (C) of section 4505.09 of 26223
the Revised Code from moneys provided to the clerks from the 26224
automated title processing fund in accordance with division (B) 26225
of section 4505.09 of the Revised Code. The clerks shall furnish 26226
all other supplies from other moneys available to the clerks. 26227

Sec. 1561.03. The chief of the division of mineral 26228

resources management shall enforce and supervise the execution 26229
of all laws enacted for the health and safety of persons and the 26230
protection and conservation of property within, about, or in 26231
connection with mines, mining, and quarries, ~~and for such~~ 26232
~~purpose shall adopt, publish, and enforce necessary rules not~~ 26233
~~inconsistent with the mining laws of this state.~~ 26234

Sec. 1561.05. The laws relating to mines and mining and 26235
duties and functions of the division of mineral resources 26236
management shall be administered by the chief of the division of 26237
mineral resources management, and through and by deputy mine 26238
inspectors. If a vacancy occurs in the office of a deputy mine 26239
inspector, it may be filled by the chief, who shall select a 26240
person from the eligible list for deputy mine inspectors that is 26241
prepared under section 124.24 of the Revised Code. 26242

~~The chief shall adopt, in accordance with Chapter 119. of~~ 26243
~~the Revised Code, all necessary rules for conducting~~ 26244
~~examinations and for governing all other matters requisite to~~ 26245
~~the exercise of the chief's powers and the performance of the~~ 26246
~~chief's duties under this chapter and Chapters 1509., 1563.,~~ 26247
~~1565., and 1567. of the Revised Code relating to mines and~~ 26248
~~mining.~~ 26249

Sec. 1561.07. The mining laws of this state shall extend 26250
to and govern the operation of clay mines and clay stripping 26251
pits in so far as such laws are applicable thereto. The chief of 26252
the division of mineral resources management shall adopt, 26253
publish, and enforce ~~specific rules particularly applicable to~~ 26254
~~clay mining operations to safeguard life and property in the~~ 26255
~~clay mining industry and to secure safe and sanitary working~~ 26256
~~conditions in such clay mines and clay stripping pits.~~ 26257

~~Such the following rules adopted by the chief shall~~ 26258

~~provide that:~~ 26259

(A) Distances between break-throughs in clay mines shall 26260
not exceed one hundred feet, unless permission in special cases 26261
is granted by the chief, after maps have been filed with the 26262
chief showing the method of working and ventilating the same, if 26263
such distances would add to increased safety. 26264

(B) When, in the opinion of the mine foreperson or deputy 26265
mine inspector, line brattices or other approved methods of 26266
circulation are necessary to deliver sufficient air to the 26267
working face, they shall be provided by the owner, operator, or 26268
lessee. 26269

(C) Not more than a two days' supply of explosives shall 26270
be stored in a clay mine at any one time, and not more than one 26271
hundred pounds of explosives shall be stored in any one place at 26272
any one time. 26273

(D) Charges of explosives shall be made up at least one 26274
hundred feet away from any storage place for explosives. 26275

(E) There shall be no less than two persons in each 26276
working place when shots are being lighted. 26277

(F) Misfired shots in clay mines shall be posted on the 26278
bulletin board or other conspicuous place available for 26279
examination by the workers when shots are fired by other than 26280
the loaders. 26281

(G) The use of electric blasting caps shall be encouraged 26282
as a safety measure. 26283

The chief, in assigning deputy mine inspectors, shall 26284
designate inspectors who have had experience and are especially 26285
qualified in clay mining operations, to examine and inspect clay 26286

mining operations and enforce the law relating to such 26287
operations. 26288

A person does not need to be certified by the chief as a 26289
clay mine foreperson to perform the duties of a foreperson at a 26290
clay mine or clay stripping pits. The chief shall not conduct 26291
examinations or issue certificates for clay mine forepersons. 26292

Sec. 1567.35. No gasoline, naphtha, kerosene, fuel oil, or 26293
gas engine shall be used in a mine, except for operating pumping 26294
machinery where electric, compressed air, or steam power is not 26295
available or cannot be transmitted to the pump, in which case 26296
the owner, lessee, or agent shall observe the following: 26297

(A) Notice shall be given to the chief of the division of 26298
mineral resources management before installing, and the 26299
installation and operation shall be subject to the chief's 26300
approval. 26301

(B) No wood or inflammable material shall be permitted 26302
within twenty-five feet of the engine. 26303

(C) The supply tank from which the gasoline, naphtha, 26304
kerosene, or fuel oil is fed to the engine shall be of metal, 26305
with a suitable screw cap opening, fitted with a gasket, so as 26306
to make the tank airtight and prevent the escape of gas into the 26307
atmosphere, and the tank kept free from leaks. 26308

(D) The gasoline, naphtha, kerosene, or fuel oil shall be 26309
fed from a tank to the carburetor or mixer by metal tubes 26310
securely connected so as to reduce the possibility of leaks to a 26311
minimum. 26312

(E) The exhaust from the engine shall be conducted by 26313
means of metal pipes into the return air current, so that the 26314
combustion fumes will not enter the workings of the mine where 26315

the workers are required to work, or be conducted in an upcast 26316
shaft or slope not used as a means of ingress or egress or 26317
through metal pipes to the surface. 26318

(F) At no time shall more than five gallons of such 26319
gasoline, naphtha, kerosene, or fuel oil be taken into the mine, 26320
including that in the supply tank. 26321

(G) No gasoline, naphtha, kerosene, or fuel oil shall be 26322
taken into the mine except in metallic cans, with a screw cap 26323
opening at the top, fitted with a suitable gasket. 26324

(H) No package, can, or supply tank of an engine, 26325
containing gasoline, naphtha, kerosene, or fuel oil, shall be 26326
opened until ready to make the transfer from the package or can 26327
to the supply tank, and in transferring, a funnel shall be used 26328
so as to avoid spilling the gasoline, naphtha, kerosene, or fuel 26329
oil, and the cap on the supply tank shall be immediately closed. 26330

(I) In no case shall the package, can, or supply tank be 26331
opened when an open light or other thing containing fire is 26332
within twenty-five feet of the same, provided that subject to 26333
the approval of the chief, the restrictions in the use of fuel 26334
oil in a mine shall not apply to mobile or portable machinery, 26335
if the mobile or portable machinery is used in a clay, 26336
limestone, shale, or any other mine not a coal mine. 26337

Nothing in this section shall be construed to prohibit or 26338
impede the use of diesel equipment in an underground coal mine, 26339
provided that the chief approves the use of the equipment in 26340
underground mines and the equipment satisfies requirements 26341
established in rules adopted by the chief ~~under section 1513.02~~ 26342
~~of the Revised Code~~ governing the use of diesel equipment in 26343
underground mines. 26344

No owner, lessee, agent, or operator of a mine shall 26345
violate this section. 26346

Sec. 1571.18. After June 30, 2010, and not later than the 26347
thirty-first day of March each year, the owner of a well that is 26348
used for gas storage or of a well that is used to monitor a gas 26349
storage reservoir and that is located in a reservoir protective 26350
area shall pay to the chief of the division of oil and gas 26351
resources management a gas storage well regulatory fee of one 26352
hundred twenty-five dollars for each well that the owner owned 26353
as of the thirty-first day of December of the previous year for 26354
the purposes of administering this chapter and Chapter 1509. of 26355
the Revised Code. The chief may prescribe and provide a form for 26356
the collection of the fee imposed by this section ~~and may adopt~~ 26357
~~rules in accordance with Chapter 119. of the Revised Code that~~ 26358
~~are necessary for the administration of this section.~~ 26359

All money collected under this section shall be deposited 26360
in the state treasury to the credit of the oil and gas well fund 26361
created in section 1509.02 of the Revised Code. 26362

Sec. 1707.20. (A) (1) The division of securities may adopt, 26363
amend, and rescind such ~~rules, forms,~~ and orders as are 26364
necessary to carry out sections 1707.01 to 1707.50 of the 26365
Revised Code, including ~~rules and forms~~ governing registration 26366
statements, applications, and reports, ~~and defining any terms,~~ 26367
~~whether or not used in sections 1707.01 to 1707.50 of the~~ 26368
~~Revised Code, insofar as the definitions are not inconsistent~~ 26369
~~with these sections.~~ For the purpose of ~~rules and forms,~~ the 26370
division may classify securities, persons, and matters within 26371
its jurisdiction, and prescribe different requirements for 26372
different classes. 26373

(2) Notwithstanding sections 121.71 to 121.75 of the 26374

Revised Code, the division may incorporate by reference into its 26375
rules any statute enacted by the United States congress or any 26376
rule, regulation, or form promulgated by the securities and 26377
exchange commission, or by another federal agency, in a manner 26378
that also incorporates all future amendments to the statute, 26379
rule, regulation, or form. 26380

(B) No rule, form, or order may be made, amended, or 26381
rescinded unless the division finds that the action is necessary 26382
or appropriate in the public interest or for the protection of 26383
investors, clients, prospective clients, state retirement 26384
systems, or the workers' compensation system and consistent with 26385
the purposes fairly intended by the policy and provisions of 26386
sections 1707.01 to 1707.50 of the Revised Code. In prescribing 26387
rules and forms and in otherwise administering sections 1707.01 26388
to 1707.50 of the Revised Code, the division may cooperate with 26389
the securities administrators of the other states and the 26390
securities and exchange commission with a view of effectuating 26391
the policy of this section to achieve maximum uniformity in the 26392
form and content of registration statements, applications, 26393
reports, and overall securities regulation wherever practicable. 26394

(C) The division may by rule or order prescribe: 26395

(1) The form and content of financial statements required 26396
under sections 1707.01 to 1707.50 of the Revised Code; 26397

(2) The circumstances under which consolidated financial 26398
statements will be filed; 26399

(3) Whether any required financial statements shall be 26400
certified by independent or certified public accountants. All 26401
financial statements shall be prepared in accordance with 26402
generally accepted accounting practices. 26403

(D) All rules and forms of the division shall be published; and in addition to fulfilling the requirements of Chapter 119. of the Revised Code, the division shall prescribe, and shall publish and make available its rules regarding the sale of securities, the administration of sections 1707.01 to 1707.50 of the Revised Code, and the procedure and practice before the division.

(E) (1) No provision of sections 1707.01 to 1707.50 of the Revised Code imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the division of securities, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason, except that the issuance of an order granting effectiveness to a registration under section 1707.09 or 1707.091 of the Revised Code for the purposes of this division shall not be deemed an order other than as the establishment of the fact of registration.

(2) No provision of sections 1707.01 to 1707.50 of the Revised Code imposing any liability, penalty, sanction, or disqualification applies to any act done or omitted in good faith in conformity with either of the following:

(a) Any provision of sections 1707.01 to 1707.50 of the Revised Code that incorporates by reference a federal statute, rule, regulation, or form;

(b) Any rule, form, or order of the division that incorporates by reference a federal statute, rule, regulation, or form.

Division (E) (2) of this section applies notwithstanding

that the incorporation by reference, or any application of the 26433
incorporated provision, is later determined by judicial or other 26434
authority to be unconstitutional or invalid for any reason. 26435

Sec. 1707.471. (A) A person that is eligible for a 26436
restitution assistance award under section 1707.47 of the 26437
Revised Code may submit an application for restitution 26438
assistance to the division in a manner and form prescribed by 26439
the division of securities. 26440

(B) To receive a restitution assistance award, the 26441
claimant shall submit an application to the division within one 26442
hundred eighty days after the date of the final order. The 26443
division may grant an extension for good cause shown by the 26444
claimant. In no case shall the division accept an application 26445
that is received more than two years after the date of the final 26446
order. 26447

(C) The maximum award from the Ohio investor recovery fund 26448
created in section 1707.47 of the Revised Code for each claimant 26449
shall be the lesser of twenty-five thousand dollars or twenty- 26450
five per cent of the amount of monetary injury suffered by the 26451
victim as specified in the final order. 26452

(D) The state is subrogated to the rights of the person 26453
awarded restitution assistance under section 1707.47 of the 26454
Revised Code to the extent of the award. The subrogation rights 26455
are against the person that committed the securities violation 26456
or a person liable for the pecuniary loss. 26457

(E) The state may obtain a lien on the restitution 26458
assistance award in a separation action brought by the state or 26459
through state intervention in an action brought by or on behalf 26460
of the victim. 26461

(F) (1) No claimant shall knowingly file or cause to be 26462
filed an application for restitution assistance or documents 26463
supporting the application that contain false, incomplete, or 26464
misleading information in any material respect. 26465

(2) A claimant that violates division (F) (1) of this 26466
section shall forfeit all restitution assistance provided from 26467
the fund and shall be fined not more than ten thousand dollars 26468
by the division. 26469

(3) Notwithstanding section 1707.28 of the Revised Code, a 26470
proceeding to determine whether a violation of division (F) (1) 26471
of this section occurred shall be commenced not later than two 26472
years after the date on which the division discovered the 26473
violation or through reasonable diligence should have discovered 26474
the violation, whichever is earlier. 26475

(G) The division shall adopt rules ~~as necessary to~~ 26476
~~implement sections 1707.47 and 1707.471 of the Revised Code,~~ 26477
~~including rules governing the processes for both of the~~ 26478
following: 26479

(1) Reviewing applications for restitution assistance 26480
awards; 26481

(2) Suspending awards or making a prorated payment of 26482
awards when the fund balance approaches or reaches a balance 26483
below two hundred fifty thousand dollars. 26484

Sec. 1711.06. (A) Prior to the first day of December of 26485
each year, the director of agriculture shall set a date in 26486
January of the following year, on which the director shall meet 26487
with the presidents or other authorized delegates of 26488
agricultural societies which conduct fairs in compliance with 26489
this chapter and regulations of the department of agriculture. 26490

At such meeting the director shall consult with such presidents 26491
and delegates about the wants, prospects, and conditions of 26492
agricultural societies throughout the state. 26493

(B) Each society shall prepare and deliver an annual 26494
report to the director at or before each meeting required by 26495
division (A) of this section. 26496

(C) The director shall do both of the following: 26497

(1) Notify the president and the secretary of each society 26498
of the date of the annual meeting at least thirty days prior to 26499
the meeting; 26500

(2) Adopt rules in accordance with Chapter 119. of the 26501
Revised Code that provide for ~~both of the following:~~ 26502

~~(a) A~~ a uniform method for the election of the directors 26503
and officers of all agricultural societies that receive any 26504
support out of the state or county treasuries, except the date 26505
for holding the election; 26506

~~(b) Any other rules that the director determines are~~ 26507
~~necessary to carry out this chapter.~~ 26508

~~(D) Except for section 1711.11 of the Revised Code,~~ 26509
~~references made in this chapter to rules adopted by the director~~ 26510
~~mean rules adopted under division (C) of this section.~~ 26511

Sec. 1711.11. (A) No person shall operate any concession 26512
at any fair or exposition conducted by a county or independent 26513
agricultural society or by the Ohio expositions commission 26514
without first obtaining from the director of agriculture a 26515
license to do so under division (B) of this section, nor shall 26516
any officer, agent, or employee of a county or independent 26517
agricultural society or of the Ohio expositions commission grant 26518

a privilege or concession to any person to do so, unless the person holds a license.

For the purposes of this section, "concession" means any show, amusement other than an amusement ride as defined in section 993.01 of the Revised Code, game, or novelty stand operation at a fair or exposition, but does not include food or drink operations.

(B) The director shall issue a license only upon a written application containing a detailed description of the concession. The director shall prepare and furnish blank applications for licenses.

(C) The director shall not issue a license until the applicant has paid a fee of seventy dollars to the director. However, the director shall not collect a fee from a nonprofit organization that is recorded as such by the secretary of state or with the internal revenue service. The director shall pay the fee into the state treasury to the credit of the amusement ride inspection fund established by section 993.04 of the Revised Code.

(D) The director shall include on a license issued under this section a detailed description of the concession licensed. A license expires on the thirty-first day of December following the date of issue. A licensee shall keep the license in a conspicuous place where the licensee's concession is in operation.

(E) (1) The director shall employ and provide training for a chief inspector and additional inspectors and employees as necessary to administer and enforce this section. The director may appoint or contract with other persons to perform

inspections of concessions, provided that the persons meet the 26548
qualifications for inspectors established by rules adopted under 26549
division (G) of this section and are not owners or employees of 26550
owners of any concession subject to inspection under this 26551
section. No person shall inspect a concession who, within six 26552
months prior to the date of inspection, was an employee of the 26553
owner of the concession. 26554

(2) Before the director contracts with other persons to 26555
inspect concessions, the director shall seek the advice of the 26556
advisory council on amusement ride safety on whether to contract 26557
with those persons. The advice is not binding upon the director. 26558
After receiving the advice of the council, the director may 26559
proceed to contract for amusement ride inspectors and award the 26560
contract to the lowest responsive and responsible bidder in 26561
accordance with section 9.312 of the Revised Code. In order to 26562
determine the lowest responsive and responsible bid, the 26563
director, with the advice of the council, shall adopt rules 26564
governing the terms of the contract between the department of 26565
agriculture and the inspector. The rules shall prescribe the 26566
training and work experience required of an inspector, any 26567
insurance or bonds required of an inspector, and all the 26568
services the inspector will be required to perform on behalf of 26569
the department in an efficient professional manner. 26570

(F) This section does not require the officers of any 26571
county or independent agricultural society or of the Ohio 26572
expositions commission to grant any privilege or concession to 26573
any licensee. 26574

(G) The director shall enforce this section and, in 26575
accordance with Chapter 119. of the Revised Code, adopt ~~all~~ 26576
rules ~~that are necessary for its enforcement~~ for the 26577

qualifications of inspectors employed and trained under division 26578
(E) of this section. If the director finds that this section has 26579
been violated or that the licensee has been dishonest or has 26580
been fraudulent in dealings with the public, the director, in 26581
accordance with Chapter 119. of the Revised Code, shall revoke 26582
the licensee's license or fine the licensee not more than one 26583
thousand dollars, or both. The director, for a period not 26584
exceeding two years from the date of revocation, may refuse to 26585
issue another license to a person for a concession for which the 26586
person's license has been revoked. Notwithstanding section 26587
119.12 of the Revised Code, all appeals from any fine by, or 26588
order of, the director shall be to the court of common pleas of 26589
the county where the place of business of the person is located 26590
or to the common pleas court of the county in which the person 26591
is a resident or in which the concession is located. 26592

(H) Any person holding a license issued under this section 26593
who permits or tolerates at any place on the fairground where 26594
the person's concession is in operation, any immoral show, 26595
lottery device, game of chance, or gambling of any kind, 26596
including pool selling and paddle wheels, or who violates the 26597
terms of the license issued to the person, shall forfeit the 26598
license, and the director shall not issue any other license to 26599
the person until after a period of two years from the 26600
forfeiture. For the purposes of this division, "lottery device," 26601
"game of chance," and "gambling of any kind" do not include the 26602
sale of lottery tickets by the state lottery commission pursuant 26603
to Chapter 3770. of the Revised Code at the state fairground 26604
during the state fair. For the purposes of this section and 26605
section 1711.09 of the Revised Code, contests, games, 26606
tournaments, and other activities, the outcome of which is 26607
predominantly determined by the skill of the contestants, 26608

participants, or players, whether or not the contestants, 26609
participants, or players pay a price for the opportunity to win 26610
a prize, do not constitute a game of chance or gambling within 26611
the meaning, purpose, and intent of this section and section 26612
1711.09 of the Revised Code or sections 2915.01 to 2915.04 of 26613
the Revised Code. The foregoing definition does not apply where 26614
the contest, game, tournament, or other activity contains or 26615
includes any mechanical or physical device which directly or 26616
indirectly impedes, impairs, or thwarts the skill of the 26617
contestant, participant, or player. 26618

Sec. 1733.22. (A) A credit union may provide, at its 26619
expense, a director or committee member reasonable health, 26620
accident, and related types of personal insurance protection. A 26621
director or committee member is entitled, subject to rules 26622
adopted under section 1733.411 of the Revised Code and when so 26623
authorized by the board of directors, to reimbursement for the 26624
director's or committee member's expenses incurred in connection 26625
with the business of the credit union. 26626

(B) A credit union may provide any of the following to its 26627
directors and supervisory audit committee members: 26628

(1) Reasonable compensation for their service as directors 26629
or supervisory audit committee members; 26630

(2) Gifts of minimal value; 26631

(3) Insurance coverage or other benefits that are 26632
available to employees generally; 26633

(4) Reimbursement for reasonable expenses incurred on 26634
behalf of themselves and their spouses in the performance of 26635
their duties as directors or supervisory audit committee 26636
members. 26637

~~(C) The superintendent of financial institutions may, in accordance with Chapter 119. of the Revised Code, adopt any rule necessary for the implementation of this section.~~ 26638
26639
26640

Sec. 1733.41. In addition to the specific authority given 26641
the superintendent of credit unions by other sections of this 26642
chapter, the superintendent may from time to time make, issue, 26643
amend, and rescind ~~such rules and orders as he may consider~~ 26644
~~necessary or appropriate to further the purposes of this chapter~~ 26645
~~or to protect the public interest, including rules defining~~ 26646
accounting, technical, trade, and other terms, ~~whether or not~~ 26647
~~used in this chapter,~~ insofar as such rules do not contradict 26648
this chapter. Without limiting ~~his~~ the superintendent's power 26649
under this chapter, the superintendent may specify terms to be 26650
included in the articles or code of regulations of credit 26651
unions, requirements for notice of meetings of members, required 26652
and prohibited practices related to solicitation of proxies, 26653
limitations on credit unions' borrowing and lending practices, 26654
including loans to credit union employees, the form of and 26655
practices used in accounting for credit unions, including the 26656
form of financial statements and other records kept, the 26657
character of investments credit unions may make, and the 26658
operation of a credit union in dissolving or liquidating or 26659
petitioning for reorganization. ~~The superintendent shall not~~ 26660
~~prescribe uniform rules or provisions in regulations without due~~ 26661
~~regard for the differences among credit unions. For the purpose~~ 26662
~~of his rules, the superintendent may classify credit unions,~~ 26663
~~persons, and matters within his jurisdiction and prescribed~~ 26664
~~different requirements for different classes of credit unions,~~ 26665
~~persons, or matters.~~ Rules promulgated pursuant to this section 26666
shall be made subject to sections 119.01 to 119.13 of the 26667
Revised Code. 26668

Sec. 1739.05. (A) A multiple employer welfare arrangement 26669
that is created pursuant to sections 1739.01 to 1739.22 of the 26670
Revised Code and that operates a group self-insurance program 26671
may be established only if any of the following applies: 26672

(1) The arrangement has and maintains a minimum enrollment 26673
of three hundred employees of two or more employers. 26674

(2) The arrangement has and maintains a minimum enrollment 26675
of three hundred self-employed individuals. 26676

(3) The arrangement has and maintains a minimum enrollment 26677
of three hundred employees or self-employed individuals in any 26678
combination of divisions (A) (1) and (2) of this section. 26679

(B) A multiple employer welfare arrangement that is 26680
created pursuant to sections 1739.01 to 1739.22 of the Revised 26681
Code and that operates a group self-insurance program shall 26682
comply with all laws applicable to self-funded programs in this 26683
state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 26684
3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 26685
3901.491, 3902.01 to 3902.14, 3923.041, 3923.24, 3923.282, 26686
3923.30, 3923.301, 3923.38, 3923.602, 3923.63, 3923.80, 3923.84, 26687
3923.85, 3923.851, 3923.86, 3923.87, 3923.89, 3923.90, 3924.031, 26688
3924.032, and 3924.27 of the Revised Code. 26689

(C) A multiple employer welfare arrangement created 26690
pursuant to sections 1739.01 to 1739.22 of the Revised Code 26691
shall solicit enrollments only through agents or solicitors 26692
licensed pursuant to Chapter 3905. of the Revised Code to sell 26693
or solicit sickness and accident insurance. 26694

(D) A multiple employer welfare arrangement created 26695
pursuant to sections 1739.01 to 1739.22 of the Revised Code 26696
shall provide benefits only to individuals who are members, 26697

employees of members, or the dependents of members or employees, 26698
or are eligible for continuation of coverage under section 26699
1751.53 or 3923.38 of the Revised Code or under Title X of the 26700
"Consolidated Omnibus Budget Reconciliation Act of 1985," 100 26701
Stat. 227, 29 U.S.C.A. 1161, as amended. 26702

(E) A multiple employer welfare arrangement created 26703
pursuant to sections 1739.01 to 1739.22 of the Revised Code is 26704
subject to, and shall comply with, sections 3903.81 to ~~3903.93~~ 26705
3903.92 of the Revised Code in the same manner as other life or 26706
health insurers, as defined in section 3903.81 of the Revised 26707
Code. 26708

Sec. 1739.18. (A) A multiple employer welfare arrangement 26709
operating a group self-insurance program shall contract only 26710
with a third-party administrator that meets all of the following 26711
conditions: 26712

~~(A)~~ (1) The third-party administrator has and maintains a 26713
fidelity bond as required by the "Employee Retirement Income 26714
Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 1001, as 26715
amended. 26716

~~(B)~~ (2) The third-party administrator has and maintains 26717
errors and omissions coverage or other appropriate liability 26718
insurance in an amount set forth in rules adopted by the 26719
superintendent. The arrangement shall file with the 26720
superintendent a certificate of the insurer or other appropriate 26721
evidence of such coverage or insurance. 26722

~~(C)~~ (3) The third-party administrator maintains an office 26723
in this state for the payment, processing, adjustment, and 26724
settlement of the claims of the arrangement. 26725

(B) The superintendent of insurance shall adopt rules 26726

setting the amount of errors and omissions coverage or other 26727
appropriate liability insurance required under division (A) (2) 26728
of this section. 26729

Sec. 1751.72. (A) As used in this section: 26730

(1) "Chronic condition" means a medical condition that has 26731
persisted after reasonable efforts have been made to relieve or 26732
cure its cause and has continued, either continuously or 26733
episodically, for longer than six continuous months. 26734

(2) "Clinical peer" means a health care practitioner in 26735
the same, or in a similar, specialty that typically manages the 26736
medical condition, procedure, or treatment under review. 26737

(3) "Covered person" means a person receiving coverage for 26738
health services under a policy, contract, or agreement issued by 26739
a health insuring corporation. 26740

(4) "Emergency services" has the same meaning as in 26741
section 1753.28 of the Revised Code. 26742

(5) "Fraudulent or materially incorrect information" means 26743
any type of intentional deception or misrepresentation made by a 26744
person with the knowledge that the deception could result in 26745
some unauthorized benefit to the covered person in question. 26746

(6) "Health care practitioner" has the same meaning as in 26747
section 3701.74 of the Revised Code. 26748

(7) "NCPDP SCRIPT standard" means the national council for 26749
prescription drug programs SCRIPT standard version 201310 or the 26750
most recent standard adopted by the the United States department 26751
of health and human services. 26752

(8) "Prior authorization requirement" means any practice 26753
implemented by a health insuring corporation in which coverage 26754

of a health care service, device, or drug is dependent upon a covered person or a health care practitioner obtaining approval from the health insuring corporation prior to the service, device, or drug being performed, received, or prescribed, as applicable. "Prior authorization" includes prospective or utilization review procedures conducted prior to providing a health care service, device, or drug.

(9) "Urgent care services" means a medical care or other service for a condition where application of the timeframe for making routine or non-life threatening care determinations is either of the following:

(a) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state;

(b) In the opinion of a practitioner with knowledge of the patient's medical or behavioral condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(10) "Utilization review" and "utilization review organization" have the same meanings as in section 1751.77 of the Revised Code.

(B) If a policy, contract, or agreement issued by a health insuring corporation contains a prior authorization requirement, then all of the following apply:

(1) On or before January 1, 2018, the health insuring corporation shall permit health care practitioners to access the prior authorization form through the applicable electronic software system.

(2) (a) For policies issued on or after January 1, 2018,

the health insuring corporation or other payer acting on behalf 26784
of the health insuring corporation, shall accept prior 26785
authorization requests through a secure electronic transmission. 26786

(b) For policies issued on or after January 1, 2018, the 26787
health insuring corporation, a pharmacy benefit manager 26788
responsible for handling prior authorization requests, or other 26789
payer acting on behalf of the health insuring corporation shall 26790
accept and respond to prior prescription benefit authorization 26791
requests through a secure electronic transmission using NCPDP 26792
SCRIPT standard ePA transactions, and for prior medical benefit 26793
authorization requests through a secure electronic transmission 26794
using standards established by the council for affordable 26795
quality health care on operating rules for information exchange 26796
or its successor. 26797

(c) For purposes of division (B)(2) of this section, 26798
neither of the following shall be considered a secure electronic 26799
transmission: 26800

(i) A facsimile; 26801

(ii) A proprietary payer portal for prescription drug 26802
requests that does not use NCPDP SCRIPT standard. 26803

(3) For policies issued on or after January 1, 2018, a 26804
health care practitioner and health insuring corporation may 26805
enter into a contractual arrangement under which the health 26806
insuring corporation agrees to process prior authorization 26807
requests that are not submitted electronically because of the 26808
financial hardship that electronic submission of prior 26809
authorization requests would create for the health care 26810
practitioner or if internet connectivity is limited or 26811
unavailable where the health care practitioner is located. 26812

(4) (a) For policies issued on or after January 1, 2018, if the health care practitioner submits the request for prior authorization as described in divisions (B) (1) and (2) of this section, the health insuring corporation shall respond to all prior authorization requests within forty-eight hours for urgent care services, or ten calendar days for any prior authorization request that is not for an urgent care service, of the time the request is received by the health insuring corporation. Division (B) (4) of this section does not apply to emergency services.

(b) The response required under division (B) (4) (a) of this section shall indicate whether the request is approved or denied. If the prior authorization is denied, the health insuring corporation shall provide the specific reason for the denial.

(c) If the prior authorization request is incomplete, the health insuring corporation shall indicate the specific additional information that is required to process the request.

(5) (a) For policies issued on or after January 1, 2018, if a health care practitioner submits a prior authorization request as described in divisions (B) (1) and (2) of this section, the health insuring corporation shall provide an electronic receipt to the health care practitioner acknowledging that the prior authorization request was received.

(b) For policies issued on or after January 1, 2018, if a health insuring corporation requests additional information that is required to process a prior authorization request as described in division (B) (4) (c) of this section, the health care practitioner shall provide an electronic receipt to the health insuring corporation acknowledging that the request for additional information was received.

(6) (a) For policies issued on or after January 1, 2017, 26843
for a prior approval related to a chronic condition, the health 26844
insuring corporation shall honor a prior authorization approval 26845
for an approved drug for the lesser of the following from the 26846
date of the approval: 26847

(i) Twelve months; 26848

(ii) The last day of the covered person's eligibility 26849
under the policy, contract, or agreement. 26850

(b) The duration of all other prior authorization 26851
approvals shall be dictated by the policy, contract, or 26852
agreement issued by the health insuring corporation. 26853

(c) A health insuring corporation may, in relation to a 26854
prior approval under division (B) (6) (a) of this section, require 26855
a health care practitioner to submit information to the health 26856
insuring corporation indicating that the patient's chronic 26857
condition has not changed. 26858

(i) The request for information by the health insuring 26859
corporation and the response by the health care practitioner 26860
shall be in an electronic format, which may be by electronic 26861
mail or other electronic communication. 26862

(ii) The frequency of the submission of requested 26863
information shall be consistent with medical or scientific 26864
evidence as defined in section 3922.01 of the Revised Code, but 26865
shall not be required more frequently than quarterly. 26866

(iii) If the health care practitioner does not respond 26867
within five calendar days from the date the request was 26868
received, the health insuring corporation may terminate the 26869
twelve-month approval. 26870

(d) A twelve-month approval provided under division (B) (6) 26871
(a) of this section is no longer valid and automatically 26872
terminates if there are changes to federal or state laws or 26873
federal regulatory guidance or compliance information 26874
prescribing that the drug in question is no longer approved or 26875
safe for the intended purpose. 26876

(e) A twelve-month approval provided under division (B) (6) 26877
(a) of this section does not apply to and is not required for 26878
any of the following: 26879

(i) Medications that are prescribed for a non-maintenance 26880
condition; 26881

(ii) Medications that have a typical treatment of less 26882
than one year; 26883

(iii) Medications that require an initial trial period to 26884
determine effectiveness and tolerability, beyond which a one- 26885
year, or greater, prior authorization period will be given; 26886

(iv) Medications where there is medical or scientific 26887
evidence as defined in section 3922.01 of the Revised Code that 26888
do not support a twelve-month prior approval; 26889

(v) Medications that are a schedule I or II controlled 26890
substance or any opioid analgesic or benzodiazepine, as defined 26891
in section 3719.01 of the Revised Code; 26892

(vi) Medications that are not prescribed by an in-network 26893
provider as part of a care management program. 26894

(7) For policies issued on or after January 1, 2017, a 26895
health insuring corporation may, but is not required to, provide 26896
the twelve-month approval prescribed in division (B) (6) (a) of 26897
this section for a prescription drug that meets either of the 26898

following: 26899

(a) The drug is prescribed or administered to treat a rare 26900
medical condition and pursuant to medical or scientific evidence 26901
as defined in section 3922.01 of the Revised Code. 26902

(b) Medications that are controlled substances not 26903
included in division (B) (6) (e) (v) of this section. 26904

For purposes of division (B) (7) of this section, "rare 26905
medical condition" means any disease or condition that affects 26906
fewer than two hundred thousand individuals in the United 26907
States. 26908

(8) Nothing in division (B) (6) or (7) of this section 26909
prohibits the substitution, in accordance with section 4729.38 26910
of the Revised Code, of any drug that has received a twelve- 26911
month approval under division (B) (6) (a) of this section when 26912
there is a release of either of the following: 26913

(a) A United States food and drug administration approved 26914
comparable brand product or a generic counterpart of a brand 26915
product that is listed as therapeutically equivalent in the 26916
United States food and drug administration's publication titled 26917
approved drug products with therapeutic equivalence evaluations; 26918

(b) An interchangeable biological product, as defined in 26919
section 3715.01 of the Revised Code. 26920

(9) (a) For policies issued on or after January 1, 2017, 26921
upon written request, a health insuring corporation shall permit 26922
a retrospective review for a claim that is submitted for a 26923
service where prior authorization was required but not obtained 26924
if the service in question meets all of the following: 26925

(i) The service is directly related to another service for 26926

which prior approval has already been obtained and that has
already been performed.

(ii) The new service was not known to be needed at the
time the original prior authorized service was performed.

(iii) The need for the new service was revealed at the
time the original authorized service was performed.

(b) Once the written request and all necessary information
is received, the health insuring corporation shall review the
claim for coverage and medical necessity. The health insuring
corporation shall not deny a claim for such a new service based
solely on the fact that a prior authorization approval was not
received for the new service in question.

(10) (a) For policies issued on or after January 1, 2017,
the health insuring corporation shall disclose to all
participating health care practitioners any new prior
authorization requirement at least thirty days prior to the
effective date of the new requirement.

(b) The notice may be sent via electronic mail or standard
mail and shall be conspicuously entitled "Notice of Changes to
Prior Authorization Requirements." The notice is not required to
contain a complete listing of all changes made to the prior
authorization requirements, but shall include specific
information on where the health care practitioner may locate the
information on the health insuring corporation's web site or, if
applicable, the health insuring corporation's portal.

(c) All participating health care practitioners shall
promptly notify the health insuring corporation of any changes
to the health care practitioner's electronic mail or standard
mail address.

(11) (a) For policies issued on or after January 1, 2017, 26956
the health insuring corporation shall make available to all 26957
participating health care practitioners on its web site or 26958
provider portal a listing of its prior authorization 26959
requirements, including specific information or documentation 26960
that a practitioner must submit in order for the prior 26961
authorization request to be considered complete. 26962

(b) The health insuring corporation shall make available 26963
on its web site information about the policies, contracts, or 26964
agreements offered by the health insuring corporation that 26965
clearly identifies specific services, drugs, or devices to which 26966
a prior authorization requirement exists. 26967

(12) For policies issued on or after January 1, 2018, the 26968
health insuring corporation shall establish a streamlined appeal 26969
process relating to adverse prior authorization determinations 26970
that shall include all of the following: 26971

(a) For urgent care services, the appeal shall be 26972
considered within forty-eight hours after the health insuring 26973
corporation receives the appeal. 26974

(b) For all other matters, the appeal shall be considered 26975
within ten calendar days after the health insuring corporation 26976
receives the appeal. 26977

(c) The appeal shall be between the health care 26978
practitioner requesting the service in question and a clinical 26979
peer. 26980

(d) If the appeal does not resolve the disagreement, 26981
either the covered person or an authorized representative as 26982
defined in section 3922.01 of the Revised Code may request an 26983
external review under Chapter 3922. of the Revised Code to the 26984

extent Chapter 3922. of the Revised Code is applicable.	26985
(C) For policies issued on or after January 1, 2017,	26986
except in cases of fraudulent or materially incorrect	26987
information, a health insuring corporation shall not	26988
retroactively deny a prior authorization for a health care	26989
service, drug, or device when all of the following are met:	26990
(1) The health care practitioner submits a prior	26991
authorization request to the health insuring corporation for a	26992
health care service, drug, or device.	26993
(2) The health insuring corporation approves the prior	26994
authorization request after determining that all of the	26995
following are true:	26996
(a) The patient is eligible under the health benefit plan.	26997
(b) The health care service, drug, or device is covered	26998
under the patient's health benefit plan.	26999
(c) The health care service, drug, or device meets the	27000
health insuring corporation's standards for medical necessity	27001
and prior authorization.	27002
(3) The health care practitioner renders the health care	27003
service, drug, or device pursuant to the approved prior	27004
authorization request and all of the terms and conditions of the	27005
health care practitioner's contract with the health insuring	27006
corporation.	27007
(4) On the date the health care practitioner renders the	27008
prior approved health care service, drug, or device, all of the	27009
following are true:	27010
(a) The patient is eligible under the health benefit plan.	27011

(b) The patient's condition or circumstances related to 27012
the patient's care has not changed. 27013

(c) The health care practitioner submits an accurate claim 27014
that matches the information submitted by the health care 27015
practitioner in the approved prior authorization request. 27016

(5) If the health care practitioner submits a claim that 27017
includes an unintentional error and the error results in a claim 27018
that does not match the information originally submitted by the 27019
health care practitioner in the approved prior authorization 27020
request, upon receiving a denial of services from the health 27021
insuring corporation, the health care practitioner may resubmit 27022
the claim pursuant to division (C) of this section with the 27023
information that matches the information included in the 27024
approved prior authorization. 27025

(D) Any provision of a contractual arrangement entered 27026
into between a health insuring corporation and a health care 27027
practitioner or beneficiary that is contrary to divisions (A) to 27028
(C) of this section is unenforceable. 27029

(E) For policies issued on or after January 1, 2017, 27030
committing a series of violations of this section that, taken 27031
together, constitute a practice or pattern shall be considered 27032
an unfair and deceptive practice under sections 3901.19 to 27033
3901.26 of the Revised Code. 27034

(F) The superintendent of insurance may adopt rules in 27035
accordance with Chapter 119. of the Revised Code ~~as necessary to~~ 27036
~~implement the provisions of this section~~defining a medicare 27037
supplement policy of insurance. 27038

(G) This section does not apply to any of the following 27039
types of coverage: a policy, contract, certificate, or agreement 27040

that covers only a specified accident, accident only, credit, 27041
dental, disability income, long-term care, hospital indemnity, 27042
supplemental coverage as described in section 3923.37 of the 27043
Revised Code, specified disease, or vision care; a dental 27044
benefit that is offered as a part of a policy, contract, 27045
certificate, or agreement offered by a health insuring 27046
corporation; coverage issued as a supplement to liability 27047
insurance; insurance arising out of workers' compensation or 27048
similar law; automobile medical payment insurance; insurance 27049
under which benefits are payable with or without regard to fault 27050
and which is statutorily required to be contained in any 27051
liability insurance policy or equivalent self-insurance; a 27052
medicare supplement policy of insurance as defined by the 27053
superintendent of insurance by rule; coverage under a plan 27054
through medicare or the federal employees benefit program; or 27055
any coverage issued under Chapter 55 of Title 10 of the United 27056
States Code and any coverage issued as a supplement to that 27057
coverage. 27058

Sec. 1753.09. (A) Except as provided in division (D) of 27059
this section, prior to terminating the participation of a 27060
provider on the basis of the participating provider's failure to 27061
meet the health insuring corporation's standards for quality or 27062
utilization in the delivery of health care services, a health 27063
insuring corporation shall give the participating provider 27064
notice of the reason or reasons for its decision to terminate 27065
the provider's participation and an opportunity to take 27066
corrective action. The health insuring corporation shall develop 27067
a performance improvement plan in conjunction with the 27068
participating provider. If after being afforded the opportunity 27069
to comply with the performance improvement plan, the 27070
participating provider fails to do so, the health insuring 27071

corporation may terminate the participation of the provider. 27072

(B) (1) A participating provider whose participation has 27073
been terminated under division (A) of this section may appeal 27074
the termination to the appropriate medical director of the 27075
health insuring corporation. The medical director shall give the 27076
participating provider an opportunity to discuss with the 27077
medical director the reason or reasons for the termination. 27078

(2) If a satisfactory resolution of a participating 27079
provider's appeal cannot be reached under division (B) (1) of 27080
this section, the participating provider may appeal the 27081
termination to a panel composed of participating providers who 27082
have comparable or higher levels of education and training than 27083
the participating provider making the appeal. A representative 27084
of the participating provider's specialty shall be a member of 27085
the panel, if possible. This panel shall hold a hearing, and 27086
shall render its recommendation in the appeal within thirty days 27087
after holding the hearing. The recommendation shall be presented 27088
to the medical director and to the participating provider. 27089

(3) The medical director shall review and consider the 27090
panel's recommendation before making a decision. The decision 27091
rendered by the medical director shall be final. 27092

(C) A provider's status as a participating provider shall 27093
remain in effect during the appeal process set forth in division 27094
(B) of this section unless the termination was based on any of 27095
the reasons listed in division (D) of this section. 27096

(D) Notwithstanding division (A) of this section, a 27097
provider's participation may be immediately terminated if the 27098
participating provider's conduct presents an imminent risk of 27099
harm to an enrollee or enrollees; or if there has occurred 27100

unacceptable quality of care, fraud, patient abuse, loss of 27101
clinical privileges, loss of professional liability coverage, 27102
incompetence, or loss of authority to practice in the 27103
participating provider's field; or if a governmental action has 27104
impaired the participating provider's ability to practice. 27105

(E) Divisions (A) to (D) of this section apply only to 27106
providers who are natural persons. 27107

(F) (1) Nothing in this section prohibits a health insuring 27108
corporation from rejecting a provider's application for 27109
participation, or from terminating a participating provider's 27110
contract, if the health insuring corporation determines that the 27111
health care needs of its enrollees are being met and no need 27112
exists for the provider's or participating provider's services. 27113

(2) Nothing in this section shall be construed as 27114
prohibiting a health insuring corporation from terminating a 27115
participating provider who does not meet the terms and 27116
conditions of the participating provider's contract. 27117

(3) Nothing in this section shall be construed as 27118
prohibiting a health insuring corporation from terminating a 27119
participating provider's contract pursuant to any provision of 27120
the contract described in division (G) (2) of section 3963.02 of 27121
the Revised Code, except that, notwithstanding any provision of 27122
a contract described in that division, this section applies to 27123
the termination of a participating provider's contract for any 27124
of the causes described in divisions (A), (D), and (F) (1) and 27125
(2) of this section. 27126

~~(G) The superintendent of insurance may adopt rules as 27127
necessary to implement and enforce sections 1753.06, 1753.07, 27128
and 1753.09 of the Revised Code. Such rules shall be adopted in 27129~~

accordance with Chapter 119. of the Revised Code.	27130
Sec. 1753.31. As used in sections 1753.31 to 1753.43	27131
<u>1753.42</u> of the Revised Code:	27132
(A) "Adjusted RBC report" means an RBC report that has	27133
been adjusted by the superintendent of insurance in accordance	27134
with division (C) of section 1753.32 of the Revised Code.	27135
(B) "Authorized control level RBC" means the number	27136
determined under the risk-based capital formula in accordance	27137
with the RBC instructions.	27138
(C) "Company action level RBC" means the product of 2.0	27139
and a health insuring corporation's authorized control level	27140
RBC.	27141
(D) "Corrective order" means an order issued by the	27142
superintendent of insurance specifying corrective actions that	27143
the superintendent determines are required.	27144
(E) "Domestic health insuring corporation" means a health	27145
insuring corporation domiciled in this state.	27146
(F) "Foreign health insuring corporation" means a health	27147
insuring corporation holding a certificate of authority under	27148
chapter 1751. of the Revised Code that is domiciled outside of	27149
this state.	27150
(G) "Mandatory control level RBC" means the product of .70	27151
and a health insuring corporation's authorized control level	27152
RBC.	27153
(H) "NAIC" means the national association of insurance	27154
commissioners.	27155
(I) "Net worth" means statutory capital and surplus.	27156

(J) "RBC" means risk-based capital.	27157
(K) "RBC instructions" means the RBC report, including risk-based capital instructions, as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC. "RBC instructions" also includes any modifications adopted by the superintendent of insurance, as the superintendent considers to be necessary.	27158 27159 27160 27161 27162 27163
(L) "RBC level" means a health insuring corporation's action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC.	27164 27165 27166
(M) "RBC plan" means a comprehensive financial plan containing the elements specified in division (B) of section 1753.33 of the Revised Code.	27167 27168 27169
(N) "RBC report" means the report required by section 1753.32 of the Revised Code.	27170 27171
(O) "Regulatory action level RBC" means the product of 1.5 and a health insuring corporation's authorized control level RBC.	27172 27173 27174
(P) "Revised RBC plan" means an RBC plan rejected by the superintendent of insurance and then revised by a health insuring corporation with or without incorporating the superintendent's recommendations.	27175 27176 27177 27178
(Q) "Total adjusted capital" means the sum of both of the following:	27179 27180
(1) A health insuring corporation's net worth as determined in accordance with the statutory accounting applicable to the annual financial statements required to be filed under section 1751.32 of the Revised Code;	27181 27182 27183 27184

(2) Such other items, if any, as the RBC instructions may provide. 27185
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Sec. 1753.32. (A) Each domestic health insuring corporation shall, on or prior to the first day of March of every year, prepare and submit to the superintendent of insurance a report on its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, a domestic health insuring corporation shall file its RBC report as follows: 27187
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(1) With the NAIC, in accordance with the RBC instructions; 27195
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(2) With the insurance regulatory authority of any other state in which the health insuring corporation is authorized to do business, if the insurance regulatory authority of that state has sent a written request to the health insuring corporation for the RBC report. The health insuring corporation shall file an RBC report with the requesting state no later than the later of: 27197
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(a) Fifteen days after the health insuring corporation's receipt of the insurance regulatory authority's request for the RBC report; 27204
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(b) Prior to the first day of March. 27207

(B) A health insuring corporation's RBC levels shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take the following risks into account, and may adjust for the covariance between these risks, as determined in each case by applying the factors in the manner set forth in the RBC instructions: 27208
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(1) Asset risk;	27214
(2) Credit risk;	27215
(3) Underwriting risk;	27216
(4) All other business risks and such other relevant risks as are set forth in the RBC instructions.	27217 27218
(C) If a domestic health insuring corporation files an RBC report that in the judgment of the superintendent is inaccurate, the superintendent shall adjust the RBC report to correct the inaccuracy and then shall provide a copy of the adjusted RBC report to the health insuring corporation. The superintendent shall also provide the health insuring corporation with a statement of the reasons for any adjustment.	27219 27220 27221 27222 27223 27224 27225
(D) In enacting sections 1753.31 to 1753.43 <u>1753.42</u> of the Revised Code, the general assembly finds all of the following:	27226 27227
(1) An excess of capital over the amount produced by the risk-based capital requirements of sections 1753.31 to 1753.43 <u>1753.42</u> of the Revised Code, and the formulas, schedules, and instructions referenced in sections 1753.31 to 1753.43 <u>1753.42</u> of the Revised Code, is desirable in the business of insurance.	27228 27229 27230 27231 27232
(2) Health insuring corporations, accordingly, should seek to maintain capital above the RBC levels required by sections 1753.31 to 1753.43 <u>1753.42</u> of the Revised Code.	27233 27234 27235
(3) Additional capital is used and is useful in the business of insurance, helping to secure a health insuring corporation against various risks inherent in, or affecting, the business of insurance, which risks are not accounted for or are only partially measured by the risk-based capital requirements of sections 1753.31 to 1753.43 <u>1753.42</u> of the Revised Code.	27236 27237 27238 27239 27240 27241

Sec. 1753.33. (A) For purposes of sections 1753.31 to 27242
~~1753.43~~ 1753.42 of the Revised Code, a "company action level 27243
event" is any of the following events: 27244

(1) A health insuring corporation's filing of an RBC 27245
report that indicates that the health insuring corporation's 27246
total adjusted capital is greater than or equal to its 27247
regulatory action level RBC but less than its company action 27248
level RBC; 27249

(2) A health insuring corporation's filing of an RBC 27250
report that indicates that the health insuring corporation's 27251
total adjusted capital is greater than or equal to its company 27252
action level RBC but less than the product of its authorized 27253
control level RBC and 3.0, and that triggers the trend test 27254
determined in accordance with the trend test calculation 27255
included in the RBC instructions; 27256

(3) The notification by the superintendent of insurance to 27257
a health insuring corporation of an adjustment to the health 27258
insuring corporation's RBC report, which adjusted RBC report 27259
shows the health insuring corporation's total adjusted capital 27260
within the range described in division (A) (1) of this section, 27261
provided that the health insuring corporation does not challenge 27262
the adjusted RBC report under section 1753.37 of the Revised 27263
Code; 27264

(4) The notification by the superintendent to a health 27265
insuring corporation, following the hearing required under 27266
section 1753.37 of the Revised Code, that the superintendent has 27267
rejected the health insuring corporation's challenge to an 27268
adjusted RBC report showing the health insuring corporation's 27269
total adjusted capital within the range described in division 27270
(A) (1) of this section. 27271

(B) In the case of a company action level event, the health insuring corporation shall prepare and submit to the superintendent an RBC plan that shall do all of the following:

(1) Identify the conditions that contributed to the company action level event;

(2) Contain proposals of corrective actions that the health insuring corporation intends to take to eliminate the conditions contributing to the company action level event;

(3) Provide projections of the health insuring corporation's financial results in the current year and at least the two succeeding years, both in the absence of the proposed corrective actions and giving effect to the proposed corrective actions. The projections shall include projections of statutory balance sheets, operating income, net income, capital, surplus, and RBC levels. Projections for both new and renewal business may include separate projections for each major line of business, and may separately identify each significant income, expense, and benefit component of the projection.

(4) Identify the key assumptions impacting the health insuring corporation's projections made pursuant to division (B) (3) of this section, and describe the sensitivity of the projections to the assumptions;

(5) Identify the quality of, and problems associated with, the health insuring corporation's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and the use of reinsurance, if any, in each case.

(C) The RBC plan shall be submitted within forty-five days after a company action level event. However, if a health

insuring corporation has challenged an adjusted RBC report 27301
pursuant to section 1753.37 of the Revised Code, an RBC plan 27302
need not be submitted unless the superintendent rejects the 27303
challenge following the hearing required under section 1753.37 27304
of the Revised Code. If the superintendent rejects the health 27305
insuring corporation's challenge, the RBC plan shall be 27306
submitted within forty-five days after the superintendent's 27307
notification to the health insuring corporation of the 27308
superintendent's rejection of the challenge. 27309

(D) (1) Within sixty days after a health insuring 27310
corporation submits an RBC plan to the superintendent, the 27311
superintendent shall either require the health insuring 27312
corporation to implement the RBC plan or notify the health 27313
insuring corporation that the RBC plan is unsatisfactory in the 27314
judgment of the superintendent. If the superintendent has 27315
determined that the RBC plan is unsatisfactory, the notification 27316
to the health insuring corporation shall set forth the reasons 27317
for the determination, and may set forth proposed revisions that 27318
will render the RBC plan satisfactory in the judgment of the 27319
superintendent. Upon its receipt of such notification from the 27320
superintendent, the health insuring corporation shall prepare 27321
and submit a revised RBC plan, which may incorporate by 27322
reference any revisions proposed by the superintendent. 27323

(2) If a health insuring corporation challenges, under 27324
section 1753.37 of the Revised Code, a notification by the 27325
superintendent that the health insuring corporation's RBC plan 27326
or a revised RBC plan is unsatisfactory, submission of a revised 27327
RBC plan need not be made unless the superintendent rejects the 27328
health insuring corporation's challenge and notifies the health 27329
insuring corporation of this rejection. A health insuring 27330
corporation shall submit a revised RBC plan to the 27331

superintendent within forty-five days after receiving 27332
notification from the superintendent that its RBC plan is 27333
unsatisfactory, or that its challenge to a notification made 27334
under division (D) (1) of this section has been rejected, as 27335
applicable. 27336

(E) Notwithstanding division (D) of this section, if the 27337
superintendent notifies a health insuring corporation that its 27338
RBC plan or revised RBC plan is unsatisfactory, the 27339
superintendent may, at the superintendent's discretion but 27340
subject to the health insuring corporation's right to a hearing 27341
under section 1753.37 of the Revised Code, specify in the 27342
notification that the notification constitutes a regulatory 27343
action level event. 27344

(F) Every domestic health insuring corporation that 27345
submits an RBC plan or revised RBC plan to the superintendent 27346
shall file a copy of the RBC plan or revised RBC plan with the 27347
insurance regulatory authority of every state in which the 27348
health insuring corporation is authorized to do business upon 27349
receiving the insurance regulatory authority's written request 27350
for a copy of the plan, if the state has a confidentiality law 27351
substantially similar to section 1753.38 of the Revised Code. 27352
The health insuring corporation shall file the copy in that 27353
state no later than the later of: 27354

(1) Fifteen days after receiving the request for a copy of 27355
the plan; 27356

(2) The date on which the RBC plan or revised RBC plan is 27357
filed pursuant to division (C) or (D) of this section. 27358

Sec. 1753.34. (A) For purposes of sections 1753.31 to 27359
~~1753.43~~ 1753.42 of the Revised Code, a "regulatory action level 27360

event" is any of the following events: 27361

(1) The filing of an RBC report by a health insuring 27362
corporation that indicates that the health insuring 27363
corporation's total adjusted capital is greater than or equal to 27364
its authorized control level RBC but less than its regulatory 27365
action level RBC; 27366

(2) The notification by the superintendent of insurance to 27367
a health insuring corporation of an adjustment to the health 27368
insuring corporation's RBC report, which adjusted RBC report 27369
shows the health insuring corporation's total adjusted capital 27370
within the range described in division (A) (1) of this section, 27371
provided that the health insuring corporation does not challenge 27372
the adjusted RBC report under section 1753.37 of the Revised 27373
Code; 27374

(3) The notification by the superintendent to a health 27375
insuring corporation, following the hearing required under 27376
section 1753.37 of the Revised Code, that the superintendent has 27377
rejected the health insuring corporation's challenge to an 27378
adjusted RBC report showing the health insuring corporation's 27379
total adjusted capital within the range described in division 27380
(A) (1) of this section; 27381

(4) The failure of a health insuring corporation to file 27382
an RBC report by the first day of March of every year, unless 27383
the health insuring corporation has provided an explanation for 27384
such failure that is satisfactory to the superintendent and has 27385
cured the failure within ten days after the filing date; 27386

(5) The failure of a health insuring corporation to submit 27387
an RBC plan to the superintendent within the time period set 27388
forth in division (C) of section 1753.33 of the Revised Code; 27389

(6) The notification by the superintendent to a health insuring corporation of both of the following:	27390 27391
(a) The RBC plan or revised RBC plan submitted by the health insuring corporation is unsatisfactory in the judgment of the superintendent;	27392 27393 27394
(b) The notification by the superintendent constitutes a regulatory action level event with respect to the health insuring corporation, provided that the health insuring corporation does not challenge the determination under section 1753.37 of the Revised Code.	27395 27396 27397 27398 27399
(7) The notification by the superintendent to a health insuring corporation, following the hearing required under section 1753.37 of the Revised Code, that the superintendent has rejected the health insuring corporation's challenge to the superintendent's determination under division (A)(6) of this section;	27400 27401 27402 27403 27404 27405
(8) The notification by the superintendent to a health insuring corporation that the superintendent has determined that the health insuring corporation has failed to adhere to its RBC plan or revised RBC plan, and this failure has had a substantial adverse effect on the ability of the health insuring corporation to eliminate the conditions leading to the company action level event in accordance with its RBC plan or revised RBC plan, provided that the health insuring corporation does not challenge this determination under section 1753.37 of the Revised Code;	27406 27407 27408 27409 27410 27411 27412 27413 27414
(9) The notification by the superintendent to a health insuring corporation, following the hearing required under section 1753.37 of the Revised Code, that the superintendent has rejected the health insuring corporation's challenge to the	27415 27416 27417 27418

superintendent's determination under division (A) (8) of this section. 27419
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(B) In the case of a regulatory action level event, the superintendent shall do all of the following: 27421
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(1) Require the health insuring corporation to prepare and submit an RBC plan or, if applicable, a revised RBC plan; 27423
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(2) Perform such examinations and analyses as the superintendent considers necessary of the assets, liabilities, and operations of the health insuring corporation, including a review of the health insuring corporation's RBC plan or revised RBC plan and the results of any sensitivity tests undertaken pursuant to the RBC instructions; 27425
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(3) Issue a corrective order, based upon the examinations and analyses performed under division (B) (2) of this section. 27431
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(C) (1) The RBC plan or revised RBC plan required by division (B) (1) of this section shall be submitted to the superintendent within forty-five days after the regulatory action level event, except by a health insuring corporation that files a challenge to an adjusted RBC report or revised RBC plan pursuant to section 1753.37 of the Revised Code. If the superintendent determines the challenge is frivolous, the time limit for the submission of the RBC plan or revised RBC plan shall not be altered by the filing of the challenge. 27433
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(2) If a health insuring corporation files a nonfrivolous challenge to an adjusted RBC report or revised RBC plan, the RBC plan or revised RBC plan required by division (B) (1) of this section shall only be submitted to the superintendent if the superintendent rejects the challenge following the hearing required under section 1753.37 of the Revised Code. If the 27442
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superintendent rejects the health insuring corporation's 27448
challenge, the RBC plan or revised RBC plan shall be submitted 27449
within forty-five days after the superintendent's notification 27450
to the health insuring corporation of the superintendent's 27451
rejection of the challenge. 27452

(D) The superintendent may retain actuaries, investment 27453
experts, and such other consultants, as may be necessary in the 27454
superintendent's judgment, to review a health insuring 27455
corporation's RBC plan or revised RBC plan, to examine or 27456
analyze the assets, liabilities, and operation of the health 27457
insuring corporation, and to formulate a corrective order for 27458
the health insuring corporation. The fees, costs, and expenses 27459
relating to these consultants shall be borne by the affected 27460
health insuring corporation. 27461

Sec. 1753.35. (A) For purposes of sections 1753.31 to 27462
~~1753.43~~ 1753.42 of the Revised Code, an "authorized control 27463
level event" is any of the following events: 27464

(1) The filing of an RBC report by a health insuring 27465
corporation that indicates that the health insuring 27466
corporation's total adjusted capital is greater than or equal to 27467
its mandatory control level RBC but less than its authorized 27468
control level RBC; 27469

(2) The notification by the superintendent of insurance to 27470
a health insuring corporation of an adjustment to the health 27471
insuring corporation's RBC report, which adjusted RBC report 27472
shows the health insuring corporation's total adjusted capital 27473
within the range described in division (A)(1) of this section, 27474
provided that the health insuring corporation does not challenge 27475
the adjusted RBC report under section 1753.37 of the Revised 27476
Code; 27477

(3) The notification by the superintendent to a health insuring corporation, following the hearing required under section 1753.37 of the Revised Code, that the superintendent has rejected the health insuring corporation's challenge to an adjusted RBC report showing the health insuring corporation's total adjusted capital within the range described in division (A) (1) of this section;

(4) The failure of a health insuring corporation to respond, in a manner satisfactory to the superintendent, to a corrective order issued under division (B) (3) of section 1753.34 of the Revised Code, provided that the health insuring corporation does not challenge the corrective order under section 1753.37 of the Revised Code;

(5) The failure of a health insuring corporation to respond, in a manner satisfactory to the superintendent, to a corrective order issued under division (B) (3) of section 1753.34 of the Revised Code subsequent to the superintendent's modification of an earlier order or the superintendent's rejection of the health insuring corporation's challenge of the order under section 1753.37 of the Revised Code.

(B) In the case of an authorized control level event, the superintendent shall do the following:

(1) Take the actions required under section 1753.34 of the Revised Code for regulatory action level events;

(2) If the superintendent considers it to be in the best interests of the subscribers and creditors of the health insuring corporation and of the public, take such actions as are necessary to place the health insuring corporation under regulatory control under sections 3903.01 to 3903.59 of the

Revised Code. The authorized control level event shall be deemed 27507
sufficient grounds for the superintendent to take action under 27508
sections 3903.01 to 3903.59 of the Revised Code. Nothing in 27509
sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code shall 27510
impair or restrict the rights, powers, and protections afforded 27511
to the superintendent and to health insuring corporations under 27512
sections 3903.01 to 3903.59 of the Revised Code. 27513

Sec. 1753.36. (A) For purposes of sections 1753.31 to 27514
~~1753.43~~ 1753.42 of the Revised Code, a "mandatory control level 27515
event" is any of the following events: 27516

(1) The filing of an RBC report by a health insuring 27517
corporation that indicates that the health insuring 27518
corporation's total adjusted capital is less than its mandatory 27519
control level RBC; 27520

(2) The notification by the superintendent of insurance to 27521
a health insuring corporation of an adjustment to the health 27522
insuring corporation's RBC report, which adjusted RBC report 27523
shows the health insuring corporation's total adjusted capital 27524
at less than its mandatory control level RBC, provided the 27525
health insuring corporation does not challenge the adjusted RBC 27526
report under section 1753.37 of the Revised Code; 27527

(3) The notification by the superintendent to the health 27528
insuring corporation, following the hearing required under 27529
section 1753.37 of the Revised Code, that the superintendent has 27530
rejected the health insuring corporation's challenge to an 27531
adjusted RBC report. 27532

(B) In the case of a mandatory control level event, the 27533
superintendent shall take such actions as are necessary to place 27534
the health insuring corporation under regulatory control under 27535

sections 3903.01 to 3903.59 of the Revised Code. The mandatory control level event shall be deemed sufficient grounds for the superintendent to take action under sections 3903.01 to 3903.59 of the Revised Code. Nothing in sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code shall impair or restrict the rights, powers, and protections afforded to the superintendent and to health insuring corporations under sections 3903.01 to 3903.59 of the Revised Code. However, the superintendent may defer action under this division for up to ninety days after the mandatory control level event if the superintendent finds that there is a reasonable expectation the health insuring corporation may be able to eliminate the conditions leading to the mandatory control level event within the ninety-day period.

Sec. 1753.37. (A) A health insuring corporation has the right to a confidential hearing upon receiving any of the following from the superintendent of insurance:

(1) An adjusted RBC report;

(2) Notification that the health insuring corporation's RBC plan or revised RBC plan is unsatisfactory and a statement that the notification constitutes a regulatory action level event for the health insuring corporation;

(3) Notification that the superintendent has determined that the health insuring corporation has failed to adhere to its RBC plan or revised RBC plan, which failure has a substantial adverse effect on the ability of the health insuring corporation to eliminate the conditions leading to a company action level event in accordance with its RBC plan or revised RBC plan;

(4) A corrective order issued under division (B) (3) of section 1753.34 of the Revised Code.

(B) A health insuring corporation shall notify the
superintendent of its request for a hearing within five days
after its receipt of any item listed in division (A) of this
section. Upon the superintendent's receipt of the health
insuring corporation's request for a hearing, the superintendent
shall set a date for the hearing, which date shall be no less
than ten days and no more than thirty days after the
superintendent's receipt of the health insuring corporation's
request.

(C) A health insuring corporation may challenge any
determination or action taken by the superintendent under
sections 1753.31 to ~~1753.43~~1753.42 of the Revised Code at the
hearing held pursuant to this section.

Sec. 1753.40. There shall be no liability on the part of,
and no cause of action shall arise against, the superintendent
of insurance, or the department of insurance, its employees, or
its agents, for any action taken in their performance of the
powers and duties under sections 1753.31 to ~~1753.43~~1753.42 of
the Revised Code.

Sec. 1753.41. Unless otherwise provided, all notices sent
to a health insuring corporation by the superintendent of
insurance that may result in regulatory action under sections
1753.31 to ~~1753.43~~1753.42 of the Revised Code shall be
effective upon dispatch if transmitted by registered or
certified mail. Any other notice transmitted shall be effective
upon the health insuring corporation's receipt of the notice.

Sec. 1753.42. The superintendent of insurance may exempt
any domestic health insuring corporation from the application of
sections 1753.31 to ~~1753.43~~1753.42 of the Revised Code, if the
health insuring corporation meets all of the following

requirements:	27595
(A) The health insuring corporation writes direct business in this state only.	27596 27597
(B) The health insuring corporation assumes no reinsurance in excess of five per cent of direct premium written.	27598 27599
(C) The health insuring corporation either:	27600
(1) Writes direct annual premiums of two million dollars or less for basic health care services;	27601 27602
(2) Covers less than two thousand enrollees under policies, contracts, certificates, or agreements for supplemental health care services.	27603 27604 27605
Sec. 1761.04. (A) The licensing and operation of a credit union share guaranty corporation is subject to the regulation of the superintendent of insurance pursuant to Chapters 3901., 3903., 3905., 3925., 3927., 3929., 3937., 3941., and 3999. of the Revised Code to the extent such laws are otherwise applicable and are not in conflict with this chapter.	27606 27607 27608 27609 27610 27611
(B) A credit union share guaranty corporation shall pay, by the fifteenth day of April of each year, to the superintendent of credit unions, an annual fee of one-half of one per cent of its guarantee fund as shown by the corporation's last annual financial report, but in no event shall such payment exceed twenty-five thousand dollars in any calendar year.	27612 27613 27614 27615 27616 27617
(C) In addition to the specific powers and duties given the superintendent of insurance and the superintendent of credit unions under this chapter, the superintendents may independently, pursuant to Chapter 119. of the Revised Code, adopt, amend, and rescind such rules as are necessary to	27618 27619 27620 27621 27622

~~implement the requirements of this chapter.~~ 27623

Sec. 1761.13. (A) A credit union share guaranty 27624
corporation shall invest or deposit its funds in the following 27625
manner: 27626

(1) In banks incorporated under the laws of this or any 27627
other state, or the United States; 27628

(2) In negotiable certificates of deposit and bankers 27629
acceptances; 27630

(3) In share certificates deposited in or any form of 27631
evidence of interest or indebtedness of any credit union 27632
organized under Chapter 1733. of the Revised Code or comparable 27633
state law if insured, or whose member accounts are insured as 27634
provided for by Title II of the "Federal Credit Union Act," 84 27635
Stat. 994, (1970), 12 U.S.C.A. 1781, as amended, or by 27636
comparable insurance. No investment under division (A)(3) of 27637
this section shall be in a participating credit union. 27638

(4) In accounts with, investment certificates or 27639
withdrawable shares of, any savings and loan association that is 27640
an insured institution as defined by Title IV of the "National 27641
Housing Act," 48 Stat. 1255 (1934), 12 U.S.C.A. 1724, as 27642
amended. 27643

(5) In United States government securities or United 27644
States government agency obligations; 27645

(6) In bonds or other evidence of indebtedness rated in 27646
the three highest ratings of Standard and Poor's or Moody's 27647
service, not in default as to principal or interest, that are 27648
valid obligations issued, assumed, or guaranteed by any state, 27649
county, or municipal corporation of the United States; 27650

(7) In bonds or other evidence of indebtedness rated in 27651
the three highest ratings by Standard and Poor's or Moody's 27652
service, not in default as to principal or interest, that are 27653
valid obligations issued, assumed, or guaranteed by any 27654
corporation incorporated under the laws of the United States or 27655
a state and described in division (D) (1) of section 3925.08 of 27656
the Revised Code. However, a credit union share guaranty 27657
corporation shall not invest in any such corporate security 27658
containing any provision of optionality, including, but not 27659
limited to, any derivative security. 27660

(8) In the common stock of any federal home loan bank of 27661
which the corporation is a member, for the purpose of 27662
maintaining a line of credit or source of liquidity through 27663
borrowings from the bank, if the bank requires its members to 27664
purchase and hold its common stock referred to as either of the 27665
following: 27666

(a) Membership stock, subject to an annual adjustment made 27667
by the bank based on the corporation's admitted total assets as 27668
reported in its filings with the superintendent of insurance; 27669

(b) Activity stock as may be required by the bank whenever 27670
the corporation borrows from the bank and for as long as any of 27671
those funds remain outstanding. 27672

(9) In any other investments that are expressly approved 27673
by the superintendent of credit unions and the superintendent of 27674
~~insurance or are permitted by rules adopted by the~~ 27675
~~superintendents pursuant to division (C) of section 1761.04 of~~ 27676
~~the Revised Code~~, but such other investments shall not exceed 27677
twenty per cent of the sum of the capital contributions, 27678
retained and undivided earnings, and any borrowings made in 27679
accordance with section 3901.72 of the Revised Code of the 27680

corporation. The superintendents shall not permit the 27681
corporation to make any investment in any unrelated corporation 27682
or unrelated subsidiary without the prior written approval of 27683
the superintendent of credit unions and the superintendent of 27684
insurance. 27685

(B) The maximum investment in securities of any one 27686
corporation shall not exceed ten per cent of the guarantee fund 27687
at the time the investment is made. 27688

(C) The corporation's directors, officers, committee 27689
members, and employees, and immediate family members of such 27690
individuals, are prohibited from receiving pecuniary or any 27691
other type of consideration in connection with the making of an 27692
investment or deposit by the corporation. 27693

(D) Within thirty days of appointment, each officer, 27694
agent, or employee having control or access to funds or 27695
securities owned by or pledged with a credit union share 27696
guaranty corporation shall be provided with fidelity bond 27697
coverage by the corporation in an amount commensurate with the 27698
risk involved. 27699

(E) With the express written approval of the board of 27700
directors and the superintendent of credit unions and the 27701
superintendent of insurance, the corporation may invest in 27702
publicly traded preferred and common stocks, as permitted by 27703
section 3925.08 of the Revised Code, in an aggregate amount not 27704
to exceed the corporation's statutory unassigned surplus as 27705
reduced by its authorized control level risk-based capital. 27706

Sec. 1761.16. (A) A credit union share guaranty 27707
corporation shall file with the superintendent of credit unions 27708
an annual report containing audited financial statements, 27709

prepared in accordance with generally accepted accounting 27710
principles or such other accounting requirements determined by 27711
the superintendent of credit unions, covering the fiscal year 27712
within one hundred days after the close of such fiscal year in 27713
accordance with division (E) of this section ~~and in the form and~~ 27714
~~with such other relevant information as the superintendent of~~ 27715
~~credit unions may require by rules adopted under division (C) of~~ 27716
~~section 1761.04 of the Revised Code.~~ The audited financial 27717
statements shall include at least a balance sheet and a 27718
statement of income for the year ended on the balance sheet 27719
date. The report and audited financial statements shall be 27720
accompanied by a report, certificate, or opinion of an 27721
independent certified public accountant or independent public 27722
accountant. Every such report shall be certified by the oath of 27723
the president and secretary of the corporation, and such 27724
verification shall state that the report is true and correct in 27725
all respects to the best of the knowledge and belief of the 27726
persons verifying it. 27727

(B) If the report, certificate, or opinion of the 27728
certified public accountant or independent accountant referred 27729
to in division (A) of this section is qualified pursuant to 27730
generally accepted auditing standards, the superintendent of 27731
credit unions shall require the corporation to take such action 27732
as the superintendent considers appropriate to permit an 27733
independent accountant to remove such qualification from the 27734
report, certificate, or opinion. The superintendent may reject 27735
any financial statement, report, certificate, or opinion filed 27736
pursuant to division (A) of this section by notifying the 27737
corporation of its rejection and the cause thereof. Within 27738
thirty days after receipt of such notice, the corporation shall 27739
correct such qualification, and the failure to do so is deemed a 27740

violation of this division. The superintendent shall retain a 27741
copy of all filings so rejected. 27742

(C) The superintendent of credit unions shall conduct or 27743
cause to be conducted, not more often than annually and not less 27744
than every three years, an audit examination of the credit union 27745
share guaranty corporation. The audit examination shall include 27746
an actuarial study of the capital adequacy of the corporation. 27747
The corporation shall be assessed the costs of such audit 27748
examination, which assessment shall not exceed one per cent of 27749
the capital contributions and surplus of the corporation. 27750

(D) The superintendent of credit unions may require a 27751
special examination of the corporation in the event the 27752
superintendent determines that there is or will be an impairment 27753
of the guarantee fund as defined in division (C)(1) of section 27754
1761.10 of the Revised Code. The corporation shall be assessed 27755
the cost of such special examination. 27756

(E) The accounting of the corporation shall be on a 27757
calendar year basis or as otherwise prescribed by the 27758
corporation with the prior written approval of the 27759
superintendent of credit unions. The books of the corporation 27760
shall be maintained in accordance with generally accepted 27761
accounting principles. 27762

(F) The corporation shall make any other special report to 27763
the superintendent of credit unions as the superintendent may 27764
from time to time require. Such a report shall be in the form 27765
and filed at such date as prescribed by the superintendent, and 27766
shall, if required by the superintendent, be verified in such 27767
manner as prescribed. 27768

(G) Each credit union share guaranty corporation shall be 27769

subject to examination by the superintendent of insurance in 27770
accordance with section 3901.07 of the Revised Code. Section 27771
3901.07 of the Revised Code shall govern every aspect of the 27772
examination, including the circumstances under and frequency 27773
with which it is conducted, the authority of the superintendent 27774
and any examiner or other person appointed by the 27775
superintendent, the liability for the assessment of expenses 27776
incurred in conducting the examination, and the remittance of 27777
the assessment to the department of insurance operating fund. 27778

(H) All of the provisions of this section are in addition 27779
to those chapters of Title XXXIX of the Revised Code specified 27780
in division (A) of section 1761.04 of the Revised Code. 27781

Sec. 2108.23. (A) (1) The bureau of motor vehicles shall 27782
develop and maintain a donor registry that identifies each 27783
individual who has agreed to make an anatomical gift at the time 27784
of application or renewal of a driver's license, identification 27785
card, or motor vehicle registration as provided in division (A) 27786
(1) or (2) of section 2108.05 of the Revised Code. The registry 27787
shall be fully operational not later than July 1, 2002. 27788

(2) The registrar of motor vehicles or a deputy registrar 27789
shall ask whether each of the following wishes to certify the 27790
applicant's willingness to become a donor: 27791

(a) A person applying for or renewing a driver's license; 27792

(b) A person applying for or renewing an identification 27793
card; 27794

(c) A person applying for or renewing a motor vehicle 27795
registration. 27796

(3) The registrar or deputy registrar shall provide to any 27797
applicant who wishes to certify the applicant's willingness to 27798

become a donor the form set forth in division (C) (2) of section 2133.07 of the Revised Code. 27799
27800

(4) Any person who provides to the bureau the form set forth in division (C) (2) of section 2133.07 of the Revised Code requesting to be included in the donor registry shall be included. 27801
27802
27803
27804

(5) Neither the registrar nor a deputy registrar shall ask a person, who is already included in the donor registry, to be a donor. 27805
27806
27807

(B) The bureau shall maintain the registry in a manner that provides to organ procurement organizations, tissue banks, and eye banks immediate access to the information in the registry twenty-four hours a day and seven days a week. 27808
27809
27810
27811

(C) (1) The registrar of motor vehicles, in consultation with the director of health and the second chance trust fund advisory committee created under section 2108.35 of the Revised Code, shall formulate proposed rules that specify all of the following: 27812
27813
27814
27815
27816

(a) The information to be included in the registry; 27817

(b) A process, in accordance with division (B) of section 2108.06 of the Revised Code, for an individual to revoke the individual's intent to make an anatomical gift and for updating information in the registry; 27818
27819
27820
27821

(c) How the registry will be made available to organ procurement organizations, tissue banks, and eye banks; 27822
27823

(d) Limitations on the use of and access to the registry; 27824

(e) How information on organ, tissue, and eye donation will be developed and disseminated to the public by the bureau 27825
27826

and the department of health; 27827

(f) The manner in which a person may request to be 27828
included in the registry on a written application for a driver's 27829
license, identification card, motor vehicle registration, or the 27830
renewal thereof. The manner of the request may include either 27831
allowing the requestor to provide the necessary information on 27832
the bureau application or redirecting the requestor to another 27833
form specific to the registry. 27834

~~(g) Anything else the registrar considers appropriate.~~ 27835

(2) In adopting the proposed rules under this division, 27836
the registrar may consult with any person or entity that 27837
expresses an interest in the matters to be dealt with in the 27838
rules. 27839

(3) Following formulation of the proposed rules, the 27840
registrar shall adopt rules in accordance with Chapter 119. of 27841
the Revised Code. 27842

(D) The costs of developing and initially implementing the 27843
registry shall be paid from the second chance trust fund created 27844
in section 2108.34 of the Revised Code. 27845

Sec. 2133.25. (A) The department of health, by rule 27846
adopted pursuant to Chapter 119. of the Revised Code, shall 27847
adopt a standardized method of procedure for the withholding of 27848
CPR by physicians, certified nurse-midwives, clinical nurse 27849
specialists, certified nurse practitioners, emergency medical 27850
services personnel, and health care facilities in accordance 27851
with sections 2133.21 to 2133.26 of the Revised Code. The 27852
standardized method shall specify criteria for determining when 27853
a do-not-resuscitate order is current. The standardized method 27854
so adopted shall be the "do-not-resuscitate protocol" for 27855

purposes of sections 2133.21 to 2133.26 of the Revised Code. The 27856
department also shall approve one or more standard forms of DNR 27857
identification to be used throughout this state. 27858

~~(B) The department of health shall adopt rules in 27859
accordance with Chapter 119. of the Revised Code for the 27860
administration of sections 2133.21 to 2133.26 of the Revised 27861
Code. 27862~~

~~(C)~~The department of health shall appoint an advisory 27863
committee to advise the department in the development of rules 27864
under this section. The advisory committee shall include, but 27865
shall not be limited to, representatives of each of the 27866
following organizations: 27867

- (1) The Ohio hospital association; 27868
- (2) The Ohio state medical association; 27869
- (3) The Ohio chapter of the American college of emergency 27870
physicians; 27871
- (4) The Ohio hospice organization; 27872
- (5) The Ohio council for home care and hospice; 27873
- (6) The Ohio health care association; 27874
- (7) The Ohio ambulance association; 27875
- (8) The Ohio medical directors association; 27876
- (9) The Ohio association of emergency medical services; 27877
- (10) The bioethics network of Ohio; 27878
- (11) The Ohio nurses association; 27879
- (12) The Ohio academy of nursing homes; 27880

(13) The Ohio association of professional firefighters;	27881
(14) The department of developmental disabilities;	27882
(15) The Ohio osteopathic association;	27883
(16) The association of Ohio philanthropic homes and housing services for the aging;	27884 27885
(17) The catholic conference of Ohio;	27886
(18) The department of aging;	27887
(19) The department of mental health and addiction services;	27888 27889
(20) The Ohio private residential association;	27890
(21) The northern Ohio fire fighters association;	27891
(22) The Ohio association of advanced practice nurses.	27892
Sec. 2151.412. (A) Each public children services agency	27893
and private child placing agency shall prepare and maintain a	27894
case plan for any child to whom the agency is providing services	27895
and to whom any of the following applies:	27896
(1) The agency filed a complaint pursuant to section	27897
2151.27 of the Revised Code alleging that the child is an	27898
abused, neglected, or dependent child;	27899
(2) The agency has temporary or permanent custody of the	27900
child;	27901
(3) The child is living at home subject to an order for	27902
protective supervision;	27903
(4) The child is in a planned permanent living	27904
arrangement.	27905

Except as provided by division (A) (2) of section 5103.153 27906
of the Revised Code, a private child placing agency providing 27907
services to a child who is the subject of a voluntary permanent 27908
custody surrender agreement entered into under division (B) (4) 27909
of section 5103.15 of the Revised Code is not required to 27910
prepare and maintain a case plan for that child. 27911

(B) Each public children services agency shall prepare and 27912
maintain a case plan for any child for whom the agency is 27913
providing in-home services pursuant to an alternative response. 27914

(C) (1) The director of children and youth shall adopt 27915
rules pursuant to Chapter 119. of the Revised Code setting forth 27916
the content and format of case plans required by division (A) of 27917
this section and establishing procedures for developing, 27918
implementing, and changing the case plans. The rules shall at a 27919
minimum comply with the requirements of Title IV-E of the 27920
"Social Security Act," 42 U.S.C. 670, et seq. (1980). 27921

(2) The director of children and youth shall adopt rules 27922
pursuant to Chapter 119. of the Revised Code requiring public 27923
children services agencies and private child placing agencies to 27924
maintain case plans for children and their families who are 27925
receiving services in their homes from the agencies and for whom 27926
case plans are not required by division (A) of this section. The 27927
rules for public children services agencies shall include the 27928
requirements for case plans maintained for children and their 27929
families who are receiving services in their homes from public 27930
children services agencies pursuant to an alternative response. 27931
The agencies shall maintain case plans as required by those 27932
rules; however, the case plans shall not be subject to any other 27933
provision of this section except as specifically required by the 27934
rules. 27935

(D) Each public children services agency and private child placing agency that is required by division (A) of this section to maintain a case plan shall file the case plan with the court prior to the child's adjudicatory hearing but no later than thirty days after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care. If the agency does not have sufficient information prior to the adjudicatory hearing to complete any part of the case plan, the agency shall specify in the case plan the additional information necessary to complete each part of the case plan and the steps that will be taken to obtain that information. All parts of the case plan shall be completed by the earlier of thirty days after the adjudicatory hearing or the date of the dispositional hearing for the child.

(E) Any agency that is required by division (A) of this section to prepare a case plan shall attempt to obtain an agreement among all parties, including, but not limited to, the parents, guardian, or custodian of the child and the guardian ad litem of the child regarding the content of the case plan. If all parties agree to the content of the case plan and the court approves it, the court shall journalize it as part of its dispositional order. If the agency cannot obtain an agreement upon the contents of the case plan or the court does not approve it, the parties shall present evidence on the contents of the case plan at the dispositional hearing. The court, based upon the evidence presented at the dispositional hearing and the best interest of the child, shall determine the contents of the case plan and journalize it as part of the dispositional order for the child.

(F) (1) All parties, including the parents, guardian, or custodian of the child, are bound by the terms of the

journalized case plan. A party that fails to comply with the 27967
terms of the journalized case plan may be held in contempt of 27968
court. 27969

(2) Any party may propose a change to a substantive part 27970
of the case plan, including, but not limited to, the child's 27971
placement and the visitation rights of any party. A party 27972
proposing a change to the case plan shall file the proposed 27973
change with the court and give notice of the proposed change in 27974
writing before the end of the day after the day of filing it to 27975
all parties and the child's guardian ad litem. All parties and 27976
the guardian ad litem shall have seven days from the date the 27977
notice is sent to object to and request a hearing on the 27978
proposed change. 27979

(a) If it receives a timely request for a hearing, the 27980
court shall schedule a hearing pursuant to section 2151.417 of 27981
the Revised Code to be held no later than thirty days after the 27982
request is received by the court. The court shall give notice of 27983
the date, time, and location of the hearing to all parties and 27984
the guardian ad litem. The agency may implement the proposed 27985
change after the hearing, if the court approves it. The agency 27986
shall not implement the proposed change unless it is approved by 27987
the court. 27988

(b) If it does not receive a timely request for a hearing, 27989
the court may approve the proposed change without a hearing. If 27990
the court approves the proposed change without a hearing, it 27991
shall journalize the case plan with the change not later than 27992
fourteen days after the change is filed with the court. If the 27993
court does not approve the proposed change to the case plan, it 27994
shall schedule a hearing to be held pursuant to section 2151.417 27995
of the Revised Code no later than thirty days after the 27996

expiration of the fourteen-day time period and give notice of 27997
the date, time, and location of the hearing to all parties and 27998
the guardian ad litem of the child. If, despite the requirements 27999
of division (F) (2) of this section, the court neither approves 28000
and journalizes the proposed change nor conducts a hearing, the 28001
agency may implement the proposed change not earlier than 28002
fifteen days after it is submitted to the court. 28003

(3) If an agency has reasonable cause to believe that a 28004
child is suffering from illness or injury and is not receiving 28005
proper care and that an appropriate change in the child's case 28006
plan is necessary to prevent immediate or threatened physical or 28007
emotional harm, to believe that a child is in immediate danger 28008
from the child's surroundings and that an immediate change in 28009
the child's case plan is necessary to prevent immediate or 28010
threatened physical or emotional harm to the child, or to 28011
believe that a parent, guardian, custodian, or other member of 28012
the child's household has abused or neglected the child and that 28013
the child is in danger of immediate or threatened physical or 28014
emotional harm from that person unless the agency makes an 28015
appropriate change in the child's case plan, it may implement 28016
the change without prior agreement or a court hearing and, 28017
before the end of the next day after the change is made, give 28018
all parties, the guardian ad litem of the child, and the court 28019
notice of the change. Before the end of the third day after 28020
implementing the change in the case plan, the agency shall file 28021
a statement of the change with the court and give notice of the 28022
filing accompanied by a copy of the statement to all parties and 28023
the guardian ad litem. All parties and the guardian ad litem 28024
shall have ten days from the date the notice is sent to object 28025
to and request a hearing on the change. 28026

(a) If it receives a timely request for a hearing, the 28027

court shall schedule a hearing pursuant to section 2151.417 of 28028
the Revised Code to be held no later than thirty days after the 28029
request is received by the court. The court shall give notice of 28030
the date, time, and location of the hearing to all parties and 28031
the guardian ad litem. The agency shall continue to administer 28032
the case plan with the change after the hearing, if the court 28033
approves the change. If the court does not approve the change, 28034
the court shall make appropriate changes to the case plan and 28035
shall journalize the case plan. 28036

(b) If it does not receive a timely request for a hearing, 28037
the court may approve the change without a hearing. If the court 28038
approves the change without a hearing, it shall journalize the 28039
case plan with the change within fourteen days after receipt of 28040
the change. If the court does not approve the change to the case 28041
plan, it shall schedule a hearing under section 2151.417 of the 28042
Revised Code to be held no later than thirty days after the 28043
expiration of the fourteen-day time period and give notice of 28044
the date, time, and location of the hearing to all parties and 28045
the guardian ad litem of the child. 28046

(G) (1) All case plans for children in temporary custody 28047
shall have the following general goals: 28048

(a) Consistent with the best interest and special needs of 28049
the child, to achieve a safe out-of-home placement in the least 28050
restrictive, most family-like setting available and in close 28051
proximity to the home from which the child was removed or the 28052
home in which the child will be permanently placed; 28053

(b) To eliminate with all due speed the need for the out- 28054
of-home placement so that the child can safely return home. 28055

(2) The director of children and youth shall adopt rules 28056

pursuant to Chapter 119. of the Revised Code setting forth the 28057
general goals of case plans for children subject to 28058
dispositional orders for protective supervision, a planned 28059
permanent living arrangement, or permanent custody. 28060

(H) In the agency's development of a case plan and the 28061
court's review of the case plan, the child's health and safety 28062
shall be the paramount concern. The agency and the court shall 28063
be guided by the following general priorities: 28064

(1) A child who is residing with or can be placed with the 28065
child's parents within a reasonable time should remain in their 28066
legal custody even if an order of protective supervision is 28067
required for a reasonable period of time; 28068

(2) If both parents of the child have abandoned the child, 28069
have relinquished custody of the child, have become incapable of 28070
supporting or caring for the child even with reasonable 28071
assistance, or have a detrimental effect on the health, safety, 28072
and best interest of the child, the child should be placed in 28073
the legal custody of a suitable member of the child's extended 28074
family; 28075

(3) If a child described in division (H)(2) of this 28076
section has no suitable member of the child's extended family to 28077
accept legal custody, the child should be placed in the legal 28078
custody of a suitable nonrelative who shall be made a party to 28079
the proceedings after being given legal custody of the child; 28080

(4) If the child has no suitable member of the child's 28081
extended family to accept legal custody of the child and no 28082
suitable nonrelative is available to accept legal custody of the 28083
child and, if the child temporarily cannot or should not be 28084
placed with the child's parents, guardian, or custodian, the 28085

child should be placed in the temporary custody of a public 28086
children services agency or a private child placing agency; 28087

(5) If the child cannot be placed with either of the 28088
child's parents within a reasonable period of time or should not 28089
be placed with either, if no suitable member of the child's 28090
extended family or suitable nonrelative is available to accept 28091
legal custody of the child, and if the agency has a reasonable 28092
expectation of placing the child for adoption, the child should 28093
be committed to the permanent custody of the public children 28094
services agency or private child placing agency; 28095

(6) If the child is to be placed for adoption or foster 28096
care, the placement shall not be delayed or denied on the basis 28097
of the child's or adoptive or foster family's race, color, or 28098
national origin. 28099

(I) The case plan for a child in temporary custody shall 28100
include at a minimum the following requirements if the child is 28101
or has been the victim of abuse or neglect or if the child 28102
witnessed the commission in the child's household of abuse or 28103
neglect against a sibling of the child, a parent of the child, 28104
or any other person in the child's household: 28105

(1) A requirement that the child's parents, guardian, or 28106
custodian participate in mandatory counseling; 28107

(2) A requirement that the child's parents, guardian, or 28108
custodian participate in any supportive services that are 28109
required by or provided pursuant to the child's case plan. 28110

(J) (1) Prior to January 1, 2023, a case plan for a child 28111
in temporary custody may include, as a supplement, a plan for 28112
locating a permanent family placement. The supplement shall not 28113
be considered part of the case plan for purposes of division (E) 28114

of this section. 28115

(2) On and after January 1, 2023, a case plan for a child 28116
in temporary custody shall include a permanency plan for the 28117
child unless it is documented that such a plan would not be in 28118
the best interest of the child. The permanency plan shall 28119
describe the services the agency shall provide to achieve 28120
permanency for the child if reasonable efforts to return the 28121
child to the child's home, or eliminate the continued removal 28122
from that home, are unsuccessful. Those services shall be 28123
provided concurrently with reasonable efforts to return the 28124
child home or eliminate the child's continued removal from home. 28125

~~(3) The director of children and youth, pursuant to 28126
Chapter 119. of the Revised Code, shall adopt rules necessary to 28127
carry out the purposes of division (J) of this section. 28128~~

(K) (1) A public children services agency may request that 28129
the superintendent of the bureau of criminal identification and 28130
investigation conduct a criminal records check with respect to a 28131
parent, guardian, custodian, prospective custodian, or 28132
prospective placement whose actions result in a finding after 28133
the filing of a complaint as described in division (A) (1) of 28134
this section that a child is an abused, neglected, or dependent 28135
child. The public children services agency shall request that 28136
the superintendent obtain information from the federal bureau of 28137
investigation as part of the criminal records check. 28138

(2) At any time on or after the date that is ninety days 28139
after September 10, 2012, a prosecuting attorney, or an 28140
assistant prosecuting attorney appointed under section 309.06 of 28141
the Revised Code, may request that the superintendent of the 28142
bureau of criminal identification and investigation conduct a 28143
criminal records check with respect to each parent, guardian, 28144

custodian, prospective custodian, or prospective placement whose 28145
actions resulted in a finding after the filing of a complaint 28146
described in division (A) (1) of this section that a child is an 28147
abused, neglected, or dependent child. Each prosecuting attorney 28148
or assistant prosecuting attorney who makes such a request shall 28149
request that the superintendent obtain information from the 28150
federal bureau of investigation as part of the criminal records 28151
check for each parent, guardian, custodian, prospective 28152
custodian, or prospective placement who is a subject of the 28153
request. 28154

(3) A public children services agency, prosecuting 28155
attorney, or assistant prosecuting attorney that requests a 28156
criminal records check under division (K) (1) or (2) of this 28157
section shall do both of the following: 28158

(a) Provide to each parent, guardian, custodian, 28159
prospective custodian, or prospective placement for whom a 28160
criminal records check is requested a copy of the form 28161
prescribed pursuant to division (C) (1) of section 109.572 of the 28162
Revised Code and a standard fingerprint impression sheet 28163
prescribed pursuant to division (C) (2) of that section and 28164
obtain the completed form and impression sheet from the parent, 28165
guardian, custodian, prospective custodian, or prospective 28166
placement; 28167

(b) Forward the completed form and impression sheet to the 28168
superintendent of the bureau of criminal identification and 28169
investigation. 28170

(4) A parent, guardian, custodian, prospective custodian, 28171
or prospective placement who is given a form and fingerprint 28172
impression sheet under division (K) (3) (a) of this section and 28173
who fails to complete the form or provide fingerprint 28174

impressions may be held in contempt of court. 28175

Sec. 2743.02. (A) (1) The state hereby waives its immunity 28176
from liability, except as provided for the office of the state 28177
fire marshal in division (G) (1) of section 9.60 and division (B) 28178
of section 3737.221 of the Revised Code and subject to division 28179
(H) of this section, and consents to be sued, and have its 28180
liability determined, in the court of claims created in this 28181
chapter in accordance with the same rules of law applicable to 28182
suits between private parties, except that the determination of 28183
liability is subject to the limitations set forth in this 28184
chapter and, in the case of state universities or colleges, in 28185
section 3345.40 of the Revised Code, and except as provided in 28186
division (A) (2) or (3) of this section. To the extent that the 28187
state has previously consented to be sued, this chapter has no 28188
applicability. 28189

Except in the case of a civil action filed by the state, 28190
filing a civil action in the court of claims results in a 28191
complete waiver of any cause of action, based on the same act or 28192
omission, that the filing party has against any officer or 28193
employee, as defined in section 109.36 of the Revised Code. The 28194
waiver shall be void if the court determines that the act or 28195
omission was manifestly outside the scope of the officer's or 28196
employee's office or employment or that the officer or employee 28197
acted with malicious purpose, in bad faith, or in a wanton or 28198
reckless manner. 28199

(2) If a claimant proves in the court of claims that an 28200
officer or employee, as defined in section 109.36 of the Revised 28201
Code, would have personal liability for the officer's or 28202
employee's acts or omissions but for the fact that the officer 28203
or employee has personal immunity under section 9.86 of the 28204

Revised Code, the state shall be held liable in the court of 28205
claims in any action that is timely filed pursuant to section 28206
2743.16 of the Revised Code and that is based upon the acts or 28207
omissions. 28208

(3) (a) Except as provided in division (A) (3) (b) of this 28209
section, the state is immune from liability in any civil action 28210
or proceeding involving the performance or nonperformance of a 28211
public duty, including the performance or nonperformance of a 28212
public duty that is owed by the state in relation to any action 28213
of an individual who is committed to the custody of the state. 28214

(b) The state immunity provided in division (A) (3) (a) of 28215
this section does not apply to any action of the state under 28216
circumstances in which a special relationship can be established 28217
between the state and an injured party. A special relationship 28218
under this division is demonstrated if all of the following 28219
elements exist: 28220

(i) An assumption by the state, by means of promises or 28221
actions, of an affirmative duty to act on behalf of the party 28222
who was allegedly injured; 28223

(ii) Knowledge on the part of the state's agents that 28224
inaction of the state could lead to harm; 28225

(iii) Some form of direct contact between the state's 28226
agents and the injured party; 28227

(iv) The injured party's justifiable reliance on the 28228
state's affirmative undertaking. 28229

(B) The state hereby waives the immunity from liability of 28230
all hospitals owned or operated by one or more political 28231
subdivisions and consents for them to be sued, and to have their 28232
liability determined, in the court of common pleas, in 28233

accordance with the same rules of law applicable to suits 28234
between private parties, subject to the limitations set forth in 28235
this chapter. This division is also applicable to hospitals 28236
owned or operated by political subdivisions that have been 28237
determined by the supreme court to be subject to suit prior to 28238
July 28, 1975. 28239

(C) Any hospital, as defined in section 2305.113 of the 28240
Revised Code, may purchase liability insurance covering its 28241
operations and activities and its agents, employees, nurses, 28242
interns, residents, staff, and members of the governing board 28243
and committees, and, whether or not such insurance is purchased, 28244
may, to the extent that its governing board considers 28245
appropriate, indemnify or agree to indemnify and hold harmless 28246
any such person against expense, including attorney's fees, 28247
damage, loss, or other liability arising out of, or claimed to 28248
have arisen out of, the death, disease, or injury of any person 28249
as a result of the negligence, malpractice, or other action or 28250
inaction of the indemnified person while acting within the scope 28251
of the indemnified person's duties or engaged in activities at 28252
the request or direction, or for the benefit, of the hospital. 28253
Any hospital electing to indemnify those persons, or to agree to 28254
so indemnify, shall reserve any funds that are necessary, in the 28255
exercise of sound and prudent actuarial judgment, to cover the 28256
potential expense, fees, damage, loss, or other liability. The 28257
superintendent of insurance may recommend, or, if the hospital 28258
requests the superintendent to do so, the superintendent shall 28259
recommend, a specific amount for any period that, in the 28260
superintendent's opinion, represents such a judgment. This 28261
authority is in addition to any authorization otherwise provided 28262
or permitted by law. 28263

(D) Recoveries against the state shall be reduced by the 28264

aggregate of insurance proceeds, disability award, or other 28265
collateral recovery that the claimant receives or is entitled 28266
to. This division does not apply to civil actions in the court 28267
of claims against a state university or college under the 28268
circumstances described in section 3345.40 of the Revised Code. 28269
The collateral benefits provisions of division (B) (2) of that 28270
section apply under those circumstances. 28271

(E) The only defendant in original actions in the court of 28272
claims is the state. The state may file a third-party complaint 28273
or counterclaim in any civil action, except a civil action for 28274
ten thousand dollars or less, that is filed in the court of 28275
claims. 28276

(F) A civil action against an officer or employee, as 28277
defined in section 109.36 of the Revised Code, that alleges that 28278
the officer's or employee's conduct was manifestly outside the 28279
scope of the officer's or employee's employment or official 28280
responsibilities, or that the officer or employee acted with 28281
malicious purpose, in bad faith, or in a wanton or reckless 28282
manner shall first be filed against the state in the court of 28283
claims that has exclusive, original jurisdiction to determine, 28284
initially, whether the officer or employee is entitled to 28285
personal immunity under section 9.86 of the Revised Code and 28286
whether the courts of common pleas have jurisdiction over the 28287
civil action. The officer or employee may participate in the 28288
immunity determination proceeding before the court of claims to 28289
determine whether the officer or employee is entitled to 28290
personal immunity under section 9.86 of the Revised Code. 28291

The filing of a claim against an officer or employee under 28292
this division tolls the running of the applicable statute of 28293
limitations until the court of claims determines whether the 28294

officer or employee is entitled to personal immunity under 28295
section 9.86 of the Revised Code. 28296

(G) If a claim lies against an officer or employee who is 28297
a member of the Ohio national guard, and the officer or employee 28298
was, at the time of the act or omission complained of, subject 28299
to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 U.S.C. 28300
2671, et seq., the Federal Tort Claims Act is the exclusive 28301
remedy of the claimant and the state has no liability under this 28302
section. 28303

(H) If an inmate of a state correctional institution has a 28304
claim against the state for the loss of or damage to property 28305
and the amount claimed does not exceed three hundred dollars, 28306
before commencing an action against the state in the court of 28307
claims, the inmate shall file a claim for the loss or damage 28308
under the rules adopted by the director of rehabilitation and 28309
correction pursuant to this division. The inmate shall file the 28310
claim within the time allowed for commencement of a civil action 28311
under section 2743.16 of the Revised Code. If the state admits 28312
or compromises the claim, the director shall make payment from a 28313
fund designated by the director for that purpose. If the state 28314
denies the claim or does not compromise the claim at least sixty 28315
days prior to expiration of the time allowed for commencement of 28316
a civil action based upon the loss or damage under section 28317
2743.16 of the Revised Code, the inmate may commence an action 28318
in the court of claims under this chapter to recover damages for 28319
the loss or damage. 28320

The director of rehabilitation and correction shall adopt 28321
rules pursuant to Chapter 119. of the Revised Code ~~to implement~~ 28322
specifying the process for an inmate to file a claim for loss or 28323
damage under this division. 28324

Sec. 2915.08. (A) (1) Except as otherwise permitted under 28325
section 2915.092 of the Revised Code, annually before the first 28326
day of January, a charitable organization that desires to 28327
conduct bingo shall apply to the attorney general for one or 28328
more of the following types of licenses to conduct bingo, as 28329
appropriate: 28330

(a) A type I license to conduct bingo as described in 28331
division (O) (1) of section 2915.01 of the Revised Code; 28332

(b) A type II license to conduct instant bingo, electronic 28333
instant bingo, or both at a bingo session; 28334

(c) A type III license to conduct instant bingo, 28335
electronic instant bingo, or both other than at a bingo session, 28336
in accordance with sections 2915.093 to 2915.095 or sections 28337
2915.13 to 2915.15 of the Revised Code, as applicable. 28338

(2) A veteran's organization or fraternal organization 28339
that is authorized under section 2915.14 of the Revised Code to 28340
conduct electronic instant bingo may be issued only one license 28341
to conduct electronic instant bingo at any one time. The 28342
organization may conduct electronic instant bingo under that 28343
license at only one location specified on the license, which 28344
shall be the organization's principal place of business. 28345

(B) The application shall be accompanied by a license fee 28346
as follows: 28347

(1) If the charitable organization was not licensed to 28348
conduct bingo under this chapter before July 1, 2003, a fee 28349
established by the attorney general by rule adopted pursuant to 28350
section 111.15 of the Revised Code. 28351

(2) If the charitable organization was licensed to conduct 28352
bingo under this chapter before July 1, 2003, the following 28353

applicable fee:	28354
(a) For a type I license for a charitable organization	28355
that wishes to conduct bingo during twenty-six or more weeks in	28356
any calendar year, a license fee of two hundred dollars;	28357
(b) For a type II or type III license for a charitable	28358
organization that previously has not been licensed under this	28359
chapter to conduct instant bingo or electronic instant bingo and	28360
that wishes to conduct bingo during twenty-six or more weeks in	28361
any calendar year, a license fee of five hundred dollars;	28362
(c) For a type II or type III license for a charitable	28363
organization that previously has been licensed under this	28364
chapter to conduct instant bingo or electronic instant bingo and	28365
that desires to conduct bingo during twenty-six or more weeks in	28366
any calendar year, a license fee that is based upon the gross	28367
profits received by the charitable organization from the	28368
operation of instant bingo or electronic instant bingo during	28369
the one-year period ending on the thirty-first day of October of	28370
the year immediately preceding the year for which the license is	28371
sought, and that is one of the following:	28372
(i) Five hundred dollars, if the total is fifty thousand	28373
dollars or less;	28374
(ii) One thousand two hundred fifty dollars plus one-	28375
fourth per cent of the gross profit, if the total is more than	28376
fifty thousand dollars but less than two hundred fifty thousand	28377
one dollars;	28378
(iii) Two thousand two hundred fifty dollars plus one-half	28379
per cent of the gross profit, if the total is more than two	28380
hundred fifty thousand dollars but less than five hundred	28381
thousand one dollars;	28382

(iv) Three thousand five hundred dollars plus one per cent of the gross profit, if the total is more than five hundred thousand dollars but less than one million one dollars;

(v) Five thousand dollars plus one per cent of the gross profit, if the total is one million one dollars or more.

~~(e)~~(d) For a type I, type II, or type III license for a charitable organization that desires to conduct bingo during fewer than twenty-six weeks in any calendar year, a reduced license fee established by the attorney general by rule adopted pursuant to section 111.15 of the Revised Code.

(C) The application shall be in the form prescribed by the attorney general, shall be signed and sworn to by the applicant, and shall contain all of the following:

(1) The name and post-office address of the applicant;

(2) A statement that the applicant is a charitable organization and that it has been in continuous existence as a charitable organization in this state for two years immediately preceding the making of the application;

(3) The location at which the organization will conduct bingo, which location shall be within the county in which the principal place of business of the applicant is located, the days of the week and the times on each of those days when bingo will be conducted, whether the organization owns, leases, or subleases the premises, and a copy of the rental agreement if it leases or subleases the premises;

(4) A statement of the applicant's previous history, record, and association that is sufficient to establish that the applicant is a charitable organization, and a copy of a determination letter that is issued by the Internal Revenue

Service and states that the organization is tax exempt under 28412
subsection 501(a) and described in subsection 501(c) (3), 501(c) 28413
(4), 501(c) (7), 501(c) (8), 501(c) (10), or 501(c) (19) of the 28414
Internal Revenue Code; 28415

(5) A statement as to whether the applicant has ever had 28416
any previous application refused, whether it previously has had 28417
a license revoked or suspended, and the reason stated by the 28418
attorney general for the refusal, revocation, or suspension; 28419

(6) A statement of the charitable purposes for which the 28420
net profit derived from bingo described in division (O) (1) of 28421
section 2915.01 of the Revised Code will be used, or a statement 28422
of how the net profit derived from instant bingo or electronic 28423
instant bingo will be distributed in accordance with section 28424
2915.101 of the Revised Code, as applicable; 28425

(7) Other necessary and reasonable information that the 28426
attorney general may require by rule adopted pursuant to section 28427
111.15 of the Revised Code; 28428

(8) If the applicant is a charitable trust as defined in 28429
section 109.23 of the Revised Code, a statement as to whether it 28430
has registered with the attorney general pursuant to section 28431
109.26 of the Revised Code or filed annual reports pursuant to 28432
section 109.31 of the Revised Code, and, if it is not required 28433
to do either, the exemption in section 109.26 or 109.31 of the 28434
Revised Code that applies to it; 28435

(9) If the applicant is a charitable organization as 28436
defined in section 1716.01 of the Revised Code, a statement as 28437
to whether it has filed with the attorney general a registration 28438
statement pursuant to section 1716.02 of the Revised Code and a 28439
financial report pursuant to section 1716.04 of the Revised 28440

Code, and, if it is not required to do both, the exemption in 28441
section 1716.03 of the Revised Code that applies to it; 28442

(10) In the case of an applicant seeking to qualify as a 28443
youth athletic park organization, a statement issued by a board 28444
or body vested with authority under Chapter 755. of the Revised 28445
Code for the supervision and maintenance of recreation 28446
facilities in the territory in which the organization is 28447
located, certifying that the playing fields owned by the 28448
organization were open for use to all residents of that 28449
territory, regardless of race, color, creed, religion, sex, or 28450
national origin, for athletic activities by youth athletic 28451
organizations that do not discriminate on the basis of race, 28452
color, creed, religion, sex, or national origin, and that the 28453
fields were not used for any profit-making activity at any time 28454
during the year. That type of board or body is authorized to 28455
issue the statement upon request and shall issue the statement 28456
if it finds that the applicant's playing fields were so used. 28457

(D) The attorney general, within thirty days after 28458
receiving a timely filed application from a charitable 28459
organization that has been issued a license under this section 28460
that has not expired and has not been revoked or suspended, 28461
shall send a temporary permit to the applicant specifying the 28462
date on which the application was filed with the attorney 28463
general and stating that, pursuant to section 119.06 of the 28464
Revised Code, the applicant may continue to conduct bingo until 28465
a new license is granted or, if the application is rejected, 28466
until fifteen days after notice of the rejection is mailed to 28467
the applicant. The temporary permit does not affect the validity 28468
of the applicant's application and does not grant any rights to 28469
the applicant except those rights specifically granted in 28470
section 119.06 of the Revised Code. The issuance of a temporary 28471

permit by the attorney general pursuant to this division does 28472
not prohibit the attorney general from rejecting the applicant's 28473
application because of acts that the applicant committed, or 28474
actions that the applicant failed to take, before or after the 28475
issuance of the temporary permit. 28476

(E) Within thirty days after receiving an initial license 28477
application from a charitable organization to conduct bingo, the 28478
attorney general shall conduct a preliminary review of the 28479
application and notify the applicant regarding any deficiencies. 28480
Once an application is deemed complete, or beginning on the 28481
thirtieth day after the application is filed, if the attorney 28482
general failed to notify the applicant of any deficiencies, the 28483
attorney general shall have an additional sixty days to conduct 28484
an investigation and either grant, grant with limits, 28485
restrictions, or probationary conditions, or deny the 28486
application based on findings established and communicated in 28487
accordance with divisions (F) and (I) of this section. As an 28488
option to granting, granting with limits, restrictions, or 28489
probationary conditions, or denying an initial license 28490
application, the attorney general may grant a temporary license 28491
and request additional time to conduct the investigation if the 28492
attorney general has cause to believe that additional time is 28493
necessary to complete the investigation and has notified the 28494
applicant in writing about the specific concerns raised during 28495
the investigation. 28496

~~(F) (1) The attorney general shall adopt rules to enforce 28497
sections 2915.01, 2915.02, and 2915.07 to 2915.15 of the Revised 28498
Code to ensure that bingo is conducted in accordance with those 28499
sections and to maintain proper control over the conduct of 28500
bingo. Except as otherwise provided in this section, the rules 28501
shall be adopted pursuant to Chapter 119. of the Revised Code. 28502~~

The attorney general shall license charitable organizations to 28503
conduct bingo in conformance with this chapter and with the 28504
licensing provisions of Chapter 119. of the Revised Code. 28505

(2) If any of the following applies to an organization, 28506
the attorney general may refuse to grant a license to the 28507
organization, may revoke or suspend the organization's license, 28508
or may place limits, restrictions, or probationary conditions on 28509
the organization's license for a limited or indefinite period, 28510
as determined by the attorney general: 28511

(a) The organization fails or has failed at any time to 28512
meet any requirement of section 109.26, 109.31, or 1716.02, or 28513
sections 2915.07 to 2915.15 of the Revised Code, or violates or 28514
has violated any provision of sections 2915.02 or 2915.07 to 28515
2915.13 of the Revised Code or any rule adopted by the attorney 28516
general pursuant to this chapter. 28517

(b) The organization makes or has made an incorrect or 28518
false statement that is material to the granting of the license 28519
in an application filed under this section. 28520

(c) The organization submits or has submitted any 28521
incorrect or false information relating to an application if the 28522
information is material to the granting of the license. 28523

(d) The organization maintains or has maintained any 28524
incorrect or false information that is material to the granting 28525
of the license in the records required to be kept pursuant to 28526
section 2915.10 of the Revised Code, if applicable. 28527

(e) The attorney general has good cause to believe that 28528
the organization will not conduct bingo in accordance with 28529
sections 2915.07 to 2915.15 of the Revised Code or with any rule 28530
adopted by the attorney general pursuant to this chapter. 28531

(3) If the attorney general has good cause to believe that any director or officer of the organization has breached the director's or officer's fiduciary duty to, or committed theft or any other type of misconduct related to, the organization or any other charitable organization that has been issued a bingo license under this chapter, the attorney general may refuse to grant a license to the organization, may impose limits, restrictions, or probationary conditions on the license, or may revoke or suspend the organization's license for a period not to exceed five years.

(4) The attorney general may impose a civil fine on an organization licensed or permitted under this chapter for failure to comply with any restrictions, limits, or probationary conditions on its license, and for failure to comply with this chapter or any rule adopted under this chapter, according to a schedule of fines that the attorney general shall adopt in accordance with Chapter 119. of the Revised Code.

(5) For the purposes of division (F) of this section, any action of an officer, trustee, agent, representative, or bingo game operator of an organization is an action of the organization.

(G) The attorney general may grant licenses to charitable organizations that are branches, lodges, or chapters of national charitable organizations.

(H) The attorney general shall send notice of any of the following actions in writing to the prosecuting attorney and sheriff of the county in which the charitable organization is located and to any other law enforcement agency in that county that so requests, of all of the following:

(1) The issuance of a license under this section;	28561
(2) The issuance of an amended license under this section;	28562
(3) The rejection of an application for and refusal to grant a license under this section;	28563 28564
(4) The revocation of any license previously issued under this section;	28565 28566
(5) The suspension of any license previously issued under this section;	28567 28568
(6) The placing of any limits, restrictions, or probationary conditions placed on a license issued under this section.	28569 28570 28571
(I) A license issued by the attorney general under this section shall set forth the information contained on the application of the charitable organization that the attorney general determines is relevant, including, but not limited to, the location at which the organization will conduct bingo, whether the license is a type I, type II, or type III license, and the days of the week and the times on each of those days when bingo will be conducted. If the attorney general refuses to grant, places limits, restrictions, or probationary conditions on, or revokes or suspends a license, the attorney general shall notify the applicant in writing and specifically identify the reason for the refusal, revocation, limit, restriction, probationary condition, or suspension in narrative form and, if applicable, by identifying the section of the Revised Code violated. The failure of the attorney general to give the written notice of the reasons for the refusal, revocation, limit, restriction, probationary condition, or suspension or a mistake in the written notice does not affect the validity of	28572 28573 28574 28575 28576 28577 28578 28579 28580 28581 28582 28583 28584 28585 28586 28587 28588 28589

the attorney general's refusal to grant, or the revocation or 28590
suspension of, or limit, restriction, probationary condition on, 28591
a license. If the attorney general fails to give the written 28592
notice or if there is a mistake in the written notice, the 28593
applicant may bring an action to compel the attorney general to 28594
comply with this division or to correct the mistake, but the 28595
attorney general's order refusing to grant, or placing a limit, 28596
restriction, or probationary condition on, or revoking or 28597
suspending, a license shall not be enjoined during the pendency 28598
of the action. 28599

(J) (1) (a) Except as otherwise provided in division (J) (2) 28600
of this section, a charitable organization that has been issued 28601
a license under this section but that cannot conduct bingo at 28602
the location, or on the day of the week or at the time, 28603
specified on the license due to circumstances that make it 28604
impractical to do so, or that desires to conduct instant bingo 28605
other than at a bingo session at additional locations not 28606
identified on the license, may apply in writing, together with 28607
an application fee of two hundred fifty dollars, to the attorney 28608
general, at least thirty days prior to a change in or addition 28609
of a location, day of the week, or time, and request an amended 28610
license. 28611

(b) As applicable, the application shall describe the 28612
causes making it impractical for the organization to conduct 28613
bingo in conformity with its license and shall indicate the 28614
location, days of the week, and times on each of those days when 28615
it desires to conduct bingo and, as applicable, shall indicate 28616
the additional locations at which it desires to conduct instant 28617
bingo other than at a bingo session. 28618

(c) Except as otherwise provided in division (J) (3) of 28619

this section, the attorney general shall issue the amended 28620
license in accordance with division (I) of this section, and the 28621
organization shall surrender its original license to the 28622
attorney general. 28623

(2) (a) A charitable organization that has been issued a 28624
license under this section to conduct electronic instant bingo 28625
but that cannot conduct electronic instant bingo at the 28626
location, or on the day of the week or at the time, specified on 28627
the license due to circumstances that make it impractical to do 28628
so, may apply in writing, together with an application fee of 28629
two hundred fifty dollars, to the attorney general, at least 28630
thirty days prior to a change in a location, day of the week, or 28631
time, and request an amended license. A charitable organization 28632
may not apply for an amended license to conduct electronic 28633
instant bingo at any additional location. 28634

(b) The application shall describe the causes making it 28635
impractical for the organization to conduct electronic instant 28636
bingo in conformity with its license and shall indicate the 28637
location, days of the week, and times on each of those days when 28638
it desires to conduct electronic instant bingo. 28639

(c) Except as otherwise provided in division (J) (3) of 28640
this section, the attorney general shall issue the amended 28641
license in accordance with division (I) of this section, and the 28642
organization shall surrender its original license to the 28643
attorney general. 28644

(3) The attorney general may refuse to grant an amended 28645
license under division (J) (1) or (2) of this section according 28646
to the terms of division (F) of this section. 28647

(K) The attorney general may enter into a written contract 28648

with any other state agency to delegate to that state agency the powers prescribed to the attorney general under Chapter 2915. of the Revised Code.

(L) The attorney general, by rule adopted pursuant to section 111.15 of the Revised Code, may adopt rules to determine the requirements for a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c) (3) of the Internal Revenue Code to be in good standing in the state.

Sec. 2919.271. (A) (1) (a) If a defendant is charged with a violation of section 2919.27 of the Revised Code or of a municipal ordinance that is substantially similar to that section, the court may order an evaluation of the mental condition of the defendant if the court determines that either of the following criteria apply:

(i) If the alleged violation is a violation of a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, that the violation allegedly involves conduct by the defendant that caused physical harm to the person or property of a family or household member covered by the order or agreement, or conduct by the defendant that caused a family or household member to believe that the defendant would cause physical harm to that member or that member's property.

(ii) If the alleged violation is a violation of a protection order issued pursuant to section 2903.213 or 2903.214 of the Revised Code or a protection order issued by a court of another state, that the violation allegedly involves conduct by the defendant that caused physical harm to the person or property of the person covered by the order, or conduct by the

defendant that caused the person covered by the order to believe 28679
that the defendant would cause physical harm to that person or 28680
that person's property. 28681

(b) If a defendant is charged with a violation of section 28682
2903.211 of the Revised Code or of a municipal ordinance that is 28683
substantially similar to that section, the court may order an 28684
evaluation of the mental condition of the defendant. 28685

(2) An evaluation ordered under division (A)(1) of this 28686
section shall be completed no later than thirty days from the 28687
date the order is entered pursuant to that division. In that 28688
order, the court shall do either of the following: 28689

(a) Order that the evaluation of the mental condition of 28690
the defendant be preceded by an examination conducted either by 28691
a forensic center that is designated by the department of mental 28692
health and addiction services to conduct examinations and make 28693
evaluations of defendants charged with violations of section 28694
2903.211 or 2919.27 of the Revised Code or of substantially 28695
similar municipal ordinances in the area in which the court is 28696
located, or by any other program or facility that is designated 28697
by the department of mental health and addiction services or the 28698
department of developmental disabilities to conduct examinations 28699
and make evaluations of defendants charged with violations of 28700
section 2903.211 or 2919.27 of the Revised Code or of 28701
substantially similar municipal ordinances, and that is operated 28702
by either department or is certified by either department as 28703
being in compliance with the standards established under 28704
division (B)(7) of section 5119.10 of the Revised Code or 28705
division ~~(C)~~(B) of section 5123.04 of the Revised Code. 28706

(b) Designate a center, program, or facility other than 28707
one designated by the department of mental health and addiction 28708

services or the department of developmental disabilities, as 28709
described in division (A) (2) (a) of this section, to conduct the 28710
evaluation and preceding examination of the mental condition of 28711
the defendant. 28712

Whether the court acts pursuant to division (A) (2) (a) or 28713
(b) of this section, the court may designate examiners other 28714
than the personnel of the center, program, facility, or 28715
department involved to make the evaluation and preceding 28716
examination of the mental condition of the defendant. 28717

(B) If the court considers that additional evaluations of 28718
the mental condition of a defendant are necessary following the 28719
evaluation authorized by division (A) of this section, the court 28720
may order up to two additional similar evaluations. These 28721
evaluations shall be completed no later than thirty days from 28722
the date the applicable court order is entered. If more than one 28723
evaluation of the mental condition of the defendant is ordered 28724
under this division, the prosecutor and the defendant may 28725
recommend to the court an examiner whom each prefers to perform 28726
one of the evaluations and preceding examinations. 28727

(C) (1) The court may order a defendant who has been 28728
released on bail to submit to an examination under division (A) 28729
or (B) of this section. The examination shall be conducted 28730
either at the detention facility in which the defendant would 28731
have been confined if the defendant had not been released on 28732
bail, or, if so specified by the center, program, facility, or 28733
examiners involved, at the premises of the center, program, or 28734
facility. Additionally, the examination shall be conducted at 28735
the times established by the examiners involved. If such a 28736
defendant refuses to submit to an examination or a complete 28737
examination as required by the court or the center, program, 28738

facility, or examiners involved, the court may amend the 28739
conditions of the bail of the defendant and order the sheriff to 28740
take the defendant into custody and deliver the defendant to the 28741
detention facility in which the defendant would have been 28742
confined if the defendant had not been released on bail, or, if 28743
so specified by the center, program, facility, or examiners 28744
involved, to the premises of the center, program, or facility, 28745
for purposes of the examination. 28746

(2) A defendant who has not been released on bail shall be 28747
examined at the detention facility in which the defendant is 28748
confined or, if so specified by the center, program, facility, 28749
or examiners involved, at the premises of the center, program, 28750
or facility. 28751

(D) The examiner of the mental condition of a defendant 28752
under division (A) or (B) of this section shall file a written 28753
report with the court within thirty days after the entry of an 28754
order for the evaluation of the mental condition of the 28755
defendant. The report shall contain the findings of the 28756
examiner; the facts in reasonable detail on which the findings 28757
are based; the opinion of the examiner as to the mental 28758
condition of the defendant; the opinion of the examiner as to 28759
whether the defendant represents a substantial risk of physical 28760
harm to other persons as manifested by evidence of recent 28761
homicidal or other violent behavior, evidence of recent threats 28762
that placed other persons in reasonable fear of violent behavior 28763
and serious physical harm, or evidence of present dangerousness; 28764
and the opinion of the examiner as to the types of treatment or 28765
counseling that the defendant needs. The court shall provide 28766
copies of the report to the prosecutor and defense counsel. 28767

(E) The costs of any evaluation and preceding examination 28768

of a defendant that is ordered pursuant to division (A) or (B) 28769
of this section shall be taxed as court costs in the criminal 28770
case. 28771

(F) If the examiner considers it necessary in order to 28772
make an accurate evaluation of the mental condition of a 28773
defendant, an examiner under division (A) or (B) of this section 28774
may request any family or household member of the defendant to 28775
provide the examiner with information. A family or household 28776
member may, but is not required to, provide information to the 28777
examiner upon receipt of the request. 28778

(G) As used in this section: 28779

(1) "Bail" includes a recognizance. 28780

(2) "Examiner" means a psychiatrist, a licensed 28781
independent social worker who is employed by a forensic center 28782
that is certified as being in compliance with the standards 28783
established under division (B) (7) of section 5119.10 or division 28784
~~(C)~~(B) of section 5123.04 of the Revised Code, a licensed 28785
professional clinical counselor who is employed at a forensic 28786
center that is certified as being in compliance with such 28787
standards, or a licensed clinical psychologist, except that in 28788
order to be an examiner, a licensed clinical psychologist shall 28789
meet the criteria of division (I) of section 5122.01 of the 28790
Revised Code or be employed to conduct examinations by the 28791
department of mental health and addiction services or by a 28792
forensic center certified as being in compliance with the 28793
standards established under division (B) (7) of section 5119.10 28794
or division ~~(C)~~(B) of section 5123.04 of the Revised Code that 28795
is designated by the department of mental health and addiction 28796
services. 28797

(3) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.	28798 28799
(4) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.	28800 28801
(5) "Psychiatrist" and "licensed clinical psychologist" have the same meanings as in section 5122.01 of the Revised Code.	28802 28803 28804
(6) "Protection order issued by a court of another state" has the same meaning as in section 2919.27 of the Revised Code.	28805 28806
Sec. 2927.27. (A) No person, other than a law enforcement officer, shall apprehend, detain, or arrest a principal on bond, wherever issued, unless that person meets all of the following criteria:	28807 28808 28809 28810
(1) The person is any of the following:	28811
(a) Qualified, licensed, and appointed as a surety bail bond agent under sections 3905.83 to 3905.95 <u>3905.941</u> of the Revised Code;	28812 28813 28814
(b) Licensed as a surety bail bond agent by the state where the bond was written;	28815 28816
(c) Licensed as a private investigator under chapter <u>Chapter</u> 4749. of the Revised Code;	28817 28818
(d) Licensed as a private investigator by the state where the bond was written;	28819 28820
(e) An off-duty peace officer, as defined in section 2921.51 of the Revised Code.	28821 28822
(2) The person, prior to apprehending, detaining, or arresting the principal, has entered into a written contract	28823 28824

with the surety or with a licensed surety bail bond agent 28825
appointed by the surety, which contract sets forth the name of 28826
the principal who is to be apprehended, detained, or arrested. 28827

For purposes of division (A) (2) of this section, "surety" 28828
has the same meaning as in section 3905.83 of the Revised Code. 28829

(3) The person, prior to apprehending, detaining, or 28830
arresting the principal, has notified the local law enforcement 28831
agency having jurisdiction over the area in which such 28832
activities will be performed and has provided any form of 28833
identification or other information requested by the law 28834
enforcement agency. 28835

(B) No person shall represent the person's self to be a 28836
bail enforcement agent or bounty hunter, or claim any similar 28837
title, in this state. 28838

(C) (1) Whoever violates this section is guilty of illegal 28839
bail bond agent practices. 28840

(2) A violation of division (A) of this section is a 28841
misdemeanor of the first degree or, if the offender previously 28842
has been convicted of or pleaded guilty to two or more 28843
violations of division (A) of this section, a felony of the 28844
third degree. 28845

(3) A violation of division (B) of this section is a 28846
misdemeanor of the first degree or, if the offender previously 28847
has been convicted of or pleaded guilty to two or more 28848
violations of division (B) of this section, a felony of the 28849
third degree. 28850

Sec. 2950.08. (A) Subject to division (B) of this section, 28851
the statements, information, photographs, fingerprints, and 28852
material required by sections 2950.04, 2950.041, 2950.05, and 28853

2950.06 of the Revised Code and provided by a person who 28854
registers, who provides notice of a change of residence, school, 28855
institution of higher education, or place of employment address 28856
and registers the new residence, school, institution of higher 28857
education, or place of employment address, or who provides 28858
verification of a current residence, school, institution of 28859
higher education, or place of employment address pursuant to 28860
those sections and that are in the possession of the bureau of 28861
criminal identification and investigation and the information in 28862
the possession of the bureau that was received by the bureau 28863
pursuant to section 2950.14 of the Revised Code shall not be 28864
open to inspection by the public or by any person other than the 28865
following persons: 28866

(1) A regularly employed peace officer or other law 28867
enforcement officer; 28868

(2) An authorized employee of the bureau of criminal 28869
identification and investigation for the purpose of providing 28870
information to a board, administrator, or person pursuant to 28871
division (F) or (G) of section 109.57 of the Revised Code; 28872

(3) The registrar of motor vehicles, or an employee of the 28873
registrar of motor vehicles, for the purpose of verifying and 28874
updating any of the information so provided, upon the request of 28875
the bureau of criminal identification and investigation; 28876

(4) The director of children and youth, or an employee of 28877
the director, for the purpose of complying with division (D) of 28878
section 5104.013 of the Revised Code. 28879

(B) Division (A) of this section does not apply to any 28880
information that is contained in the internet sex offender and 28881
child-victim offender database established by the attorney 28882

general under division ~~(A) (11)~~ (A) (10) of section 2950.13 of the 28883
Revised Code regarding offenders and that is disseminated as 28884
described in that division. 28885

Sec. 2950.13. (A) The attorney general shall do all of the 28886
following: 28887

(1) No later than July 1, 1997, establish and maintain a 28888
state registry of sex offenders and child-victim offenders that 28889
is housed at the bureau of criminal identification and 28890
investigation and that contains all of the registration, change 28891
of residence, school, institution of higher education, or place 28892
of employment address, and verification information the bureau 28893
receives pursuant to sections 2950.04, 2950.041, 2950.05, and 28894
2950.06 of the Revised Code regarding each person who is 28895
convicted of, pleads guilty to, has been convicted of, or has 28896
pleaded guilty to a sexually oriented offense or a child-victim 28897
oriented offense and each person who is or has been adjudicated 28898
a delinquent child for committing a sexually oriented offense or 28899
a child-victim oriented offense and is classified a juvenile 28900
offender registrant or is an out-of-state juvenile offender 28901
registrant based on that adjudication, all of the information 28902
the bureau receives pursuant to section 2950.14 of the Revised 28903
Code, and any notice of an order terminating or modifying an 28904
offender's or delinquent child's duty to comply with sections 28905
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code the 28906
bureau receives pursuant to section 2152.84, 2152.85, or 2950.15 28907
of the Revised Code. For a person who was convicted of or 28908
pleaded guilty to the sexually oriented offense or child-victim 28909
related offense, the registry also shall indicate whether the 28910
person was convicted of or pleaded guilty to the offense in a 28911
criminal prosecution or in a serious youthful offender case. The 28912
registry shall not be open to inspection by the public or by any 28913

person other than a person identified in division (A) of section 28914
2950.08 of the Revised Code. In addition to the information and 28915
material previously identified in this division, the registry 28916
shall include all of the following regarding each person who is 28917
listed in the registry: 28918

(a) A citation for, and the name of, all sexually oriented 28919
offenses or child-victim oriented offenses of which the person 28920
was convicted, to which the person pleaded guilty, or for which 28921
the person was adjudicated a delinquent child and that resulted 28922
in a registration duty, and the date on which those offenses 28923
were committed; 28924

(b) The text of the sexually oriented offenses or child- 28925
victim oriented offenses identified in division (A)(1)(a) of 28926
this section as those offenses existed at the time the person 28927
was convicted of, pleaded guilty to, or was adjudicated a 28928
delinquent child for committing those offenses, or a link to a 28929
database that sets forth the text of those offenses; 28930

(c) A statement as to whether the person is a tier I sex 28931
offender/child-victim offender, a tier II sex offender/child- 28932
victim offender, or a tier III sex offender/child-victim 28933
offender for the sexually oriented offenses or child-victim 28934
oriented offenses identified in division (A)(1)(a) of this 28935
section; 28936

(d) The community supervision status of the person, 28937
including, but not limited to, whether the person is serving a 28938
community control sanction and the nature of any such sanction, 28939
whether the person is under supervised release and the nature of 28940
the release, or regarding a juvenile, whether the juvenile is 28941
under any type of release authorized under Chapter 2152. or 28942
5139. of the Revised Code and the nature of any such release; 28943

(e) The offense and delinquency history of the person, as determined from information gathered or provided under sections 109.57 and 2950.14 of the Revised Code;	28944 28945 28946
(f) The bureau of criminal identification and investigation tracking number assigned to the person if one has been so assigned, the federal bureau of investigation number assigned to the person if one has been assigned and the bureau of criminal identification and investigation is aware of the number, and any other state identification number assigned to the person of which the bureau is aware;	28947 28948 28949 28950 28951 28952 28953
(g) Fingerprints and palmprints of the person;	28954
(h) A DNA specimen, as defined in section 109.573 of the Revised Code, from the person;	28955 28956
(i) Whether the person has any outstanding arrest warrants;	28957 28958
(j) Whether the person is in compliance with the person's duties under this chapter.	28959 28960
(2) In consultation with local law enforcement representatives and no later than July 1, 1997, adopt rules that contain guidelines necessary for the implementation of this chapter;	28961 28962 28963 28964
(3) In consultation with local law enforcement representatives, adopt rules for the implementation and administration of the provisions contained in section 2950.11 of the Revised Code that pertain to the notification of neighbors of an offender or a delinquent child who has committed a sexually oriented offense or a child-victim oriented offense and is in a category specified in division (F)(1) of that section and rules that prescribe a manner in which victims of a sexually	28965 28966 28967 28968 28969 28970 28971 28972

oriented offense or a child-victim oriented offense committed by 28973
an offender or a delinquent child who is in a category specified 28974
in division (B) (1) of section 2950.10 of the Revised Code may 28975
make a request that specifies that the victim would like to be 28976
provided the notices described in divisions (A) (1) and (2) of 28977
section 2950.10 of the Revised Code; 28978

~~(4)~~(3) In consultation with local law enforcement 28979
representatives and through the bureau of criminal 28980
identification and investigation, prescribe the forms to be used 28981
by judges and officials pursuant to section 2950.03 or 2950.032 28982
of the Revised Code to advise offenders and delinquent children 28983
of their duties of filing a notice of intent to reside, 28984
registration, notification of a change of residence, school, 28985
institution of higher education, or place of employment address 28986
and registration of the new school, institution of higher 28987
education, or place of employment address, as applicable, and 28988
address verification under sections 2950.04, 2950.041, 2950.05, 28989
and 2950.06 of the Revised Code, and prescribe the forms to be 28990
used by sheriffs relative to those duties of filing a notice of 28991
intent to reside, registration, change of residence, school, 28992
institution of higher education, or place of employment address 28993
notification, and address verification; 28994

~~(5)~~(4) Make copies of the forms prescribed under division 28995
~~(A)~~(4)(A) (3) of this section available to judges, officials, and 28996
sheriffs; 28997

~~(6)~~(5) Through the bureau of criminal identification and 28998
investigation, provide the notifications, the information and 28999
materials, and the documents that the bureau is required to 29000
provide to appropriate law enforcement officials and to the 29001
federal bureau of investigation pursuant to sections 2950.04, 29002

2950.041, 2950.05, and 2950.06 of the Revised Code; 29003

~~(7)~~(6) Through the bureau of criminal identification and 29004
investigation, maintain the verification forms returned under 29005
the address verification mechanism set forth in section 2950.06 29006
of the Revised Code; 29007

~~(8)~~(7) In consultation with representatives of the 29008
officials, judges, and sheriffs, adopt procedures for officials, 29009
judges, and sheriffs to use to forward information, photographs, 29010
and fingerprints to the bureau of criminal identification and 29011
investigation pursuant to the requirements of sections 2950.03, 29012
2950.04, 2950.041, 2950.05, 2950.06, and 2950.11 of the Revised 29013
Code; 29014

~~(9)~~(8) In consultation with the director of education, the 29015
director of children and youth, and the director of 29016
rehabilitation and correction, adopt rules that contain 29017
guidelines to be followed by boards of education of a school 29018
district, chartered nonpublic schools or other schools not 29019
operated by a board of education, preschool programs, child care 29020
centers, type A family child care homes, licensed type B family 29021
child care homes, and institutions of higher education regarding 29022
the proper use and administration of information received 29023
pursuant to section 2950.11 of the Revised Code relative to an 29024
offender or delinquent child who has committed a sexually 29025
oriented offense or a child-victim oriented offense and is in a 29026
category specified in division (F)(1) of that section; 29027

~~(10)~~(9) In consultation with local law enforcement 29028
representatives and no later than July 1, 1997, adopt rules that 29029
designate a geographic area or areas within which the notice 29030
described in division (B) of section 2950.11 of the Revised Code 29031
must be given to the persons identified in divisions (A)(2) to 29032

(8) and (A)(10) of that section; 29033

~~(11)~~(10) Through the bureau of criminal identification and 29034
investigation, not later than January 1, 2004, establish and 29035
operate on the internet a sex offender and child-victim offender 29036
database that contains information for every offender who has 29037
committed a sexually oriented offense or a child-victim oriented 29038
offense and registers in any county in this state pursuant to 29039
section 2950.04 or 2950.041 of the Revised Code and for every 29040
delinquent child who has committed a sexually oriented offense, 29041
is a public registry-qualified juvenile offender registrant, and 29042
registers in any county in this state pursuant to either such 29043
section. The bureau shall not include on the database the 29044
identity of any offender's or public registry-qualified juvenile 29045
offender registrant's victim, any offender's or public registry- 29046
qualified juvenile offender registrant's social security number, 29047
the name of any school or institution of higher education 29048
attended by any offender or public registry-qualified juvenile 29049
offender registrant, the name of the place of employment of any 29050
offender or public registry-qualified juvenile offender 29051
registrant, any tracking or identification number described in 29052
division (A)(1)(f) of this section, or any information described 29053
in division (C)(7) of section 2950.04 or 2950.041 of the Revised 29054
Code. The bureau shall provide on the database, for each 29055
offender and each public registry-qualified juvenile offender 29056
registrant, at least the information specified in divisions ~~(A)~~ 29057
~~(11)~~~~(a)~~(A)(10)(a) to (h) of this section. Otherwise, the bureau 29058
shall determine the information to be provided on the database 29059
for each offender and public registry-qualified juvenile 29060
offender registrant and shall obtain that information from the 29061
information contained in the state registry of sex offenders and 29062
child-victim offenders described in division (A)(1) of this 29063

section, which information, while in the possession of the sheriff who provided it, is a public record open for inspection as described in section 2950.081 of the Revised Code. The database is a public record open for inspection under section 149.43 of the Revised Code, and it shall be searchable by offender or public registry-qualified juvenile offender registrant name, by county, by zip code, and by school district. The database shall provide a link to the web site of each sheriff who has established and operates on the internet a sex offender and child-victim offender database that contains information for offenders and public registry-qualified juvenile offender registrants who register in that county pursuant to section 2950.04 or 2950.041 of the Revised Code, with the link being a direct link to the sex offender and child-victim offender database for the sheriff. The bureau shall provide on the database, for each offender and public registry-qualified juvenile offender registrant, at least the following information:

(a) The information described in divisions (A) (1) (a), (b), (c), and (d) of this section relative to the offender or public registry-qualified juvenile offender registrant;

(b) The address of the offender's or public registry-qualified juvenile offender registrant's school, institution of higher education, or place of employment provided in a registration form;

(c) The information described in division (C) (6) of section 2950.04 or 2950.041 of the Revised Code;

(d) A chart describing which sexually oriented offenses and child-victim oriented offenses are included in the definitions of tier I sex offender/child-victim offender, tier

II sex offender/child-victim offender, and tier III sex offender/child-victim offender; 29094
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(e) Fingerprints and palmprints of the offender or public registry-qualified juvenile offender registrant and a DNA specimen from the offender or public registry-qualified juvenile offender registrant; 29096
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(f) The information set forth in division (B) of section 2950.11 of the Revised Code; 29100
29101

(g) Any outstanding arrest warrants for the offender or public registry-qualified juvenile offender registrant; 29102
29103

(h) The offender's or public registry-qualified juvenile offender registrant's compliance status with duties under this chapter. 29104
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~~(12)~~ (11) Develop software to be used by sheriffs in establishing on the internet a sex offender and child-victim offender database for the public dissemination of some or all of the information and materials described in division (A) of section 2950.081 of the Revised Code that are public records under that division, that are not prohibited from inclusion by division (B) of that section, and that pertain to offenders and public registry-qualified juvenile offender registrants who register in the sheriff's county pursuant to section 2950.04 or 2950.041 of the Revised Code and for the public dissemination of information the sheriff receives pursuant to section 2950.14 of the Revised Code and, upon the request of any sheriff, provide technical guidance to the requesting sheriff in establishing on the internet such a database; 29107
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~~(13)~~ (12) Through the bureau of criminal identification and investigation, not later than January 1, 2004, establish and 29121
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operate on the internet a database that enables local law enforcement representatives to remotely search by electronic means the state registry of sex offenders and child-victims described in division (A) (1) of this section and any information and materials the bureau receives pursuant to sections 2950.04, 2950.041, 2950.05, 2950.06, and 2950.14 of the Revised Code. The database shall enable local law enforcement representatives to obtain detailed information regarding each offender and delinquent child who is included in the registry, including, but not limited to the offender's or delinquent child's name, aliases, residence address, name and address of any place of employment, school, institution of higher education, if applicable, license plate number of each vehicle identified in division (C) (5) of section 2950.04 or 2950.041 of the Revised Code to the extent applicable, victim preference if available, date of most recent release from confinement if applicable, fingerprints, and palmprints, all of the information and material described in divisions (A) (1) (a) to (h) of this section regarding the offender or delinquent child, and other identification parameters the bureau considers appropriate. The database is not a public record open for inspection under section 149.43 of the Revised Code and shall be available only to law enforcement representatives as described in this division. Information obtained by local law enforcement representatives through use of this database is not open to inspection by the public or by any person other than a person identified in division (A) of section 2950.08 of the Revised Code.

~~(14)~~(13) Through the bureau of criminal identification and investigation, maintain a list of requests for notice about a specified offender or delinquent child or specified geographical

notification area made pursuant to division (J) of section 29154
2950.11 of the Revised Code and, when an offender or delinquent 29155
child changes residence to another county, forward any requests 29156
for information about that specific offender or delinquent child 29157
to the appropriate sheriff; 29158

~~(15)~~(14) Through the bureau of criminal identification and 29159
investigation, establish and operate a system for the immediate 29160
notification by electronic means of the appropriate officials in 29161
other states specified in this division each time an offender or 29162
delinquent child registers a residence, school, institution of 29163
higher education, or place of employment address under section 29164
2950.04 or 2950.041 of the Revised Code or provides a notice of 29165
a change of address or registers a new address under division 29166
(A) or (B) of section 2950.05 of the Revised Code. The immediate 29167
notification by electronic means shall be provided to the 29168
appropriate officials in each state in which the offender or 29169
delinquent child is required to register a residence, school, 29170
institution of higher education, or place of employment address. 29171
The notification shall contain the offender's or delinquent 29172
child's name and all of the information the bureau receives from 29173
the sheriff with whom the offender or delinquent child 29174
registered the address or provided the notice of change of 29175
address or registered the new address. 29176

(B) The attorney general in consultation with local law 29177
enforcement representatives, may adopt rules that establish one 29178
or more categories of neighbors of an offender or delinquent 29179
child who, in addition to the occupants of residential premises 29180
and other persons specified in division (A) (1) of section 29181
2950.11 of the Revised Code, must be given the notice described 29182
in division (B) of that section. 29183

(C) No person, other than a local law enforcement representative, shall knowingly do any of the following:

(1) Gain or attempt to gain access to the database established and operated by the attorney general, through the bureau of criminal identification and investigation, pursuant to division ~~(A) (13)~~ (A) (12) of this section.

(2) Permit any person to inspect any information obtained through use of the database described in division (C) (1) of this section, other than as permitted under that division.

(D) As used in this section, "local law enforcement representatives" means representatives of the sheriffs of this state, representatives of the municipal chiefs of police and marshals of this state, and representatives of the township constables and chiefs of police of the township police departments or police district police forces of this state.

Sec. 2950.131. (A) By January 1, 2008, the bureau of criminal identification and investigation, with the assistance of the office of criminal justice services, shall include on the internet sex offender and child-victim offender database established and operated pursuant to division ~~(A) (11)~~ (A) (10) of section 2950.13 of the Revised Code a link to educational information for the public on current research about sex offenders and child-victim offenders. Each sheriff who has established on the internet a sex offender and child-victim offender database may include a link to this information on the sheriff's internet database.

(B) By January 1, 2008, the internet sex offender and child-victim offender database established and operated pursuant to division ~~(A) (11)~~ (A) (10) of section 2950.13 of the Revised

Code and each sheriff's internet sex offender and child-victim 29213
offender database is required to inform offenders and public 29214
registry-qualified juvenile offender registrants that they may 29215
contact the sheriff of the county in which the offender or 29216
delinquent child registered an address if the offender or 29217
delinquent child believes that information contained on the 29218
internet sex offender and child-victim offender database or 29219
sheriff's internet sex offender and child-victim offender 29220
database pertaining to the offender or delinquent child is 29221
incorrect. 29222

Sec. 2950.14. (A) Prior to releasing an offender who is 29223
under the custody and control of the department of 29224
rehabilitation and correction and who has been convicted of or 29225
pleaded guilty to committing, either prior to, on, or after 29226
January 1, 1997, any sexually oriented offense or any child- 29227
victim oriented offense, the department of rehabilitation and 29228
correction shall provide all of the information described in 29229
division (B) of this section to the bureau of criminal 29230
identification and investigation regarding the offender and to 29231
the sheriff of the county in which the offender's anticipated 29232
future residence is located. Prior to releasing a delinquent 29233
child who is in the custody of the department of youth services 29234
who has been adjudicated a delinquent child for committing any 29235
sexually oriented offense or any child-victim oriented offense, 29236
regardless of when the offense was committed, and who has been 29237
classified a juvenile offender registrant based on that 29238
adjudication, the department of youth services shall provide all 29239
of the information described in division (B) of this section to 29240
the bureau of criminal identification and investigation 29241
regarding the delinquent child. 29242

(B) The department of rehabilitation and correction and 29243

the department of youth services shall provide all of the 29244
following information to the bureau of criminal identification 29245
and investigation regarding an offender or delinquent child 29246
described in division (A) of this section: 29247

(1) The offender's or delinquent child's name and any 29248
aliases used by the offender or delinquent child; 29249

(2) All identifying factors concerning, and a physical 29250
description of, the offender or delinquent child; 29251

(3) The offender's or delinquent child's anticipated 29252
future residence; 29253

(4) The offense and delinquency history and the terms and 29254
conditions of release of the offender or delinquent child; 29255

(5) Whether the offender or delinquent child was treated 29256
for a mental abnormality or personality disorder while under the 29257
custody and control of the department; 29258

(6) Any other information that the bureau indicates is 29259
relevant and that the department possesses. 29260

(C) Upon receipt of the information described in division 29261
(B) of this section regarding an offender or delinquent child, 29262
the bureau immediately shall enter the information into the 29263
state registry of sex offenders and child-victim offenders that 29264
the bureau maintains pursuant to section 2950.13 of the Revised 29265
Code and into the records that the bureau maintains pursuant to 29266
division (A) of section 109.57 of the Revised Code. Upon receipt 29267
of that information regarding an offender, the bureau 29268
immediately shall enter the information on the sex offender and 29269
child-victim offender database it establishes and operates on 29270
the internet pursuant to division ~~(A) (11)~~ (A) (10) of section 29271
2950.13 of the Revised Code. 29272

(D) Upon receipt of the information described in division 29273
(B) of this section regarding an offender, a sheriff who has 29274
established on the internet a sex offender and child-victim 29275
offender database for the public dissemination of information 29276
regarding such offenders shall enter that information on the 29277
database. 29278

Sec. 2953.26. (A) As used in this section: 29279

(1) "Collateral sanction for housing" means a penalty, 29280
disability, or disadvantage that is related to housing as a 29281
result of the individual's conviction of or plea of guilty to an 29282
offense and that applies by operation of law in this state 29283
whether or not the penalty, disability, or disadvantage is 29284
included in the sentence or judgment imposed. 29285

"Collateral sanction for housing" does not include 29286
imprisonment, probation, parole, supervised release, forfeiture, 29287
restitution, fine, assessment, or costs of prosecution. 29288

(2) "Decision-maker" means a housing provider in this 29289
state of residential premises as defined in section 1923.01 of 29290
the Revised Code, including a landlord as defined in section 29291
1923.01 of the Revised Code and a metropolitan housing authority 29292
established in Chapter 3735. of the Revised Code. 29293

(3) "Division of parole and community services" means the 29294
division of parole and community services of the department of 29295
rehabilitation and correction. 29296

(4) "Offense" means any felony or misdemeanor under the 29297
laws of this state. 29298

(5) "Tort action" means a civil action for injury, death, 29299
or loss to person or property. 29300

(B) (1) An individual who is subject to one or more collateral sanctions for housing as a result of being convicted of or pleading guilty to an offense and who has not already received a certificate of qualification for housing under section 2961.25 of the Revised Code may file for a certificate of qualification for housing by doing either of the following:

(a) In the case of an individual who resides in this state, filing a petition with the court of common pleas of the county in which the person resides;

(b) In the case of an individual who resides outside of this state, filing a petition with the court of common pleas of any county in which any conviction or plea of guilty from which the individual seeks relief was entered.

(2) A petition under division (B) (1) of this section shall be made on a copy of the form prescribed by the division of parole and community services under division (I) of this section, shall contain all of the information described in division (E) of this section, and, except as provided in division (B) (5) of this section, shall be accompanied by an application fee of fifty dollars.

(3) An individual may file a petition under division (B) (1) of this section at any time after the expiration of whichever of the following is applicable:

(a) If the offense that resulted in the collateral sanction for housing from which the individual seeks relief is a felony, at any time after the expiration of one year from the date of release of the individual from any period of incarceration in a state or local correctional facility that was imposed for that offense or, if the individual was not

incarcerated for that offense, at any time after the expiration 29330
of one year from the date of the individual's final release from 29331
all other sanctions imposed for that offense; 29332

(b) If the offense that resulted in the collateral 29333
sanction for housing from which the individual seeks relief is a 29334
misdemeanor, at any time after the expiration of six months from 29335
the date of release of the individual from any period of 29336
incarceration in a local correctional facility that was imposed 29337
for that offense and all periods of supervision imposed after 29338
release from the period of incarceration or, if the individual 29339
was not incarcerated for that offense, at any time after the 29340
expiration of six months from the date of the final release of 29341
the individual from all sanctions imposed for that offense 29342
including any period of supervision. 29343

(4) A court of common pleas that receives a petition for a 29344
certificate of qualification for housing from an individual 29345
shall attempt to determine all other courts in this state in 29346
which the individual was convicted of or pleaded guilty to an 29347
offense other than the offense from which the individual is 29348
seeking relief. The court shall notify all other courts in this 29349
state that it determines under this division were courts in 29350
which the individual was convicted of or pleaded guilty to an 29351
offense other than the offense from which the individual is 29352
seeking relief that the individual has filed the petition and 29353
that the court may send comments regarding the possible issuance 29354
of the certificate, and shall notify the county's prosecuting 29355
attorney that the individual has filed the petition. 29356

A court of common pleas that receives a petition for a 29357
certificate of qualification for housing may direct the clerk of 29358
court to process and record all notices required in or under 29359

this section. Except as provided in division (B) (5) of this 29360
section, the court shall pay thirty dollars of the application 29361
fee into the state treasury and twenty dollars of the 29362
application fee into the county general revenue fund. 29363

(5) Upon receiving a petition for a certificate of 29364
qualification for housing, a court of common pleas may waive all 29365
or part of the fifty-dollar-filing fee for an applicant who is 29366
indigent. If an application fee is partially waived, the first 29367
twenty dollars of the fee that is collected shall be paid into 29368
the county general revenue fund. Any partial fee collected in 29369
excess of twenty dollars shall be paid into the state treasury. 29370

(C) (1) Upon receiving a petition for a certificate of 29371
qualification for housing, the court shall review the 29372
individual's petition, the individual's criminal history, except 29373
for information contained in any record that has been sealed 29374
under section 2953.32 of the Revised Code, all filings submitted 29375
by the prosecutor or by the victim ~~in accordance with rules~~ 29376
~~adopted by the division of parole and community services,~~ the 29377
applicant's military service record, if applicable, and whether 29378
the applicant has an emotional, mental, or physical condition 29379
that is traceable to the applicant's military service in the 29380
armed forces of the United States and that was a contributing 29381
factor in the commission of the offense or offenses, and all 29382
other relevant evidence. The court may order any report, 29383
investigation, or disclosure by the individual that the court 29384
believes is necessary for the court to reach a decision on 29385
whether to approve the individual's petition for a certificate 29386
of qualification for housing, except that the court shall not 29387
require an individual to disclose information about any record 29388
sealed under section 2953.32 of the Revised Code. 29389

(2) Upon receiving a petition for a certificate of qualification for housing, except as otherwise provided in this division, the court shall decide whether to issue the certificate within sixty days after the court receives the completed petition and all information requested for the court to make that decision. Upon request of the individual who filed the petition, the court may extend the sixty-day period specified in this division.

(3) Except as provided in division (C) (5) of this section and subject to division (D) (3) of this section, a court that receives an individual's petition for a certificate of qualification for housing may issue a certificate of qualification for housing, at the court's discretion, if the court finds that the individual has established all of the following by a preponderance of the evidence:

(a) Granting the petition will materially assist the individual in obtaining housing.

(b) The individual has a substantial need for the relief requested in order to live a law-abiding life.

(c) Granting the petition would not pose an unreasonable risk to the safety of the public or any individual.

(4) The submission of an incomplete petition by an individual shall not be grounds for the court to deny the petition.

(5) Subject to division (C) (6) of this section, an individual is rebuttably presumed to be eligible for a certificate of qualification for housing if the court that receives the individual's petition finds all of the following:

(a) The application was filed after the expiration of the

applicable waiting period prescribed in division (B) (3) of this section. 29419
29420

(b) If the offense that resulted in the collateral 29421
sanction for housing from which the individual seeks relief is a 29422
felony, at least three years have elapsed since the date of 29423
release of the individual from any period of incarceration in a 29424
state or local correctional facility that was imposed for that 29425
offense and all periods of supervision imposed after release 29426
from the period of incarceration or, if the individual was not 29427
incarcerated for that offense, at least three years have elapsed 29428
since the date of the individual's final release from all other 29429
sanctions imposed for that offense; 29430

(c) If the offense that resulted in the collateral 29431
sanction for housing from which the individual seeks relief is a 29432
misdemeanor, at least one year has elapsed since the date of 29433
release of the individual from any period of incarceration in a 29434
local correctional facility that was imposed for that offense 29435
and all periods of supervision imposed after release from the 29436
period of incarceration or, if the individual was not 29437
incarcerated for that offense, at least one year has elapsed 29438
since the date of the final release of the individual from all 29439
sanctions imposed for that offense including any period of 29440
supervision. 29441

(6) An application that meets all of the requirements for 29442
the presumption under division (C) (5) of this section shall be 29443
denied only if the court that receives the petition finds that 29444
the evidence reviewed under division (C) (1) of this section 29445
rebutts the presumption of eligibility for issuance by 29446
establishing, by a preponderance of the evidence, that the 29447
applicant has not been rehabilitated. 29448

(7) If a court that receives an individual's petition for a certificate of qualification for housing denies the petition, the court shall provide written notice to the individual of the court's denial. The court may place conditions on the individual regarding the individual's filing of any subsequent petition for a certificate of qualification for housing. The written notice must notify the individual of any conditions placed on the individual's filing of a subsequent petition for a certificate of qualification for housing.

If a court of common pleas that receives an individual's petition for a certificate of qualification for housing denies the petition, the individual may appeal the decision to the court of appeals only if the individual alleges that the denial was an abuse of discretion on the part of the court of common pleas.

(D) (1) A certificate of qualification for housing issued to an individual under this section or section 2961.25 of the Revised Code lifts the automatic bar of a collateral sanction for housing and a decision-maker shall consider on a case-by-case basis whether to provide or deny housing, notwithstanding the individual's possession of the certificate, without, however, reconsidering or rejecting any finding made by a court under division (C) (3) of this section.

(2) The certificate constitutes a rebuttable presumption that the person's criminal convictions are insufficient evidence that the person is unfit for the housing in question. Notwithstanding the presumption established under this division, the decision-maker may deny the housing to the person if it determines that the person is unfit for the housing.

(3) A certificate of qualification for housing issued to

an individual under this section or section 2961.25 of the Revised Code does not create relief from requirements imposed by Chapter 2950. of the Revised Code and rules adopted under ~~sections 2950.13 and~~ section 2950.132 of the Revised Code.

(E) A petition for a certificate of qualification for housing filed by an individual under division (B)(1) of this section shall include all of the following:

(1) The individual's name, date of birth, and social security number;

(2) All aliases of the individual and all social security numbers associated with those aliases;

(3) The individual's current residential address, including the length of time that the individual has resided in the current residence, expressed in years and months, and the city, county, state, and zip code of the residence;

(4) A history of the individual's residential address or addresses for the past ten years, including the length of time that the individual has resided at the address, expressed in years and months of residence, and the city, county, state, and zip code of residence;

(5) A general statement as to why the individual has filed the petition and how the certificate of qualification for housing would assist the individual;

(6) A summary of the individual's criminal history, except for information contained in any record that has been sealed under section 2953.32 of the Revised Code, with respect to each offense that is a disqualification from housing, including the years of each conviction or plea of guilty for each of those offenses;

(7) A summary of the individual's employment history, 29508
specifying the name of, and dates of employment with, each 29509
employer; 29510

(8) Verifiable references and endorsements; 29511

(9) The name of one or more immediate family members of 29512
the individual, or other persons with whom the individual has a 29513
close relationship, who support the individual's reentry plan; 29514

(10) A summary of the reason the individual believes the 29515
certificate of qualification for housing should be granted; 29516

(11) Any other information required by rule by the 29517
department of rehabilitation and correction. 29518

(F) (1) In a tort action, a certificate of qualification 29519
for housing issued to an individual under this section or 29520
section 2961.25 of the Revised Code may be introduced as 29521
evidence of a decision-maker's due care in leasing to the 29522
individual to whom the certificate of qualification for housing 29523
was issued if the decision-maker knew of the certificate at the 29524
time of the alleged negligence or other fault. 29525

(2) In a tort action against a decision-maker for 29526
negligent leasing, a certificate of qualification for housing 29527
issued to an individual under this section or section 2961.25 of 29528
the Revised Code provides immunity for the decision-maker as to 29529
the claim if the decision-maker knew of the certificate at the 29530
time of the alleged negligence. 29531

(3) If a decision-maker leases to an individual who has 29532
been issued a certificate of qualification for housing under 29533
this section or section 2961.25 of the Revised Code, if the 29534
individual, after being leased to, subsequently demonstrates 29535
dangerousness or is convicted of or pleads guilty to a felony or 29536

a misdemeanor offense of violence, and if the decision-maker 29537
retains the individual as a lessee after the demonstration of 29538
dangerousness or the conviction or guilty plea, the decision- 29539
maker may be held liable in a tort action that is based on or 29540
relates to the retention of the individual as a lessee only if 29541
it is proved by a preponderance of the evidence that both of the 29542
following apply: 29543

(a) The decision-maker had actual knowledge that the 29544
lessee was dangerous or had been convicted of or pleaded guilty 29545
to the felony or the misdemeanor offense of violence. 29546

(b) The decision-maker was willful in retaining the 29547
individual as a lessee after the demonstration of dangerousness 29548
or the conviction or guilty plea of which the decision-maker has 29549
actual knowledge. 29550

(G) A certificate of qualification for housing issued 29551
under this section or section 2961.25 of the Revised Code shall 29552
be revoked if the individual to whom the certificate of 29553
qualification for housing was issued is convicted of or pleads 29554
guilty to a felony or a misdemeanor offense of violence 29555
committed subsequent to the issuance of the certificate of 29556
qualification for housing. 29557

(H) A court's issuance, or failure to issue, under this 29558
section, or the department of rehabilitation and correction's or 29559
adult parole authority's issuance, or failure to issue, under 29560
section 2961.25 of the Revised Code, a certificate of 29561
qualification for housing to an individual does not give rise to 29562
a claim for damages against the department of rehabilitation and 29563
correction or court. 29564

(I) The division of parole and community services ~~shall~~ 29565

~~adopt rules in accordance with Chapter 119. of the Revised Code~~ 29566
~~for the implementation and administration of this section and~~ 29567
shall prescribe the form for the petition to be used under 29568
division (B) (1) of this section. The form for the petition shall 29569
include places for all of the information specified in division 29570
(E) of this section. 29571

(J) Nothing in this section shall be construed to create 29572
or provide a private right of action. 29573

Sec. 3107.01. As used in sections 3107.01 to 3107.20 of 29574
the Revised Code: 29575

(A) "Adoption" means to create the legal relationship of 29576
parent and child between the petitioner and the adopted person, 29577
as if the adopted person were a legitimate blood descendant of 29578
the petitioner, for all purposes including inheritance and 29579
applicability of statutes, documents, and instruments, whether 29580
executed before or after the adoption is decreed, and which do 29581
not expressly exclude an adopted person from their operation or 29582
effect. 29583

(B) "Agency" means any public or private organization 29584
certified, licensed, or otherwise specially empowered by law or 29585
rule to place minors for adoption. 29586

(C) "Attorney" means a person who has been admitted to the 29587
bar by order of the Ohio supreme court. 29588

(D) "Best interest" means the factors a court uses to 29589
determine the best interest of a child as set forth in section 29590
3107.161 of the Revised Code. 29591

(E) "Child" means a son or daughter, whether by birth or 29592
by adoption. 29593

(F) "Court" means the probate courts of this state, and 29594
when the context requires, means the court of any other state 29595
empowered to grant petitions for adoption. 29596

(G) "Date of placement" means the date on which a child is 29597
living with the child's prospective adoptive parent and becomes 29598
eligible for adoption pursuant to statutory authority, judgment 29599
decree or court order, or as otherwise authorized by law. 29600

(H) "Foster caregiver" has the same meaning as in section 29601
5103.02 of the Revised Code. 29602

(I) "Identifying information" means any of the following 29603
with regard to a person: first name, last name, maiden name, 29604
alias, social security number, address, telephone number, place 29605
of employment, number used to identify the person for the 29606
purpose of the statewide education management information system 29607
established pursuant to section 3301.0714 of the Revised Code, 29608
and any other number federal or state law requires or permits to 29609
be used to identify the person. 29610

(J) "Kinship caregiver" has the same meaning as in section 29611
5180.50 of the Revised Code. 29612

(K) "Legal custodian" has the same meaning as in section 29613
5103.16 of the Revised Code. 29614

(L) "Legal custody" has the same meaning as in section 29615
2151.011 of the Revised Code. 29616

(M) "Minor" means a person under the age of eighteen 29617
years. 29618

(N) "Parent" means a legally recognized natural or 29619
adoptive parent of a child. 29620

(O) "Party" means a petitioner, adoptee, or any other 29621

person or agency that is part of an adoption proceeding and 29622
whose consent to the adoption is necessary but has not been 29623
obtained. 29624

(P) "Permanent custody" has the same meaning as in section 29625
2151.011 of the Revised Code. 29626

(Q) "Placement" means the act by a public children 29627
services agency, a private child placing agency, or a parent who 29628
is utilizing an agency or attorney that is intended to arrange 29629
for the care or custody of a child in accordance with Chapter 29630
5103. of the Revised Code. 29631

(R) "Planned permanent living arrangement" has the same 29632
meaning as in section 2151.011 of the Revised Code. 29633

(S) "Putative father" means a man, including one under age 29634
eighteen, who may be a child's father and to whom all of the 29635
following apply: 29636

(1) He is not married to the child's mother at the time of 29637
the child's conception or birth; 29638

(2) He has not adopted the child; 29639

(3) He has not been determined, prior to the date a 29640
petition to adopt the child is filed, to have a parent and child 29641
relationship with the child by a court proceeding pursuant to 29642
sections 3111.01 to 3111.18 of the Revised Code, a court 29643
proceeding in another state, an administrative agency proceeding 29644
pursuant to sections 3111.38 to 3111.54 of the Revised Code, or 29645
an administrative agency proceeding in another state; 29646

(4) He has not acknowledged paternity of the child 29647
pursuant to sections 3111.21 to ~~3111.35~~3111.34 of the Revised 29648
Code. 29649

Sec. 3107.033. The director of children and youth shall 29650
adopt rules in accordance with Chapter 119. of the Revised Code 29651
specifying both of the following: 29652

(A) The manner in which a home study is to be conducted 29653
and the information and documents to be included in a home study 29654
report, which shall include, pursuant to section 3107.034 of the 29655
Revised Code, a summary report of a search of the uniform 29656
statewide automated child welfare information system established 29657
in section 5180.40 of the Revised Code and a report of a check 29658
of a central registry of another state if a request for a check 29659
of a central registry of another state is required under 29660
division (A) of section 3107.034 of the Revised Code. The 29661
director shall ensure that rules adopted under this section 29662
align the home study content, time period, and process with any 29663
foster care home study content, time period, and process 29664
required by rules ~~adopted under section 5103.03 of the Revised~~ 29665
~~Code.~~ 29666

(B) A procedure under which a person whose application for 29667
adoption has been denied as a result of a search of the uniform 29668
statewide automated child welfare information system established 29669
in section 5180.40 of the Revised Code as part of the home study 29670
may appeal the denial to the agency that employed the assessor 29671
who filed the report. 29672

Sec. 3107.035. (A) At the time of the initial home study, 29673
and every two years thereafter, if the home study is updated, 29674
and until it becomes part of a final decree of adoption or an 29675
interlocutory order of adoption, the agency or attorney that 29676
arranges an adoption for the prospective adoptive parent shall 29677
conduct a search of the United States department of justice 29678
national sex offender public web site regarding the prospective 29679

adoptive parent and all persons eighteen years of age or older 29680
who reside with the prospective adoptive parent. 29681

(B) A petition for adoption may be denied based solely on 29682
the results of the search of the national sex offender public 29683
web site. 29684

~~(C) The director of children and youth shall adopt rules 29685
in accordance with Chapter 119. of the Revised Code necessary 29686
for the implementation and execution of this section. 29687~~

Sec. 3107.0611. Notice served under section 3107.067 of 29688
the Revised Code shall be provided to the putative father of the 29689
child in substantially the following form: 29690

" _____ (putative father's name), who 29691
has been named as the father of the unborn child of 29692
_____ (birth mother's name), or who claims 29693
to be the father of the unborn child, is notified that 29694
_____ (birth mother's name) has expressed an 29695
intention to place the child for adoption. 29696

On receipt of this notice, _____ 29697
(putative father's name) may file an action under section 29698
3111.04 of the Revised Code. 29699

Under Ohio law, a putative father means a man, including 29700
one under age eighteen, who may be a child's father and to whom 29701
all of the following apply: 29702

(1) He is not married to the child's mother at the time of 29703
the child's conception or birth. 29704

(2) He has not adopted the child. 29705

(3) He has not been determined, prior to the date a 29706
petition to adopt the child is filed, to have a parent and child 29707

relationship with the child by a court proceeding pursuant to 29708
sections 3111.01 to 3111.18 of the Revised Code, a court 29709
proceeding in another state, an administrative agency proceeding 29710
pursuant to sections 3111.38 to 3111.54 of the Revised Code, or 29711
an administrative agency proceeding in another state. 29712

(4) He has not acknowledged paternity of the child 29713
pursuant to sections 3111.20 to ~~3111.35~~3111.34 of the Revised 29714
Code. 29715

For purposes of this notice, _____ 29716
(putative father's name) is a putative father under the laws in 29717
Ohio regarding adoption." 29718

Sec. 3107.10. (A) (1) A public children services agency 29719
arranging an adoption in a county other than the county where 29720
that public children services agency is located, private child 29721
placing agency, or private noncustodial agency, or an attorney 29722
arranging an adoption, shall notify the public children services 29723
agency in the county in which the prospective adoptive parent 29724
resides within ten days after initiation of a home study 29725
required under section 3107.031 of the Revised Code. 29726

(2) After a public children services agency has received 29727
notification pursuant to division (A) (1) of this section, both 29728
the public children services agency arranging an adoption in a 29729
county other than the county where that public children services 29730
agency is located, private child placing agency, private 29731
noncustodial agency, or attorney arranging an adoption, and the 29732
public children services agency shall share relevant information 29733
regarding the prospective adoptive parent as soon as possible 29734
after initiation of the home study. 29735

(B) A public children services agency arranging an 29736

adoption in a county other than the county where that public 29737
children services agency is located, private child placing 29738
agency, or private noncustodial agency, or an attorney arranging 29739
an adoption, shall notify the public children services agency in 29740
the county in which the prospective adoptive parent resides of 29741
an impending adoptive placement not later than ten days prior to 29742
that placement. Notification shall include a description of the 29743
special needs and the age of the prospective adoptive child and 29744
the name of the prospective adoptive parent and number of 29745
children that will be residing in the prospective adoptive home 29746
when the prospective adoptive child is placed in the prospective 29747
adoptive home. 29748

(C) An agency or attorney sharing relevant information 29749
pursuant to this section is immune from liability in a civil 29750
action to recover damages for injury, death, or loss to person 29751
or property allegedly caused by any act or omission in 29752
connection with sharing relevant information unless the acts or 29753
omissions are with malicious purpose, in bad faith, or in a 29754
wanton or reckless manner. 29755

(D) The director of children and youth shall, by rule, 29756
~~adopt rules in accordance with Chapter 119. of the Revised Code~~ 29757
~~necessary for the implementation and execution of this section,~~ 29758
~~including, but not limited to,~~ a definition of "relevant 29759
information" for the purposes of division (A) of this section. 29760

(E) This section does not apply to an adoption by a 29761
stepparent whose spouse is a biological or adoptive parent of 29762
the minor to be adopted. 29763

Sec. 3107.101. (A) Not later than seven days after a minor 29764
to be adopted is placed in a prospective adoptive home pursuant 29765
to section 5103.16 of the Revised Code, the assessor providing 29766

placement or post placement services in the prospective adoptive home shall begin monthly prospective adoptive home visits in that home, until the court issues a final decree of adoption. During the prospective adoptive home visits, the assessor shall evaluate the progression of the placement in the prospective adoptive home. The assessor shall include the evaluation in the prefinalization assessment required under section 3107.12 of the Revised Code.

(B) During the prospective home visit required under division (A) of this section, the assessor shall make face-to-face contact with the prospective adoptive parent and the minor to be adopted. The assessor shall make contact, as prescribed by rule under division (C) of this section, with all other children or adults residing in the prospective adoptive home.

(C) The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code ~~necessary for requiring the implementation and execution of this section~~ assessor to make contact with all other children or adults residing in the prospective adoptive home.

(D) This section does not apply to an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor to be adopted.

Sec. 3109.16. (A) The children's trust fund board, upon the recommendation of the director of children and youth, shall approve the employment of an executive director who will administer the programs of the board.

(B) The department of children and youth shall provide budgetary, procurement, accounting, and other related management functions for the board ~~and may adopt rules in accordance with~~

~~Chapter 119. of the Revised Code for these purposes.~~ An amount 29796
not to exceed three per cent of the total amount of fees 29797
deposited in the children's trust fund in each fiscal year may 29798
be used for costs directly related to these administrative 29799
functions of the department. Each fiscal year, the board shall 29800
approve a budget for administrative expenditures for the next 29801
fiscal year. 29802

~~(C) The board may request that the department adopt rules— 29803
the board considers necessary for the purpose of carrying out— 29804
the board's responsibilities under this section, and the— 29805
department may adopt those rules. The department may, after— 29806
consultation with the board and the executive director, adopt— 29807
any other rules to assist the board in carrying out its— 29808
responsibilities under this section. In either case, the rules— 29809
shall be adopted under Chapter 119. of the Revised Code.— 29810~~

~~(D)~~ The board shall meet at least quarterly at the call of 29811
the chairperson to conduct its official business. All business 29812
transactions of the board shall be conducted in public meetings. 29813
A majority of the members appointed to the board constitute a 29814
quorum. A majority of the quorum is required to make all 29815
decisions of the board. 29816

~~(E)~~ (D) With respect to funding, all of the following 29817
apply: 29818

(1) The board may apply for and accept federal and other 29819
funds for the purpose of funding child abuse and child neglect 29820
prevention programs. 29821

(2) The board may solicit and accept gifts, money, and 29822
other donations from any public or private source, including 29823
individuals, philanthropic foundations or organizations, 29824

corporations, or corporation endowments.	29825
(3) The board may develop private-public partnerships to support the mission of the children's trust fund.	29826 29827
(4) The acceptance and use of federal and other funds shall not obligate the general assembly to continue the programs or activities for which the federal and other funds are made available.	29828 29829 29830 29831
(5) All funds received in the manner described in this section shall be transmitted to the treasurer of state, who shall credit them to the children's trust fund created in section 3109.14 of the Revised Code.	29832 29833 29834 29835
Sec. 3109.179. (A) The department of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code regarding all of the following:	29836 29837 29838
(1) Operation requirements for child abuse and child neglect regional prevention councils;	29839 29840
(2) The manner in which boards of county commissioners are to appoint council members;	29841 29842
(3) The form and manner by which councils are to submit regional prevention plans.	29843 29844
(B) The department may adopt rules in accordance with Chapter 119. of the Revised Code regarding the following:	29845 29846
(1) Duties of council members;	29847
(2) Duties of regional prevention coordinators;	29848
(3) Any other rules necessary to implement sections 3109.13 to 3109.178 of the Revised Code.	29849 29850
(C) The department shall consult with the children's trust	29851

fund board and the board's executive director regarding all 29852
rules adopted under this section. 29853

Sec. 3111.02. (A) The parent and child relationship 29854
between a child and the child's natural mother may be 29855
established by proof of her having given birth to the child or 29856
pursuant to sections 3111.01 to 3111.18 or 3111.20 to 3111.85 of 29857
the Revised Code. The parent and child relationship between a 29858
child and the natural father of the child may be established by 29859
an acknowledgment of paternity as provided in sections 3111.20 29860
to ~~3111.35~~ 3111.34 of the Revised Code, and pursuant to sections 29861
3111.01 to 3111.18 or 3111.38 to 3111.54 of the Revised Code. 29862
The parent and child relationship between a child and the 29863
adoptive parent of the child may be established by proof of 29864
adoption or pursuant to Chapter 3107. of the Revised Code. 29865

(B) A court that is determining a parent and child 29866
relationship pursuant to this chapter shall give full faith and 29867
credit to a parentage determination made under the laws of this 29868
state or another state, regardless of whether the parentage 29869
determination was made pursuant to a voluntary 29870
~~acknowledgement~~ acknowledgment of paternity, an administrative 29871
procedure, or a court proceeding. 29872

Sec. 3111.65. (A) The birth registry shall be maintained 29873
as part of and be accessible through the automated system 29874
created pursuant to section 3125.07 of the Revised Code. The 29875
office of child support shall make comparisons of the 29876
information in the registry with the information maintained by 29877
the department of job and family services pursuant to sections 29878
3107.062 and 3121.894 of the Revised Code. The office shall make 29879
the comparisons in the manner and in the time intervals required 29880
by the rules adopted pursuant to division (B) of this section 29881

~~3111.67 of the Revised Code.~~ 29882

(B) The director of job and family services shall adopt 29883
rules pursuant to Chapter 119. of the Revised Code that are 29884
consistent with Title IV-D of the "Social Security Act," 42 29885
U.S.C. 651 et seq., as amended, to determine both of the 29886
following: 29887

(1) The manner in which the office of child support will 29888
compare the information in the birth registry with the 29889
information maintained by the department of job and family 29890
services pursuant to sections 3107.062 and 3121.894 of the 29891
Revised Code; 29892

(2) The time intervals at which the office of child 29893
support will compare the information in the birth registry with 29894
the information maintained by the department of job and family 29895
services pursuant to sections 3107.062 and 3121.894 of the 29896
Revised Code. 29897

Sec. 3115.401. (A) If a support order entitled to 29898
recognition under this chapter has not been issued, a responding 29899
tribunal of this state with personal jurisdiction over the 29900
parties may issue a support order if either of the following 29901
applies: 29902

(1) The individual seeking the order resides outside this 29903
state. 29904

(2) The support enforcement agency seeking the order is 29905
located outside this state. 29906

(B) The tribunal may issue a temporary child-support order 29907
if the tribunal determines that such an order is appropriate and 29908
the individual ordered to pay is any of the following: 29909

(1) A presumed father of the child;	29910
(2) Petitioning to have his paternity adjudicated;	29911
(3) Identified as the father of the child through genetic testing;	29912 29913
(4) An alleged father who has declined to submit to genetic testing;	29914 29915
(5) Shown by clear and convincing evidence to be the father of the child;	29916 29917
(6) An acknowledged father as provided by section 3111.20 to 3111.35 <u>3111.34</u> of the Revised Code;	29918 29919
(7) The mother of the child;	29920
(8) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.	29921 29922 29923
(C) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 3115.305 of the Revised Code.	29924 29925 29926 29927 29928
Sec. 3119.33. A child support enforcement agency shall send the national medical support notice to the employer of a person required to provide health insurance coverage for the children who are the subject of a child support order. The child support enforcement agency shall act in accordance with federal regulations governing the national medical support notice and rules adopted by the department of job and family services under section 3119.51 of the Revised Code.	29929 29930 29931 29932 29933 29934 29935 29936

Sec. 3119.36. On receipt of a national medical support 29937
notice sent pursuant to section 3119.33 or section 3119.34 of 29938
the Revised Code, an employer shall do one of the following not 29939
later than twenty business days after the date specified in the 29940
notice: 29941

(A) If the person named in the national medical support 29942
notice is a current employee and health insurance coverage of 29943
the children is available through the employer, complete and 29944
comply with the notice in accordance with its instructions, and 29945
~~federal regulations, and any rules adopted by the department of~~ 29946
~~job and family services under section 3119.51 of the Revised~~ 29947
~~Code~~ and send the appropriate portion of the notice to the 29948
health plan administrator; 29949

(B) If the person named in the notice is not a current 29950
employee, health insurance coverage of the children is not 29951
available through the employer, or the employer determines that 29952
coverage of the children would cause the total amount of income 29953
withholding and health insurance contributions from the person's 29954
income to exceed the maximum amount permitted under section 29955
303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 29956
1673(b), complete the notice in accordance with its 29957
instructions, and federal regulations, ~~and any rules adopted by~~ 29958
~~the department of job and family services under section 3119.51~~ 29959
~~of the Revised Code~~ and return the completed notice to the child 29960
support enforcement agency. 29961

Sec. 3119.37. On receipt of a national medical support 29962
notice sent by an employer under section 3119.36 of the Revised 29963
Code, a health plan administrator shall complete and comply with 29964
the notice in accordance with its instructions, and federal 29965
regulations, ~~and any rules adopted by the department of job and~~ 29966

family services under section 3119.51 of the Revised Code.	29967
Sec. 3119.371. (A) As used in this section:	29968
(1) "Health insurance provider" means:	29969
(a) A person authorized to engage in the business of sickness and accident insurance under Title XXXIX of the Revised Code;	29970 29971 29972
(b) A person or government entity providing coverage for medical services or items to individuals on a self-insurance basis;	29973 29974 29975
(c) A health insuring corporation as defined in section 1751.01 of the Revised Code;	29976 29977
(d) A group health plan as defined in 29 U.S.C. 1167;	29978
(e) Any organization, business, or association described in 42 U.S.C. 1396a(a)(25); or	29979 29980
(f) A managed care organization.	29981
(2) "Information" means all of the following:	29982
(a) An individual's name, address, date of birth, and social security number;	29983 29984
(b) The group or plan number or other identifier assigned by a health insurance provider to a policy held by an individual or a plan in which the individual participates and the nature of the coverage; and	29985 29986 29987 29988
 (c) Any other data specified by the director of job and family services in rules adopted under section 3119.51 of the Revised Code.	29989 29990 29991
(B) Upon request of the office of child support in the	29992

department of job and family services and for the purpose of 29993
establishing and enforcing orders to provide health insurance 29994
coverage, a health insurance provider shall provide the 29995
information described in division (A) (2) of this section to the 29996
office of child support. 29997

Sec. 3119.94. (A) The director of job and family services 29998
shall adopt rules that provide for all of the following: 29999

(1) The payment to the appropriate person of any funds 30000
that a court or child support enforcement agency has impounded 30001
under section 3119.90 or 3119.92 of the Revised Code; 30002

(2) The return to the appropriate person of any other 30003
payments made pursuant to a child support order if the payments 30004
were made at any time after the child support order has been 30005
terminated pursuant to section 3119.90 or 3119.92 of the Revised 30006
Code; 30007

~~(3) Any other standards, forms, or procedures needed to 30008
ensure uniform implementation of sections 3119.86 to 3119.94 of 30009
the Revised Code. 30010~~

(B) With respect to the court order for impoundment 30011
required under division (A) (1) of section 3119.90 of the Revised 30012
Code, the director of job and family services may adopt rules 30013
that specify a form for the order or approve a form developed by 30014
the Ohio judicial conference. 30015

Sec. 3121.50. On receipt of any amount forwarded from a 30016
payor or financial institution, the office of child support 30017
shall distribute the amount to the obligee within two business 30018
days of its receipt of the amount forwarded. Unless otherwise 30019
prohibited from doing so by a law of this state or the United 30020
States, the office may distribute the amount by means of 30021

electronic disbursement, and the obligee shall accept payment by 30022
means of electronic disbursement. ~~The director of job and family 30023
services may adopt, revise, or amend rules under Chapter 119. of 30024
the Revised Code to assist in the implementation of this 30025
section.~~ 30026

Sec. 3121.89. As used in sections 3121.891 to ~~3121.8911~~ 30027
3121.8910 of the Revised Code: 30028

(A) "Contractor" means an individual who provides services 30029
to an employer as an independent contractor for compensation 30030
that is reported as income other than wages and who is an 30031
individual, the sole shareholder of a corporation, or the sole 30032
member of a limited liability company. "Contractor" does not 30033
include any of the following: 30034

(1) An individual performing intelligence or 30035
counterintelligence functions for a state agency if the head of 30036
the agency has determined that reporting pursuant to this 30037
section could endanger the safety of the individual or 30038
compromise an ongoing investigation or intelligence mission; 30039

(2) A professionally licensed person who is providing 30040
services to the employer under that license; 30041

(3) An individual who will receive for the services 30042
provided under the contract compensation of less than two 30043
thousand five hundred dollars per year or a greater amount that 30044
the director of job and family services establishes by rule 30045
adopted under section 3121.896 of the Revised Code. 30046

(B) "Employee" means an individual who is employed to 30047
provide services to an employer for compensation that is 30048
reported as income from wages. "Employee" does not include an 30049
individual performing intelligence or counterintelligence 30050

functions for a state agency, if the head of the agency has 30051
determined that reporting pursuant to this section could 30052
endanger the safety of the employee or compromise an ongoing 30053
investigation or intelligence mission. 30054

(C) "Employer" means any person or governmental entity 30055
other than the federal government for which an individual 30056
performs any service, of whatever nature, as the employee or 30057
contractor of such person, except that: 30058

(1) If the person for whom the individual performs 30059
services does not have control of the payment of compensation 30060
for the services, "employer" means the person having control of 30061
the payment of the compensation. 30062

(2) In the case of a person paying compensation on behalf 30063
of a nonresident alien individual, foreign partnership, or 30064
foreign corporation not engaged in trade or business within the 30065
United States, "employer" means the person paying the 30066
compensation. 30067

(3) In the case of compensation paid to a contractor, 30068
"employer" does not include any person or entity that lacks a 30069
federal employer identification number. 30070

(D) "Newly hired employee" means either of the following: 30071

(1) An employee who has not previously been employed by 30072
the employer; 30073

(2) An employee who was previously employed by an employer 30074
but has been separated from that prior employment for at least 30075
sixty consecutive days. 30076

(E) "Professionally licensed person" has the same meaning 30077
as in section 2925.01 of the Revised Code. 30078

Sec. 3123.22. Except as otherwise provided in this 30079
section, if an obligor is paying off an arrearage owed under a 30080
support order pursuant to a withholding or deduction notice or 30081
order issued under section 3121.03 of the Revised Code, a 30082
support order newly issued or modified, or any other order 30083
issued to collect the arrearage, the child support enforcement 30084
agency administering the notice or order may also take any 30085
action, including, but not limited to, any of the following to 30086
collect any arrearage amount that has not yet been collected 30087
under the notice or order, unless the obligee and obligor agree 30088
in a writing signed by the obligee and obligor and approved by 30089
the court by journal entry that the additional actions be 30090
limited to the actions provided for in division (C) of this 30091
section: 30092

(A) Issue one or more withholding or deduction notices 30093
under section 3121.03 of the Revised Code; 30094

(B) Collect pursuant to section 3121.12 of the Revised 30095
Code a lump sum payment owed to the obligor; 30096

(C) Collect pursuant to sections 3123.81 to ~~3123.823~~ 30097
3123.822 of the Revised Code any federal or state income tax 30098
refund owed to the obligor; 30099

(D) Issue a withdrawal directive pursuant to sections 30100
3123.24 to 3123.38 of the Revised Code; 30101

(E) Obtain administrative offset pursuant to section 30102
3123.85 of the Revised Code. 30103

Sec. 3123.63. The director of job and family services 30104
shall adopt rules in accordance with Chapter 119. of the Revised 30105
Code ~~to implement sections 3123.41 to 3123.50, 3123.53 to~~ 30106
~~3123.60, and 3123.62 of the Revised Code. The rules shall~~ 30107

~~include both of~~ to do all of the following: 30108

(A) Requirements concerning the contents of, and the 30109
conditions for issuance of, a notice required by section 3123.44 30110
or 3123.55 of the Revised Code. The rules shall require the 30111
contents of the notice to include information about the effect 30112
of a license suspension and appropriate steps that an individual 30113
can take to avoid license suspension. 30114

(B) Requirements establishing standards for confirming an 30115
individual's employment or the existence of an account pursuant 30116
to sections 3123.45 and 3123.56 of the Revised Code. 30117

(C) Requirements concerning the authority of a child 30118
support enforcement agency to direct the registrar of motor 30119
vehicles to eliminate from the abstract maintained by the bureau 30120
of motor vehicles any reference to the suspension of an 30121
individual's license, permit, or endorsement imposed under 30122
section 3123.58 of the Revised Code. 30123

Sec. 3123.82. As used in sections 3123.82 to ~~3123.823~~ 30124
3123.822 of the Revised Code: 30125

(A) "Obligor" means a person who owes "overdue support," 30126
as defined in section 666 of Title IV-D of the "Social Security 30127
Act," 98 Stat. 1306 (1984), 42 U.S.C. 666, as amended, and any 30128
rules promulgated under Title IV-D. 30129

(B) "Overpaid child support" means amounts paid to an 30130
obligee under a child support order prior to termination of the 30131
child support order that exceed the amount required to be paid 30132
under the child support order, have not been impounded under 30133
section 3119.90 or 3119.92 of the Revised Code, and have not 30134
been repaid to the obligor under the child support order. 30135

Sec. 3123.88. (A) The requirements of this section are 30136

effective on the date that all support orders have been 30137
converted to the automated data processing system under section 30138
3125.07 of the Revised Code and the office of child support in 30139
the department of job and family services authorizes centralized 30140
collection and disbursement of support amounts under the support 30141
order pursuant to the rules adopted under section 3121.71 of the 30142
Revised Code. 30143

(B) The director of commerce shall provide the office no 30144
later than the first day of March of each year, the name, 30145
address, social security number, if the social security number 30146
is available, and any other identifying information for any 30147
individual included in a request sent by the office pursuant to 30148
division (C) of this section who has unclaimed funds delivered 30149
or reported to the state under Chapter 169. of the Revised Code. 30150

(C) The office shall, no later than the first day of 30151
February of each year, send to the director of commerce a 30152
request containing the name, address, and social security number 30153
of all obligors in default under a support order being 30154
administered by a child support enforcement agency of this state 30155
and requests that the director provide information to the office 30156
as required in division (B) of this section. If the information 30157
the director provides identifies or results in identifying 30158
unclaimed funds held by the state for an obligor in default, the 30159
office shall file a claim under section 169.08 of the Revised 30160
Code to recover the unclaimed funds. If the director allows the 30161
claim, the director shall pay the claim directly to the office. 30162
The director shall not disallow a claim made by the office 30163
because the office is not the owner of the unclaimed funds 30164
according to the report made pursuant to section 169.03 of the 30165
Revised Code. 30166

~~(D) The director of job and family services, in
consultation with the department of commerce, may adopt rules in
accordance with Chapter 119. of the Revised Code to aid in
implementation of this section.~~

Sec. 3123.90. (A) As used in this section: 30171

(1) "Casino facility," "casino operator," and "management
company" have the meanings defined in section 3772.01 of the
Revised Code. 30172
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(2) "Sports gaming proprietor" has the meaning defined in
section 3775.01 of the Revised Code. 30175
30176

(3) "Lottery sports gaming" has the same meaning as in
section 3770.23 of the Revised Code. 30177
30178

(B) The department of job and family services shall
develop and implement a real time data match program with each
casino facility's casino operator or management company and with
each sports gaming proprietor to identify obligors who are
subject to a final and enforceable determination of default made
under sections 3123.01 to 3123.07 of the Revised Code. 30179
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(C) Subject to division (E) of this section, upon the data
match program's implementation, if a person receives a payout of
winnings at a casino facility or from sports gaming in an amount
for which reporting to the internal revenue service of the
amount is required by section 6041 of the Internal Revenue Code,
as amended, the casino operator, management company, or sports
gaming proprietor shall refer to the data match program to
determine if the person entitled to the winnings is in default
under a support order. If the data match program indicates that
the person is in default, the casino operator, management
company, or sports gaming proprietor shall withhold from the

person's winnings an amount sufficient to satisfy any past due support owed by the obligor identified in the data match up to the amount of the winnings.

(D) Not later than fourteen days after withholding the amount, the casino operator, management company, or sports gaming proprietor shall electronically transmit any amount withheld to the department as payment on the support obligation.

(E) A sports gaming proprietor that offers lottery sports gaming through a terminal described in division (B) (3) of section 3770.24 of the Revised Code shall not withhold amounts under this section from winnings from wagers placed through that terminal. The state lottery commission shall withhold amounts from those winnings under section 3770.071 of the Revised Code.

~~(F) The department, in consultation with the Ohio casino control commission, may adopt rules under Chapter 119. of the Revised Code as are necessary for implementation of this section.~~

Sec. 3129.01. As used in this chapter:

(A) "Biological sex," "birth sex," and "sex" mean the biological indication of male and female, including sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender.

(B) "Cross-sex hormone" means testosterone, estrogen, or progesterone given to a minor individual in an amount greater than would normally be produced endogenously in a healthy individual of the minor individual's age and sex.

(C) "Gender reassignment surgery" means any surgery

performed for the purpose of assisting an individual with gender transition that seeks to surgically alter or remove healthy physical or anatomical characteristics or features that are typical for the individual's biological sex, in order to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's birth sex, including genital or non-genital gender reassignment surgery.

(D) "Gender-related condition" means any condition where an individual feels an incongruence between the individual's gender identity and biological sex. "Gender-related condition" includes gender dysphoria.

(E) "Gender transition" means the process in which an individual goes from identifying with and living as a gender that corresponds to his or her biological sex to identifying with and living as a gender different from his or her biological sex, including social, legal, or physical changes.

(F) "Gender transition services" means any medical or surgical service (including physician services, inpatient and outpatient hospital services, or prescription drugs or hormones) provided for the purpose of assisting an individual with gender transition that seeks to alter or remove physical or anatomical characteristics or features that are typical for the individual's biological sex, or to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's birth sex, including medical services that provide puberty blocking drugs, cross-sex hormones, or other mechanisms to promote the development of feminizing or masculinizing features in the opposite sex, or genital or non-genital gender reassignment surgery.

(G) "Genital gender reassignment surgery" means surgery

performed for the purpose of assisting an individual with gender transition and includes both of the following: 30255
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(1) Surgeries that sterilize, such as castration, vasectomy, hysterectomy, oophorectomy, orchiectomy, and penectomy; 30257
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(2) Surgeries that artificially construct tissue with the appearance of genitalia that differs from the individual's biological sex, such as metoidioplasty, phalloplasty, and vaginoplasty. 30260
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(H) "Mental health professional" means all of the following: 30264
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(1) Either of the following advanced practice registered nurses who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as an advanced practice registered nurse: 30266
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(a) A clinical nurse specialist who is certified as a psychiatric-mental health CNS by the American nurses credentialing center; 30270
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(b) A certified nurse practitioner who is certified as a psychiatric-mental health NP by the American nurses credentialing center. 30273
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(2) A physician specializing in psychiatry; 30276

(3) A psychologist, school psychologist, or independent school psychologist licensed under Chapter 4732. of the Revised Code or under rules adopted in accordance with ~~sections 3301.07 and section~~ 3319.22 of the Revised Code; 30277
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(4) An independent social worker, social worker, licensed professional clinical counselor, licensed professional 30281
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counselor, independent marriage and family therapist, or 30283
marriage and family therapist licensed under Chapter 4757. of 30284
the Revised Code. 30285

(I) "Minor individual" means an individual under eighteen 30286
years of age. 30287

(J) "Non-genital gender reassignment surgery" means 30288
surgery performed for the purpose of assisting an individual 30289
with gender transition such as augmentation mammoplasty, facial 30290
feminization surgery, liposuction, lipofilling, voice surgery, 30291
thyroid cartilage reduction, gluteal augmentation, pectoral 30292
implants, or other aesthetic procedures. 30293

(K) "Physician" means an individual authorized under 30294
Chapter 4731. of the Revised Code to practice medicine and 30295
surgery or osteopathic medicine and surgery. 30296

(L) "Puberty-blocking drugs" means Gonadotropin-releasing 30297
hormone analogs or other synthetic drugs used to stop 30298
luteinizing hormone and follicle stimulating hormone secretion, 30299
synthetic antiandrogen drugs used to block the androgen 30300
receptor, or any drug to delay or suppress normal puberty. 30301

Sec. 3301.07. The director of education and workforce 30302
shall exercise under the acts of the general assembly general 30303
supervision of the system of public education in the state. In 30304
addition to the powers otherwise imposed on the director under 30305
the provisions of law, the director shall have the powers 30306
described in this section. 30307

(A) The director shall exercise policy forming, planning, 30308
and evaluative functions for the public schools of the state 30309
except as otherwise provided by law. 30310

(B) (1) The director shall exercise leadership in the 30311

improvement of public education in this state, and administer 30312
the educational policies of this state relating to public 30313
schools, and relating to instruction and instructional material, 30314
building and equipment, transportation of pupils, administrative 30315
responsibilities of school officials and personnel, and finance 30316
and organization of school districts, educational service 30317
centers, and territory. Consultative and advisory services in 30318
such matters shall be provided by the department of education 30319
and workforce to school districts and educational service 30320
centers of this state. 30321

(2) The director also shall develop a standard of 30322
financial reporting which shall be used by each school district 30323
board of education and each governing board of an educational 30324
service center, each governing authority of a community school 30325
established under Chapter 3314., each governing body of a STEM 30326
school established under Chapter 3326., and each board of 30327
trustees of a college-preparatory boarding school established 30328
under Chapter 3328. of the Revised Code to make its financial 30329
information and annual budgets for each school building under 30330
its control available to the public in a format understandable 30331
by the average citizen. The format shall show, both at the 30332
district and at the school building level, revenue by source; 30333
expenditures for salaries, wages, and benefits of employees, 30334
showing such amounts separately for classroom teachers, other 30335
employees required to hold licenses issued pursuant to sections 30336
3319.22 to 3319.31 of the Revised Code, and all other employees; 30337
expenditures other than for personnel, by category, including 30338
utilities, textbooks and other educational materials, equipment, 30339
permanent improvements, pupil transportation, extracurricular 30340
athletics, and other extracurricular activities; and per pupil 30341
expenditures. The format shall also include information on total 30342

revenue and expenditures, per pupil revenue, and expenditures 30343
for both classroom and nonclassroom purposes, as defined by the 30344
standards adopted under section 3302.20 of the Revised Code in 30345
the aggregate and for each subgroup of students, as defined by 30346
section 3317.40 of the Revised Code, that receives services 30347
provided for by state or federal funding. 30348

(3) Each school district board, governing authority, 30349
governing body, or board of trustees, or its respective 30350
designee, shall annually report, to the department, all 30351
financial information required by the standards for financial 30352
reporting, as prescribed by division (B)(2) of this section and 30353
adopted by the director. The department shall make all reports 30354
submitted pursuant to this division available in such a way that 30355
allows for comparison between financial information included in 30356
these reports and financial information included in reports 30357
produced prior to July 1, 2013. The department shall post these 30358
reports in a prominent location on its web site and shall notify 30359
each school when reports are made available. 30360

(C) The director shall administer and supervise the 30361
allocation and distribution of all state and federal funds for 30362
public school education under the provisions of law, and may 30363
prescribe such systems of accounting as are necessary and proper 30364
to this function. It may require county auditors and treasurers, 30365
boards of education, educational service center governing 30366
boards, treasurers of such boards, teachers, and other school 30367
officers and employees, or other public officers or employees, 30368
to file with it such reports as it may prescribe relating to 30369
such funds, or to the management and condition of such funds. 30370

(D) (1) Wherever in Titles IX, XXIII, XXIX, XXXIII, XXXVII, 30371
XLVII, and LI of the Revised Code a reference is made to 30372

standards prescribed under this section or division (D) of this 30373
section, that reference shall be construed to refer to the 30374
standards prescribed under division (D) (2) of this section, 30375
unless the context specifically indicates a different meaning or 30376
intent. 30377

(2) The director shall formulate and prescribe minimum 30378
standards to be applied to all elementary and secondary schools 30379
in this state for the purpose of providing children access to a 30380
general education of high quality according to the learning 30381
needs of each individual, including students with disabilities, 30382
economically disadvantaged students, English learners, and 30383
students identified as gifted. Such standards shall provide 30384
adequately for: a requirement that teachers, administrators, and 30385
other professional personnel be licensed by the state board of 30386
education and assigned according to training and qualifications; 30387
efficient and effective instructional materials and equipment, 30388
including library facilities; the proper organization, 30389
administration, and supervision of each school, including 30390
regulations for preparing all necessary records and reports and 30391
the preparation of a statement of policies and objectives for 30392
each school; the provision of safe buildings, grounds, health 30393
and sanitary facilities and services; admission of pupils, and 30394
such requirements for their promotion from grade to grade as 30395
will assure that they are capable and prepared for the level of 30396
study to which they are certified; and requirements for 30397
graduation. The minimum standards the director adopts under this 30398
section are limited to powers and duties that are expressly 30399
prescribed and authorized in statute. 30400

The director shall base any standards governing the 30401
promotion of students or requirements for graduation on the 30402
ability of students, at any grade level, to earn credits or 30403

advance upon demonstration of mastery of knowledge and skills 30404
through competency-based learning models. Credits of grade level 30405
advancement shall not require a minimum number of days or hours 30406
in a classroom. 30407

The director shall base any standards governing the 30408
assignment of staff on ensuring each school has a sufficient 30409
number of teachers to ensure a student has an appropriate level 30410
of interaction to meet each student's personal learning goals. 30411

In the formulation and administration of such standards 30412
for nonpublic schools the director shall also consider the 30413
particular needs, methods and objectives of those schools, 30414
provided they do not conflict with the provision of a general 30415
education of a high quality and provided that regular procedures 30416
shall be followed for promotion from grade to grade of pupils 30417
who have met the educational requirements prescribed. 30418

(3) In addition to the minimum standards required by 30419
division (D)(2) of this section, the director may formulate and 30420
prescribe the following additional minimum operating standards 30421
for school districts: 30422

(a) Standards for the effective and efficient 30423
organization, administration, and supervision of each school 30424
district with a commitment to high expectations for every 30425
student based on the learning needs of each individual, 30426
including students with disabilities, economically disadvantaged 30427
students, English learners, and students identified as gifted, 30428
and commitment to closing the achievement gap without 30429
suppressing the achievement levels of higher achieving students 30430
so that all students achieve core knowledge and skills in 30431
accordance with the statewide academic standards adopted under 30432
section 3301.079 of the Revised Code; 30433

(b) Standards for the establishment of business advisory councils under section 3313.82 of the Revised Code;	30434 30435
(c) Standards for school district buildings that may require the effective and efficient organization, administration, and supervision of each school district building with a commitment to high expectations for every student based on the learning needs of each individual, including students with disabilities, economically disadvantaged students, English learners, and students identified as gifted, and commitment to closing the achievement gap without suppressing the achievement levels of higher achieving students so that all students achieve core knowledge and skills in accordance with the statewide academic standards adopted under section 3301.079 of the Revised Code.	30436 30437 30438 30439 30440 30441 30442 30443 30444 30445 30446 30447
(E) The director may require as part of the health curriculum information developed under section 2108.34 of the Revised Code promoting the donation of anatomical gifts pursuant to Chapter 2108. of the Revised Code and may provide the information to high schools, educational service centers, and joint vocational school district boards of education;	30448 30449 30450 30451 30452 30453
(F) The director shall prepare and submit annually to the governor and the general assembly a report on the status, needs, and major problems of the public schools of the state, with recommendations for necessary legislative action and a ten-year projection of the state's public and nonpublic school enrollment, by year and by grade level.	30454 30455 30456 30457 30458 30459
(G) The director shall prepare and submit to the director of budget and management the biennial budgetary requests of the department and its divisions and for the public schools of the state.	30460 30461 30462 30463

(H) The director shall cooperate with federal, state, and local agencies concerned with the health and welfare of children and youth of the state.

(I) The director shall require such reports from school districts and educational service centers, school officers, and employees as are necessary and desirable. The superintendents and treasurers of school districts and educational service centers shall certify as to the accuracy of all reports required by statutory law or director's rules to be submitted by the district or educational service center and which contain information necessary for calculation of state funding. Any superintendent who knowingly falsifies such report shall be subject to license revocation pursuant to section 3319.31 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the director shall adopt procedures, standards, and guidelines for the education of children with disabilities pursuant to Chapter 3323. of the Revised Code, including procedures, standards, and guidelines governing programs and services operated by county boards of developmental disabilities pursuant to section 3323.09 of the Revised Code.

(K) For the purpose of encouraging the development of special programs of education for academically gifted children, the director shall employ competent persons to analyze and publish data, promote research, advise and counsel with boards of education, and encourage the training of teachers in the special instruction of gifted children. The director may provide financial assistance out of any funds appropriated for this purpose to boards of education and educational service center governing boards for developing and conducting programs of

education for academically gifted children. 30494

(L) The director shall require that all public schools 30495
emphasize and encourage, within existing units of study, the 30496
teaching of energy and resource conservation as recommended to 30497
each district board of education by leading business persons 30498
involved in energy production and conservation, beginning in the 30499
primary grades. 30500

(M) The director shall formulate and prescribe minimum 30501
standards requiring the use of phonics as a technique in the 30502
teaching of reading in grades kindergarten through three. In 30503
addition, the director shall provide in-service training 30504
programs for teachers on the use of phonics as a technique in 30505
the teaching of reading in grades kindergarten through three. 30506

(N) ~~The director may adopt rules necessary for carrying~~ 30507
~~out any function imposed on the director by law, and may provide~~ 30508
~~rules as are necessary for the government of the department and~~ 30509
~~its employees, and may delegate to any deputy director the~~ 30510
management and administration of any function imposed on the 30511
director by law. 30512

(O) Upon application from the board of education of a 30513
school district, the director may issue a waiver exempting the 30514
district from compliance with the standards adopted under 30515
divisions (B) (2) and (D) of this section, as they relate to the 30516
operation of a school operated by the district. The director 30517
shall adopt standards for the approval or disapproval of waivers 30518
under this division. The director shall consider every 30519
application for a waiver, and shall determine whether to grant 30520
or deny a waiver in accordance with ~~the~~ those standards. For 30521
each waiver granted, the director shall specify the period of 30522
time during which the waiver is in effect, which shall not 30523

exceed five years. A district board may apply to renew a waiver. 30524

Sec. 3301.0728. Notwithstanding anything in the Revised 30525
Code to the contrary, a student may retake any end-of-course 30526
examination prescribed under division (B)(2) of section 30527
3301.0712 of the Revised Code during the student's academic 30528
career at a time designated by the department of education and 30529
workforce. If, for any reason, a student does not take an end- 30530
of-course examination on the scheduled administration date, the 30531
department shall make available to the student the examination 30532
for which the student was absent, or a substantially similar 30533
examination as determined by the department, so that the student 30534
may take the examination or a substantially similar examination 30535
at a later time in the student's academic career. ~~The department~~ 30536
~~shall adopt rules in accordance with Chapter 119. of the Revised~~ 30537
~~Code to implement the provisions of this section.~~ 30538

Sec. 3301.53. (A) The department of children and youth 30539
shall formulate and prescribe by rule adopted under Chapter 119. 30540
of the Revised Code minimum standards to be applied to preschool 30541
programs operated by school district boards of education, county 30542
boards of developmental disabilities, community schools, or 30543
eligible nonpublic schools. The rules shall ~~include~~ establish 30544
the following: 30545

(1) Standards ensuring that the preschool program is 30546
located in a safe and convenient facility that accommodates the 30547
enrollment of the program, is of the quality to support the 30548
growth and development of the children according to the program 30549
objectives, and meets the requirements of section 3301.55 of the 30550
Revised Code; 30551

(2) Standards ensuring that supervision, discipline, and 30552
programs will be administered according to established 30553

objectives and procedures; 30554

(3) Standards ensuring that preschool staff members and 30555
nonteaching employees are recruited, employed, assigned, 30556
evaluated, and provided in-service education without 30557
discrimination on the basis of age, color, national origin, 30558
race, or sex; and that preschool staff members and nonteaching 30559
employees are assigned responsibilities in accordance with 30560
written position descriptions commensurate with their training 30561
and experience; 30562

(4) A requirement that boards of education intending to 30563
establish a preschool program demonstrate a need for a preschool 30564
program prior to establishing the program; 30565

(5) Requirements that children participating in preschool 30566
programs have been immunized to the extent considered 30567
appropriate by the director of children and youth to prevent the 30568
spread of communicable disease; 30569

(6) Requirements that the parents of preschool children 30570
complete the emergency medical authorization form specified in 30571
section 3313.712 of the Revised Code; 30572

~~(7) The department of education and workforce's rules or 30573
standards for providing special education and related services 30574
for children with disabilities under section 3323.02 of the 30575
Revised Code incorporated by reference, as appropriate. 30576~~

(B) The department of children and youth shall ensure that 30577
the rules adopted under sections 3301.52 to 3301.58 of the 30578
Revised Code are consistent with and meet or exceed the 30579
requirements of Chapter 5104. of the Revised Code with regard to 30580
child care centers that serve preschool children. The department 30581
shall review all such rules at least once every five years. 30582

(C) The department shall adopt rules for school child programs that are consistent with and meet or exceed the requirements of the rules adopted for child care centers that serve school-age children under Chapter 5104. of the Revised Code.

Sec. 3301.80. (A) The department of education and workforce shall award a certificate of high school equivalence to each person who achieves the equivalent of a high school education, as measured by scores obtained on a high school equivalency test approved by the department pursuant to division (B) of this section. Each certificate awarded under this section shall be signed by the director of education and workforce.

Notwithstanding anything to the contrary in the Revised Code, a person who seeks to obtain a certificate of high school equivalence shall be subject to the requirements of section 3301.81 of the Revised Code.

(B) The department shall approve at least two nationally recognized high school equivalency tests for the purpose of awarding certificates of high school equivalence under this section. For each test approved pursuant to division (B) of this section, the department shall ensure that the scores required for passage are equivalent to the scores required for passage on the other approved equivalency tests.

(C) All of the following shall be considered the equivalent of a certificate of high school equivalence awarded by the department under this section:

(1) A high school equivalence diploma or a certificate of high school equivalence awarded by the state board of education prior to September 14, 2016;

(2) A certificate of high school equivalence issued prior 30612
to January 1, 1994, attesting to the achievement of the 30613
equivalent of a high school education as measured by scores 30614
obtained on tests of general educational development; 30615

(3) A statement issued by a primary-secondary education or 30616
higher education agency of another state that indicates that its 30617
holder has achieved the equivalent of a high school education as 30618
measured by scores obtained on a similar nationally recognized 30619
high school equivalency test. 30620

~~(D) The department, in consultation with the chancellor of 30621
higher education, shall adopt rules to administer this section- 30622
and section 3301.81 of the Revised Code. 30623~~

Sec. 3301.94. The department of education and workforce 30624
and the chancellor of higher education may enter into a 30625
memorandum of understanding under which the department, on 30626
behalf of the chancellor, will receive and maintain copies of 30627
data records containing student information reported to the 30628
chancellor for the purpose of combining those records with the 30629
data reported to the education management information system, 30630
established under section 3301.0714 of the Revised Code, to 30631
establish an education data repository that may be used to 30632
conduct longitudinal research and evaluation. The memorandum of 30633
understanding shall specify the following: 30634

(A) That, prior to establishing the repository, the 30635
department and chancellor shall develop a strategic plan for the 30636
repository that outlines the goals to be achieved from its 30637
implementation and use. A copy of the strategic plan shall be 30638
provided to the governor, the president of the senate, and the 30639
speaker of the house of representatives; 30640

(B) That the chancellor shall submit all student data to 30641
be included in the repository to the independent contractor 30642
engaged by the department to create and maintain the student 30643
data verification codes required by division (D)(2) of section 30644
3301.0714 of the Revised Code. For each student included in the 30645
data submitted by the chancellor, the independent contractor 30646
shall determine whether a data verification code has been 30647
assigned to that student. In the case of a student to whom a 30648
data verification code has been assigned, the independent 30649
contractor shall add the code to the student's data record and 30650
remove from the data record any information that would enable 30651
the data verification code to be matched to personally 30652
identifiable student data. In the case of a student to whom a 30653
data verification code has not been assigned, the independent 30654
contractor shall assign a data verification code to the student, 30655
add the data verification code to the student's data record, and 30656
remove from the data record any information that would enable 30657
the data verification code to be matched to personally 30658
identifiable student data. After making the modifications 30659
described in this division, the independent contractor shall 30660
transmit the data to the department and the chancellor. 30661

(C) That the department and the chancellor jointly shall 30662
develop procedures for the maintenance of the data in the 30663
repository and shall designate the types of research that may be 30664
conducted using that data. Permitted uses of the data shall 30665
include, but are not limited to, the following: 30666

(1) Assisting the department of education and the 30667
department of children and youth in performing audit and 30668
evaluation functions concerning preschool, elementary, and 30669
secondary education as required or authorized by any provision 30670
of law, including division (C) of section 3301.07 and sections 30671

3301.12, 3301.16, 3301.53, 3301.57, 3301.58, and 3302.03 of the 30672
Revised Code; 30673

(2) Assisting the department and the chancellor in 30674
performing audit and evaluation functions concerning higher 30675
education as required or authorized by any provision of law, 30676
including sections 3333.04, 3333.041, 3333.047, 3333.122, 30677
3333.123, 3333.16, 3333.161, ~~3333.374~~, 3333.72, and 3333.82 of 30678
the Revised Code. 30679

(D) That the department and the chancellor, from time to 30680
time, jointly may enter into written agreements with entities 30681
for the use of data in the repository to conduct research and 30682
analysis designed to evaluate the effectiveness of programs or 30683
services, to measure progress against specific strategic 30684
planning goals, or for any other purpose permitted by law that 30685
the department and chancellor consider necessary for the 30686
performance of their duties under the Revised Code. The 30687
agreements may permit the disclosure of personally identifiable 30688
student information to the entity named in the agreement, 30689
provided that disclosure complies with the "Family Educational 30690
Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, 30691
as amended, and regulations promulgated under that act 30692
prescribing requirements for such agreements. 30693

(E) That the data in the repository submitted by the 30694
department of education shall remain under the direct control of 30695
the department and that the data in the repository submitted by 30696
the chancellor shall remain under the direct control of the 30697
chancellor; 30698

(F) That the data in the repository shall be managed in a 30699
manner that complies with the "Family Educational Rights and 30700
Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended; 30701

(G) That all costs related to the initial establishment 30702
and ongoing maintenance of the repository shall be paid from 30703
funds received from state incentive grants awarded under 30704
division (A), Title XIV, section 14006 of the American Recovery 30705
and Reinvestment Act of 2009, other federal grant programs, or 30706
existing appropriations of the department or chancellor that are 30707
designated for a purpose consistent with this section; 30708

(H) That the department of education annually shall report 30709
to the chancellor and the department of children and youth all 30710
requests for access to or use of the data in the repository and 30711
all costs related to the initial establishment and ongoing 30712
maintenance of the repository. 30713

Sec. 3302.03. Not later than the thirty-first day of July 30714
of each year, the department of education and workforce shall 30715
submit preliminary report card data for overall academic 30716
performance and for each separate performance measure for each 30717
school district, and each school building, in accordance with 30718
this section. 30719

Annually, not later than the fifteenth day of September or 30720
the preceding Friday when that day falls on a Saturday or 30721
Sunday, the department shall assign a letter grade or 30722
performance rating for overall academic performance and for each 30723
separate performance measure for each school district, and each 30724
school building in a district, in accordance with this section. 30725
The department shall adopt rules pursuant to Chapter 119. of the 30726
Revised Code ~~to implement this section. The department's rules~~ 30727
~~shall that~~ establish performance criteria for each letter grade 30728
or performance rating and prescribe a method by which the 30729
department assigns each letter grade or performance rating. For 30730
a school building to which any of the performance measures do 30731

not apply, due to grade levels served by the building, the 30732
department shall designate the performance measures that are 30733
applicable to the building and that must be calculated 30734
separately and used to calculate the building's overall grade or 30735
performance rating. The department shall issue annual report 30736
cards reflecting the performance of each school district, each 30737
building within each district, and for the state as a whole 30738
using the performance measures and letter grade or performance 30739
rating system described in this section. The department shall 30740
include on the report card for each district and each building 30741
within each district the most recent two-year trend data in 30742
student achievement for each subject and each grade. 30743

(A) (1) For the 2012-2013 school year, the department shall 30744
issue grades as described in division (F) of this section for 30745
each of the following performance measures: 30746

(a) Annual measurable objectives; 30747

(b) Performance index score for a school district or 30748
building. Grades shall be awarded as a percentage of the total 30749
possible points on the performance index system as adopted by 30750
the department. In adopting benchmarks for assigning letter 30751
grades under division (A) (1) (b) of this section, the department 30752
shall designate ninety per cent or higher for an "A," at least 30753
seventy per cent but not more than eighty per cent for a "C," 30754
and less than fifty per cent for an "F." 30755

(c) The extent to which the school district or building 30756
meets each of the applicable performance indicators established 30757
by the department under section 3302.02 of the Revised Code and 30758
the percentage of applicable performance indicators that have 30759
been achieved. In adopting benchmarks for assigning letter 30760
grades under division (A) (1) (c) of this section, the department 30761

shall designate ninety per cent or higher for an "A." 30762

(d) The four- and five-year adjusted cohort graduation 30763
rates. 30764

In adopting benchmarks for assigning letter grades under 30765
division (A) (1) (d), (B) (1) (d), or (C) (1) (d) of this section, the 30766
department shall designate a four-year adjusted cohort 30767
graduation rate of ninety-three per cent or higher for an "A" 30768
and a five-year cohort graduation rate of ninety-five per cent 30769
or higher for an "A." 30770

(e) The overall score under the value-added progress 30771
dimension of a school district or building, for which the 30772
department shall use up to three years of value-added data as 30773
available. The letter grade assigned for this growth measure 30774
shall be as follows: 30775

(i) A score that is at least one standard error of measure 30776
above the mean score shall be designated as an "A." 30777

(ii) A score that is less than one standard error of 30778
measure above but greater than one standard error of measure 30779
below the mean score shall be designated as a "B." 30780

(iii) A score that is less than or equal to one standard 30781
error of measure below the mean score but greater than two 30782
standard errors of measure below the mean score shall be 30783
designated as a "C." 30784

(iv) A score that is less than or equal to two standard 30785
errors of measure below the mean score but is greater than three 30786
standard errors of measure below the mean score shall be 30787
designated as a "D." 30788

(v) A score that is less than or equal to three standard 30789

errors of measure below the mean score shall be designated as an 30790
"F." 30791

Whenever the value-added progress dimension is used as a 30792
graded performance measure in this division and divisions (B) 30793
and (C) of this section, whether as an overall measure or as a 30794
measure of separate subgroups, the grades for the measure shall 30795
be calculated in the same manner as prescribed in division (A) 30796
(1)(e) of this section. 30797

(f) The value-added progress dimension score for a school 30798
district or building disaggregated for each of the following 30799
subgroups: students identified as gifted, students with 30800
disabilities, and students whose performance places them in the 30801
lowest quintile for achievement on a statewide basis. Each 30802
subgroup shall be a separate graded measure. 30803

(2) The department shall adopt a resolution describing the 30804
performance measures, benchmarks, and grading system for the 30805
2012-2013 school year and shall adopt rules in accordance with 30806
Chapter 119. of the Revised Code that prescribe the methods by 30807
which the performance measures under division (A)(1) of this 30808
section shall be assessed and assigned a letter grade, including 30809
performance benchmarks for each letter grade. 30810

At least forty-five days prior to the department's 30811
adoption of rules to prescribe the methods by which the 30812
performance measures under division (A)(1) of this section shall 30813
be assessed and assigned a letter grade, the department shall 30814
conduct a public presentation before the standing committees of 30815
the house of representatives and the senate that consider 30816
education legislation describing such methods, including 30817
performance benchmarks. 30818

- (3) There shall not be an overall letter grade for a school district or building for the 2012-2013 school year. 30819
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- (B) (1) For the 2013-2014 school year, the department shall issue grades as described in division (F) of this section for each of the following performance measures: 30821
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- (a) Annual measurable objectives; 30824
- (b) Performance index score for a school district or building. Grades shall be awarded as a percentage of the total possible points on the performance index system as created by the department. In adopting benchmarks for assigning letter grades under division (B) (1) (b) of this section, the department shall designate ninety per cent or higher for an "A," at least seventy per cent but not more than eighty per cent for a "C," and less than fifty per cent for an "F." 30825
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- (c) The extent to which the school district or building meets each of the applicable performance indicators established by the department under section 3302.03 of the Revised Code and the percentage of applicable performance indicators that have been achieved. In adopting benchmarks for assigning letter grades under division (B) (1) (c) of this section, the department shall designate ninety per cent or higher for an "A." 30833
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- (d) The four- and five-year adjusted cohort graduation rates; 30840
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- (e) The overall score under the value-added progress dimension of a school district or building, for which the department shall use up to three years of value-added data as available. 30842
30843
30844
30845
- (f) The value-added progress dimension score for a school district or building disaggregated for each of the following 30846
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subgroups: students identified as gifted in superior cognitive 30848
ability and specific academic ability fields under Chapter 3324. 30849
of the Revised Code, students with disabilities, and students 30850
whose performance places them in the lowest quintile for 30851
achievement on a statewide basis. Each subgroup shall be a 30852
separate graded measure. 30853

(g) Whether a school district or building is making 30854
progress in improving literacy in grades kindergarten through 30855
three, as determined using a method prescribed by the 30856
department. The department shall adopt rules to prescribe 30857
benchmarks and standards for assigning grades to districts and 30858
buildings for purposes of division (B) (1) (g) of this section. In 30859
adopting benchmarks for assigning letter grades under divisions 30860
(B) (1) (g) and (C) (1) (g) of this section, the department shall 30861
determine progress made based on the reduction in the total 30862
percentage of students scoring below grade level, or below 30863
proficient, compared from year to year on the reading diagnostic 30864
assessments administered under section 3301.0715 of the Revised 30865
Code and the third grade English language arts assessment under 30866
section 3301.0710 of the Revised Code, as applicable. The 30867
department shall designate for a "C" grade a value that is not 30868
lower than the statewide average value for this measure. No 30869
grade shall be issued under divisions (B) (1) (g) and (C) (1) (g) of 30870
this section for a district or building in which less than five 30871
per cent of students have scored below grade level on the 30872
diagnostic assessment administered to students in kindergarten 30873
under division (B) (1) of section 3313.608 of the Revised Code. 30874

(h) For a high mobility school district or building, an 30875
additional value-added progress dimension score. For this 30876
measure, the department shall use value-added data from the most 30877
recent school year available and shall use assessment scores for 30878

only those students to whom the district or building has 30879
administered the assessments prescribed by section 3301.0710 of 30880
the Revised Code for each of the two most recent consecutive 30881
school years. 30882

As used in this division, "high mobility school district 30883
or building" means a school district or building where at least 30884
twenty-five per cent of its total enrollment is made up of 30885
students who have attended that school district or building for 30886
less than one year. 30887

(2) In addition to the graded measures in division (B) (1) 30888
of this section, the department shall include on a school 30889
district's or building's report card all of the following 30890
without an assigned letter grade: 30891

(a) The percentage of students enrolled in a district or 30892
building participating in advanced placement classes and the 30893
percentage of those students who received a score of three or 30894
better on advanced placement examinations; 30895

(b) The number of a district's or building's students who 30896
have earned at least three college credits through dual 30897
enrollment or advanced standing programs, such as the post- 30898
secondary enrollment options program under Chapter 3365. of the 30899
Revised Code and state-approved career-technical courses offered 30900
through dual enrollment or statewide articulation, that appear 30901
on a student's transcript or other official document, either of 30902
which is issued by the institution of higher education from 30903
which the student earned the college credit. The credits earned 30904
that are reported under divisions (B) (2) (b) and (C) (2) (c) of 30905
this section shall not include any that are remedial or 30906
developmental and shall include those that count toward the 30907
curriculum requirements established for completion of a degree. 30908

(c) The percentage of students enrolled in a district or building who have taken a national standardized test used for college admission determinations and the percentage of those students who are determined to be remediation-free in accordance with standards adopted under division (F) of section 3345.061 of the Revised Code;

(d) The percentage of the district's or the building's students who receive industry-recognized credentials as approved under section 3313.6113 of the Revised Code.

(e) The percentage of students enrolled in a district or building who are participating in an international baccalaureate program and the percentage of those students who receive a score of four or better on the international baccalaureate examinations.

(f) The percentage of the district's or building's students who receive an honors diploma under division (B) of section 3313.61 of the Revised Code.

(3) The department shall adopt rules in accordance with Chapter 119. of the Revised Code that prescribe the methods by which the performance measures under divisions (B)(1)(f) and (B)(1)(g) of this section will be assessed and assigned a letter grade, including performance benchmarks for each grade.

At least forty-five days prior to the department's adoption of rules to prescribe the methods by which the performance measures under division (B)(1) of this section shall be assessed and assigned a letter grade, the department shall conduct a public presentation before the standing committees of the house of representatives and the senate that consider education legislation describing such methods, including

performance benchmarks. 30938

(4) There shall not be an overall letter grade for a 30939
school district or building for the 2013-2014, 2014-2015, 2015- 30940
2016, and 2016-2017 school years. 30941

(C) (1) For the 2014-2015, 2015-2016, 2016-2017, 2017-2018, 30942
2018-2019, 2019-2020, and 2020-2021 school years, the department 30943
shall issue grades as described in division (F) of this section 30944
for each of the performance measures prescribed in division (C) 30945
(1) of this section. The graded measures are as follows: 30946

(a) Annual measurable objectives. For the 2017-2018 school 30947
year, the department shall not include any subgroup data in the 30948
annual measurable objectives that includes data from fewer than 30949
twenty-five students. For the 2018-2019 school year, the 30950
department shall not include any subgroup data in the annual 30951
measurable objectives that includes data from fewer than twenty 30952
students. Beginning with the 2019-2020 school year, the 30953
department shall not include any subgroup data in the annual 30954
measurable objectives that includes data from fewer than fifteen 30955
students. 30956

(b) Performance index score for a school district or 30957
building. Grades shall be awarded as a percentage of the total 30958
possible points on the performance index system as created by 30959
the department. In adopting benchmarks for assigning letter 30960
grades under division (C) (1) (b) of this section, the department 30961
shall designate ninety per cent or higher for an "A," at least 30962
seventy per cent but not more than eighty per cent for a "C," 30963
and less than fifty per cent for an "F." 30964

(c) The extent to which the school district or building 30965
meets each of the applicable performance indicators established 30966

by the department under section 3302.03 of the Revised Code and 30967
the percentage of applicable performance indicators that have 30968
been achieved. In adopting benchmarks for assigning letter 30969
grades under division (C) (1) (c) of this section, the department 30970
shall designate ninety per cent or higher for an "A." 30971

(d) The four- and five-year adjusted cohort graduation 30972
rates; 30973

(e) The overall score under the value-added progress 30974
dimension, or another measure of student academic progress if 30975
adopted by the department, of a school district or building, for 30976
which the department shall use up to three years of value-added 30977
data as available. 30978

In adopting benchmarks for assigning letter grades for 30979
overall score on value-added progress dimension under division 30980
(C) (1) (e) of this section, the department shall prohibit the 30981
assigning of a grade of "A" for that measure unless the 30982
district's or building's grade assigned for value-added progress 30983
dimension for all subgroups under division (C) (1) (f) of this 30984
section is a "C" or higher. 30985

For the metric prescribed by division (C) (1) (e) of this 30986
section, the department may adopt a student academic progress 30987
measure to be used instead of the value-added progress 30988
dimension. If the department adopts such a measure, it also 30989
shall prescribe a method for assigning letter grades for the new 30990
measure that is comparable to the method prescribed in division 30991
(A) (1) (e) of this section. 30992

(f) The value-added progress dimension score of a school 30993
district or building disaggregated for each of the following 30994
subgroups: students identified as gifted in superior cognitive 30995

ability and specific academic ability fields under Chapter 3324. 30996
of the Revised Code, students with disabilities, and students 30997
whose performance places them in the lowest quintile for 30998
achievement on a statewide basis, as determined by a method 30999
prescribed by the department. Each subgroup shall be a separate 31000
graded measure. 31001

The department may adopt student academic progress 31002
measures to be used instead of the value-added progress 31003
dimension. If the department adopts such measures, it also shall 31004
prescribe a method for assigning letter grades for the new 31005
measures that is comparable to the method prescribed in division 31006
(A) (1) (e) of this section. 31007

(g) Whether a school district or building is making 31008
progress in improving literacy in grades kindergarten through 31009
three, as determined using a method prescribed by the 31010
department. The department shall adopt rules to prescribe 31011
benchmarks and standards for assigning grades to a district or 31012
building for purposes of division (C) (1) (g) of this section. The 31013
department shall designate for a "C" grade a value that is not 31014
lower than the statewide average value for this measure. No 31015
grade shall be issued under division (C) (1) (g) of this section 31016
for a district or building in which less than five per cent of 31017
students have scored below grade level on the kindergarten 31018
diagnostic assessment under division (B) (1) of section 3313.608 31019
of the Revised Code. 31020

(h) For a high mobility school district or building, an 31021
additional value-added progress dimension score. For this 31022
measure, the department shall use value-added data from the most 31023
recent school year available and shall use assessment scores for 31024
only those students to whom the district or building has 31025

administered the assessments prescribed by section 3301.0710 of 31026
the Revised Code for each of the two most recent consecutive 31027
school years. 31028

As used in this division, "high mobility school district 31029
or building" means a school district or building where at least 31030
twenty-five per cent of its total enrollment is made up of 31031
students who have attended that school district or building for 31032
less than one year. 31033

(2) In addition to the graded measures in division (C) (1) 31034
of this section, the department shall include on a school 31035
district's or building's report card all of the following 31036
without an assigned letter grade: 31037

(a) The percentage of students enrolled in a district or 31038
building who have taken a national standardized test used for 31039
college admission determinations and the percentage of those 31040
students who are determined to be remediation-free in accordance 31041
with the standards adopted under division (F) of section 31042
3345.061 of the Revised Code; 31043

(b) The percentage of students enrolled in a district or 31044
building participating in advanced placement classes and the 31045
percentage of those students who received a score of three or 31046
better on advanced placement examinations; 31047

(c) The percentage of a district's or building's students 31048
who have earned at least three college credits through advanced 31049
standing programs, such as the college credit plus program under 31050
Chapter 3365. of the Revised Code and state-approved career- 31051
technical courses offered through dual enrollment or statewide 31052
articulation, that appear on a student's college transcript 31053
issued by the institution of higher education from which the 31054

student earned the college credit. The credits earned that are 31055
reported under divisions (B) (2) (b) and (C) (2) (c) of this section 31056
shall not include any that are remedial or developmental and 31057
shall include those that count toward the curriculum 31058
requirements established for completion of a degree. 31059

(d) The percentage of the district's or building's 31060
students who receive an honor's diploma under division (B) of 31061
section 3313.61 of the Revised Code; 31062

(e) The percentage of the district's or building's 31063
students who receive industry-recognized credentials as approved 31064
under section 3313.6113 of the Revised Code; 31065

(f) The percentage of students enrolled in a district or 31066
building who are participating in an international baccalaureate 31067
program and the percentage of those students who receive a score 31068
of four or better on the international baccalaureate 31069
examinations; 31070

(g) The results of the college and career-ready 31071
assessments administered under division (B) (1) of section 31072
3301.0712 of the Revised Code; 31073

(h) Whether the school district or building has 31074
implemented a positive behavior intervention and supports 31075
framework in compliance with the requirements of section 3319.46 31076
of the Revised Code, notated as a "yes" or "no" answer. 31077

(3) The department shall adopt rules pursuant to Chapter 31078
119. of the Revised Code that establish a method to assign an 31079
overall grade for a school district or school building for the 31080
2017-2018 school year and each school year thereafter. The rules 31081
shall group the performance measures in divisions (C) (1) and (2) 31082
of this section into the following components: 31083

(a) Gap closing, which shall include the performance measure in division (C) (1) (a) of this section;	31084 31085
(b) Achievement, which shall include the performance measures in divisions (C) (1) (b) and (c) of this section;	31086 31087
(c) Progress, which shall include the performance measures in divisions (C) (1) (e) and (f) of this section;	31088 31089
(d) Graduation, which shall include the performance measure in division (C) (1) (d) of this section;	31090 31091
(e) Kindergarten through third-grade literacy, which shall include the performance measure in division (C) (1) (g) of this section;	31092 31093 31094
(f) Prepared for success, which shall include the performance measures in divisions (C) (2) (a), (b), (c), (d), (e), and (f) of this section. The department shall develop a method to determine a grade for the component in division (C) (3) (f) of this section using the performance measures in divisions (C) (2) (a), (b), (c), (d), (e), and (f) of this section. When available, the department may incorporate the performance measure under division (C) (2) (g) of this section into the component under division (C) (3) (f) of this section. When determining the overall grade for the prepared for success component prescribed by division (C) (3) (f) of this section, no individual student shall be counted in more than one performance measure. However, if a student qualifies for more than one performance measure in the component, the department may, in its method to determine a grade for the component, specify an additional weight for such a student that is not greater than or equal to 1.0. In determining the overall score under division (C) (3) (f) of this section, the department shall ensure that the	31095 31096 31097 31098 31099 31100 31101 31102 31103 31104 31105 31106 31107 31108 31109 31110 31111 31112

pool of students included in the performance measures aggregated 31113
under that division are all of the students included in the 31114
four- and five-year adjusted graduation cohort. 31115

In the rules adopted under division (C)(3) of this 31116
section, the department shall adopt a method for determining a 31117
grade for each component in divisions (C)(3)(a) to (f) of this 31118
section. The department also shall establish a method to assign 31119
an overall grade of "A," "B," "C," "D," or "F" using the grades 31120
assigned for each component. The method the department adopts 31121
for assigning an overall grade shall give equal weight to the 31122
components in divisions (C)(3)(b) and (c) of this section. 31123

At least forty-five days prior to the department's 31124
adoption of rules to prescribe the methods for calculating the 31125
overall grade for the report card, as required by this division, 31126
the department shall conduct a public presentation before the 31127
standing committees of the house of representatives and the 31128
senate that consider education legislation describing the format 31129
for the report card, weights that will be assigned to the 31130
components of the overall grade, and the method for calculating 31131
the overall grade. 31132

(D) For the 2021-2022 school year and each school year 31133
thereafter, all of the following apply: 31134

(1) The department shall include on a school district's or 31135
building's report card all of the following performance measures 31136
without an assigned performance rating: 31137

(a) Whether the district or building meets the gifted 31138
performance indicator under division (A)(2) of section 3302.02 31139
of the Revised Code and the extent to which the district or 31140
building meets gifted indicator performance benchmarks; 31141

(b) The extent to which the district or building meets the 31142
chronic absenteeism indicator under division (A) (3) of section 31143
3302.02 of the Revised Code; 31144

(c) Performance index score percentage for a district or 31145
building, which shall be calculated by dividing the district's 31146
or building's performance index score according to the 31147
performance index system created by the department by the 31148
maximum performance index score for a district or building. The 31149
maximum performance index score shall be as follows: 31150

(i) For a building, the average of the highest two per 31151
cent of performance index scores achieved by a building for the 31152
school year for which a report card is issued; 31153

(ii) For a district, the average of the highest two per 31154
cent of performance index scores achieved by a district for the 31155
school year for which a report card is issued. 31156

(d) The overall score under the value-added progress 31157
dimension of a district or building, for which the department 31158
shall use three consecutive years of value-added data. In using 31159
three years of value-added data to calculate the measure 31160
prescribed under division (D) (1) (d) of this section, the 31161
department shall assign a weight of fifty per cent to the most 31162
recent year's data and a weight of twenty-five per cent to the 31163
data of each of the other years. However, if three consecutive 31164
years of value-added data is not available, the department shall 31165
use prior years of value-added data to calculate the measure, as 31166
follows: 31167

(i) If two consecutive years of value-added data is not 31168
available, the department shall use one year of value-added data 31169
to calculate the measure. 31170

(ii) If two consecutive years of value-added data is 31171
available, the department shall use two consecutive years of 31172
value-added data to calculate the measure. In using two years of 31173
value-added data to calculate the measure, the department shall 31174
assign a weight of sixty-seven per cent to the most recent 31175
year's data and a weight of thirty-three per cent to the data of 31176
the other year. 31177

(e) The four-year adjusted cohort graduation rate. 31178

(f) The five-year adjusted cohort graduation rate. 31179

(g) The percentage of students in the district or building 31180
who score proficient or higher on the reading segment of the 31181
third grade English language arts assessment under section 31182
3301.0710 of the Revised Code. 31183

To the extent possible, the department shall include the 31184
results of the summer administration of the third grade reading 31185
assessment under section 3301.0710 of the Revised Code in the 31186
performance measures prescribed under divisions (D) (1) (g) and 31187
(h) of this section. 31188

(h) Whether a district or building is making progress in 31189
improving literacy in grades kindergarten through three, as 31190
determined using a method prescribed by the department. The 31191
method shall determine progress made based on the reduction in 31192
the total percentage of students scoring below grade level, or 31193
below proficient, compared from year to year on the reading 31194
segments of the diagnostic assessments administered under 31195
division (A) (1) of section 3301.0715 of the Revised Code and the 31196
third grade English language arts assessment under section 31197
3301.0710 of the Revised Code, as applicable. The method shall 31198
not include a deduction for students who did not pass the third 31199

grade English language arts assessment under section 3301.0710 31200
of the Revised Code and were not on a reading improvement and 31201
monitoring plan. 31202

The performance measure prescribed under division (D) (1) 31203
(h) of this section shall not be included on the report card of 31204
a district or building in which less than ten per cent of 31205
students have scored below grade level on the diagnostic 31206
assessment administered to students in kindergarten under 31207
division (B) (1) of section 3313.608 of the Revised Code. 31208

(i) The percentage of students in a district or building 31209
who are promoted to the fourth grade based on the student's 31210
score on the third grade English language arts assessment under 31211
division (A) (3) of section 3301.0710 of the Revised Code or 31212
demonstrate competency on an alternative assessment under 31213
division (A) (2) (c) of section 3313.608 of the Revised Code; 31214

(j) A post-secondary readiness measure. This measure shall 31215
be calculated by dividing the number of students included in the 31216
four-year adjusted graduation rate cohort who demonstrate post- 31217
secondary readiness by the total number of students included in 31218
the denominator of the four-year adjusted graduation rate 31219
cohort. Demonstration of post-secondary readiness shall include 31220
a student doing any of the following: 31221

(i) Attaining a remediation-free score, in accordance with 31222
standards adopted under division (F) of section 3345.061 of the 31223
Revised Code, on a nationally standardized assessment prescribed 31224
under division (B) (1) of section 3301.0712 of the Revised Code; 31225

(ii) Attaining required scores on three or more advanced 31226
placement, college-level examination program, or international 31227
baccalaureate examinations. The required score for an advanced 31228

placement examination shall be a three or better. The required 31229
score for a college-level examination program examination shall 31230
be a passing score, as determined by the department. The 31231
required score for an international baccalaureate examination 31232
shall be a four or better. A student may satisfy this condition 31233
with any combination of advanced placement, college-level 31234
examination program, or international baccalaureate 31235
examinations. 31236

(iii) Earning at least twelve college credits through 31237
advanced standing programs, such as the college credit plus 31238
program under Chapter 3365. of the Revised Code, an early 31239
college high school program under section 3313.6013 of the 31240
Revised Code, and state-approved career-technical courses 31241
offered through dual enrollment or statewide articulation, that 31242
appear on a student's college transcript issued by the 31243
institution of higher education from which the student earned 31244
the college credit. Earned credits reported under division (D) 31245
(1) (j) (iii) of this section shall include credits that count 31246
toward the curriculum requirements established for completion of 31247
a degree, but shall not include any remedial or developmental 31248
credits. 31249

(iv) Meeting the additional criteria for an honors diploma 31250
under division (B) of section 3313.61 of the Revised Code; 31251

(v) Earning an industry-recognized credential or license 31252
issued by a state agency or board for practice in a vocation 31253
that requires an examination for issuance of that license 31254
approved under section 3313.6113 of the Revised Code; 31255

(vi) Satisfying any of the following conditions: 31256

(I) Completing a pre-apprenticeship aligned with options 31257

established under section 3313.904 of the Revised Code in the 31258
student's chosen career field; 31259

(II) Completing an apprenticeship registered with the 31260
apprenticeship council established under section 4139.02 of the 31261
Revised Code in the student's chosen career field; 31262

(III) Providing evidence of acceptance into an 31263
apprenticeship program after high school that is restricted to 31264
participants eighteen years of age or older. 31265

(vii) Earning a cumulative score of proficient or higher 31266
on three or more state technical assessments aligned with 31267
section 3313.903 of the Revised Code in a single career pathway; 31268

(viii) Earning an OhioMeansJobs-readiness seal established 31269
under section 3313.6112 of the Revised Code and completing two 31270
hundred fifty hours of an internship or other work-based 31271
learning experience that is either: 31272

(I) Approved by the business advisory council established 31273
under section 3313.82 of the Revised Code that represents the 31274
student's district; or 31275

(II) Aligned to the career-technical education pathway 31276
approved by the department in which the student is enrolled. 31277

(ix) Providing evidence that the student has enlisted in a 31278
branch of the armed services of the United States as defined in 31279
section 5910.01 of the Revised Code. 31280

A student who satisfies more than one of the conditions 31281
prescribed under this division shall be counted as one student 31282
for the purposes of calculating the measure prescribed under 31283
division (D) (1) (j) of this section. 31284

(2) In addition to the performance measures under division 31285

(D) (1) of this section, the department shall report on a district's or building's report card all of the following data without an assigned performance rating:

(a) The applicable performance indicators established by the department under division (A) (1) of section 3302.02 of the Revised Code;

(b) The overall score under the value-added progress dimension of a district or building for the most recent school year;

(c) A composite of the overall scores under the value-added progress dimension of a district or building for the previous three school years or, if only two years of value-added data are available, for the previous two years;

(d) The percentage of students included in the four- and five-year adjusted cohort graduation rates of a district or building who did not receive a high school diploma under section 3313.61 or 3325.08 of the Revised Code. To the extent possible, the department shall disaggregate that data according to the following categories:

(i) Students who are still enrolled in the district or building and receiving general education services;

(ii) Students with an individualized education program, as defined in section 3323.01 of the Revised Code, who satisfied the conditions for a high school diploma under section 3313.61 or 3325.08 of the Revised Code, but opted not to receive a diploma and are still receiving education services;

(iii) Students with an individualized education program who have not yet satisfied conditions for a high school diploma under section 3313.61 or 3325.08 of the Revised Code and who are

still receiving education services; 31315

(iv) Students who are no longer enrolled in any district 31316
or building; 31317

(v) Students who, upon enrollment in the district or 31318
building for the first time, had completed fewer units of high 31319
school instruction required under section 3313.603 of the 31320
Revised Code than other students in the four- or five-year 31321
adjusted cohort graduation rate. 31322

The department may disaggregate the data prescribed under 31323
division (D) (2) (d) of this section according to other categories 31324
that the department determines are appropriate. 31325

(e) Post-graduate outcomes for students who were enrolled 31326
in a district or building and received a high school diploma 31327
under section 3313.61 or 3325.08 of the Revised Code in the 31328
school year prior to the school year for which the report card 31329
is issued, including the percentage of students who: 31330

(i) Enrolled in a post-secondary educational institution. 31331
To the extent possible, the department shall disaggregate that 31332
data according to whether the student enrolled in a four-year 31333
institution of higher education, a two-year institution of 31334
higher education, an Ohio technical center that provides adult 31335
technical education services and is recognized by the chancellor 31336
of higher education, or another type of post-secondary 31337
educational institution. 31338

(ii) Entered an apprenticeship program registered with the 31339
apprenticeship council established under Chapter 4139. of the 31340
Revised Code. The department may include other job training 31341
programs with similar rigor and outcomes. 31342

(iii) Attained gainful employment, as determined by the 31343

department;	31344
(iv) Enlisted in a branch of the armed forces of the United States, as defined in section 5910.01 of the Revised Code.	31345 31346 31347
(f) Whether the school district or building has implemented a positive behavior intervention and supports framework in compliance with the requirements of section 3319.46 of the Revised Code, notated with a "yes" or "no";	31348 31349 31350 31351
(g) The number and percentage of high school seniors in each school year who completed the free application for federal student aid;	31352 31353 31354
(h) Beginning with the report card issued under this section for the 2022-2023 school year, a student opportunity profile measure that reports data regarding the opportunities provided to students by a district or building. To the extent possible, and when appropriate, the data shall be disaggregated by grade level and subgroup. The measure also shall include data regarding the statewide average, the average for similar school districts, and, for a building, the average for the district in which the building is located. The measure shall include all of the following data for the district or building:	31355 31356 31357 31358 31359 31360 31361 31362 31363 31364
(i) The average ratio of teachers of record to students in each grade level in a district or building;	31365 31366
(ii) The average ratio of school counselors to students in a district or building;	31367 31368
(iii) The average ratio of nurses to students in a district or building;	31369 31370
(iv) The average ratio of licensed librarians and library	31371

media specialists to students in a district or building;	31372
(v) The average ratio of social workers to students in a district or building;	31373 31374
(vi) The average ratio of mental health professionals to students in a district or building;	31375 31376
(vii) The average ratio of paraprofessionals to students in a district or building;	31377 31378
(viii) The percentage of teachers with fewer than three years of experience teaching in any school;	31379 31380
(ix) The percentage of principals with fewer than three years of experience as a principal in any school;	31381 31382
(x) The percentage of teachers who are not teaching in the subject or field for which they are certified or licensed;	31383 31384
(xi) The percentage of kindergarten students who are enrolled in all-day kindergarten, as defined in section 3321.05 of the Revised Code;	31385 31386 31387
(xii) The percentage of students enrolled in a performing or visual arts course;	31388 31389
(xiii) The percentage of students enrolled in a physical education or wellness course;	31390 31391
(xiv) The percentage of students enrolled in a world language course;	31392 31393
(xv) The percentage of students in grades seven through twelve who are enrolled in a career-technical education course;	31394 31395
(xvi) The percentage of students participating in one or more cocurricular activities;	31396 31397

(xvii) The percentage of students participating in advance placement courses, international baccalaureate courses, honors courses, or courses offered through the college credit plus program established under Chapter 3365. of the Revised Code;	31398 31399 31400 31401
(xviii) The percentage of students identified as gifted in superior cognitive ability and specific academic ability fields under Chapter 3324. of the Revised Code and receiving gifted services pursuant to that chapter;	31402 31403 31404 31405
(xix) The percentage of students participating in enrichment or support programs offered by the district or building outside of the normal school day;	31406 31407 31408
(xx) The percentage of eligible students participating each school day in school breakfast programs offered by the district or building in accordance with section 3313.813 or 3313.818 of the Revised Code;	31409 31410 31411 31412
(xxi) The percentage of students who are transported by a school bus each school day;	31413 31414
(xxii) The ratio of portable technology devices that students may take home to the number of students.	31415 31416
The department shall include only opportunity measures at the building level for which data for buildings is available, as determined by a school district.	31417 31418 31419
(i) (i) The percentage of students included in the four- and five-year adjusted cohort graduation rates of the district or building who completed all of grades nine through twelve while enrolled in the district or building;	31420 31421 31422 31423
(ii) The four-year adjusted cohort graduation rate for only those students who were continuously enrolled in the same	31424 31425

district or building for grades nine through twelve. 31426

(j) Whether the district or building provides information 31427
about and promotes the college credit plus program established 31428
under Chapter 3365. of the Revised Code to students in 31429
accordance with section 3365.04 of the Revised Code, notated 31430
with a "yes" or "no"; 31431

(k) The percentage of students in the district or building 31432
to whom both of the following apply: 31433

(i) The students are promoted to fourth grade and not 31434
subject to retention under division (A) (2) of section 3313.608 31435
of the Revised Code. 31436

(ii) The students completed all of the grade levels 31437
offered prior to the fourth grade in the district or building. 31438

(3) Except as provided in division (D) (3) (f) of this 31439
section, the department shall use the method prescribed under 31440
rules adopted under division (D) (4) of this section to assign 31441
performance ratings of "one star," "two stars," "three stars," 31442
"four stars," or "five stars," as described in division (F) of 31443
this section, for a district or building for the individual 31444
components prescribed under division (D) (3) of this section. The 31445
department also shall assign an overall performance rating for a 31446
district or building in accordance with division (D) (3) (g) of 31447
this section. The method shall use the performance measures 31448
prescribed under division (D) (1) of this section to calculate 31449
performance ratings for components. The method may report data 31450
under division (D) (2) of this section with corresponding 31451
components, but shall not use the data to calculate performance 31452
ratings for that component. The performance measures and 31453
reported data shall be grouped together into components as 31454

follows: 31455

(a) Gap closing. In addition to other criteria determined 31456
appropriate by the department, performance ratings for the gap 31457
closing component shall reflect whether each of the following 31458
performance measures are met or not met: 31459

(i) The gifted performance indicator as described in 31460
division (D) (1) (a) of this section; 31461

(ii) The chronic absenteeism indicator as described in 31462
division (D) (1) (b) of this section; 31463

(iii) For English learners, an English language 31464
proficiency improvement indicator established by the department; 31465

(iv) The subgroup graduation targets; 31466

(v) The subgroup achievement targets in both mathematics 31467
and English language arts; 31468

(vi) The subgroup progress targets in both mathematics and 31469
English language arts. 31470

Achievement and progress targets under division (D) (3) (a) 31471
of this section shall be calculated individually, and districts 31472
and buildings shall receive a status of met or not met on each 31473
measure. The department shall not require a subgroup of a 31474
district or building to meet both the achievement and progress 31475
targets at the same time to receive a status of met. 31476

The department shall not include any subgroup data in this 31477
measure that includes data from fewer than fifteen students. Any 31478
penalty for failing to meet the required assessment 31479
participation rate must be partially in proportion to how close 31480
the district or building was to meeting the rate requirement. 31481

(b) Achievement, which shall include the performance 31482
measure in division (D) (1) (c) of this section and the reported 31483
data in division (D) (2) (a) of this section. Performance ratings 31484
for the achievement component shall be awarded as a percentage 31485
of the maximum performance index score described in division (D) 31486
(1) (c) of this section. 31487

(c) Progress, which shall include the performance measure 31488
in division (D) (1) (d) of this section and the reported data in 31489
divisions (D) (2) (b) and (c) of this section; 31490

(d) Graduation, which shall include the performance 31491
measures in divisions (D) (1) (e) and (f) of this section and the 31492
reported data in divisions (D) (2) (d) and (j) of this section. 31493
The four-year adjusted cohort graduation rate shall be assigned 31494
a weight of sixty per cent and the five-year adjusted cohort 31495
graduation rate shall be assigned a weight of forty per cent. 31496

(e) Early literacy, which shall include the performance 31497
measures in divisions (D) (1) (g), (h), and (i) of this section 31498
and the reported data in division (D) (2) (k) of this section. 31499

If the measure prescribed under division (D) (1) (h) of this 31500
section is included in a report card, performance ratings for 31501
the early literacy component shall give a weight of forty per 31502
cent to the measure prescribed under division (D) (1) (g) of this 31503
section, a weight of thirty-five per cent to the measure 31504
prescribed under division (D) (1) (i) of this section, and a 31505
weight of twenty-five per cent to the measure prescribed under 31506
division (D) (1) (h) of this section. 31507

If the measure prescribed under division (D) (1) (h) of this 31508
section is not included in a report card of a district or 31509
building, performance ratings for the early literacy component 31510

shall give a weight of sixty per cent to the measure prescribed 31511
under division (D) (1) (g) of this section and a weight of forty 31512
per cent to the measure prescribed under division (D) (1) (i) of 31513
this section. 31514

(f) College, career, workforce, and military readiness, 31515
which shall include the performance measure in division (D) (1) 31516
(j) of this section and the reported data in division (D) (2) (e) 31517
of this section. 31518

For the 2021-2022, 2022-2023, and 2023-2024 school years, 31519
the department only shall report the data for, and not assign a 31520
performance rating to, the college, career, workforce, and 31521
military readiness component. The reported data shall include 31522
the percentage of students who demonstrate post-secondary 31523
readiness using any of the options described in division (D) (1) 31524
(j) of this section. 31525

The department shall analyze the data included in the 31526
performance measure prescribed in division (D) (1) (j) of this 31527
section for the 2021-2022, 2022-2023, and 2023-2024 school 31528
years. Using that data, the department shall develop and propose 31529
rules for a method to assign a performance rating to the 31530
college, career, workforce, and military readiness component 31531
based on that measure. The method to assign a performance rating 31532
shall not include a tiered structure or per student bonuses. The 31533
rules shall specify that a district or building shall not 31534
receive lower than a performance rating of three stars for the 31535
component if the district's or building's performance on the 31536
component meets or exceeds a level of improvement set by the 31537
department. Notwithstanding division (D) (4) (b) of this section, 31538
more than half of the total districts and buildings may earn a 31539
performance rating of three stars on this component to account 31540

for the districts and buildings that earned a performance rating 31541
of three stars because they met or exceeded the level of 31542
improvement set by the department. 31543

The department shall submit the rules to the joint 31544
committee on agency rule review. The committee shall conduct at 31545
least one public hearing on the proposed rules and approve or 31546
disapprove the rules. If the committee approves the rules, the 31547
department shall adopt the rules in accordance with Chapter 119. 31548
of the Revised Code. If the rules are adopted, the department 31549
shall assign a performance rating to the college, career, 31550
workforce, and military readiness component under the rules 31551
beginning with the 2024-2025 school year, and for each school 31552
year thereafter. If the committee disapproves the rules, the 31553
component shall be included in the report card only as reported 31554
data for the 2024-2025 school year, and each school year 31555
thereafter. 31556

(g) (i) Except as provided for in division (D) (3) (g) (ii) of 31557
this section, beginning with the 2022-2023 school year, under 31558
the method prescribed under rules adopted in division (D) (4) of 31559
this section, the department shall use the performance ratings 31560
assigned for the components prescribed in divisions (D) (3) (a) to 31561
(e) of this section to determine and assign an overall 31562
performance rating of "one star," "one and one-half stars," "two 31563
stars," "two and one-half stars," "three stars," "three and one- 31564
half stars," "four stars," "four and one-half stars," or "five 31565
stars" for a district or building. The method shall give equal 31566
weight to the components in divisions (D) (3) (b) and (c) of this 31567
section. The method shall give equal weight to the components in 31568
divisions (D) (3) (a), (d), and (e) of this section. The 31569
individual weights of each of the components prescribed in 31570
divisions (D) (3) (a), (d), and (e) of this section shall be equal 31571

to one-half of the weight given to the component prescribed in 31572
division (D) (3) (b) of this section. 31573

(ii) If the joint committee on agency rule review approves 31574
the department's rules regarding the college, career, workforce, 31575
and military readiness component as described in division (D) (3) 31576
(f) of this section, for the 2024-2025 school year, and each 31577
school year thereafter, the department's method shall use the 31578
components in divisions (D) (3) (a), (b), (c), (d), (e), and (f) 31579
of this section to calculate the overall performance rating. The 31580
method shall give equal weight to the components in divisions 31581
(D) (3) (b) and (c) of this section. The method shall give equal 31582
weight to the components prescribed in divisions (D) (3) (a), (d), 31583
(e), and (f) of this section. The individual weights of each of 31584
the components prescribed in divisions (D) (3) (a), (d), (e), and 31585
(f) of this section shall be equal to one-half the weight given 31586
to the component prescribed in division (D) (3) (b) of this 31587
section. 31588

If the joint committee on agency rule review disapproves 31589
the department's rules regarding the college, career, workforce, 31590
and military readiness component as described in division (D) (3) 31591
(f) of this section, division (D) (3) (g) (ii) of this section does 31592
not apply. 31593

(4) (a) The department shall adopt rules in accordance with 31594
Chapter 119. of the Revised Code to establish the performance 31595
criteria, benchmarks, and rating system necessary to implement 31596
divisions (D) and (F) of this section, including the method for 31597
the department to assign performance ratings under division (D) 31598
(3) of this section. 31599

(b) In establishing the performance criteria, benchmarks, 31600
and rating system, the department shall consult with stakeholder 31601

groups and advocates that represent parents, community members, 31602
students, business leaders, and educators from different school 31603
typology regions. The department shall use data from prior 31604
school years and simulations to ensure that there is meaningful 31605
differentiation among districts and buildings across all 31606
performance ratings and that, except as permitted in division 31607
(D) (3) (f) of this section, more than half of all districts or 31608
buildings do not earn the same performance rating in any 31609
component or overall performance rating. 31610

(c) The department shall adopt the rules prescribed by 31611
division (D) (4) of this section not later than March 31, 2022. 31612
However, the department shall notify districts and buildings of 31613
the changes to the report card prescribed in law not later than 31614
one week after September 30, 2021. 31615

(d) Prior to adopting or updating rules under division (D) 31616
(4) of this section, the director of education and workforce and 31617
the department shall conduct a public presentation before the 31618
standing committees of the house of representatives and the 31619
senate that consider primary and secondary education legislation 31620
describing the format for the report card and the performance 31621
criteria, benchmarks, and rating system, including the method to 31622
assign performance ratings under division (D) (3) of this 31623
section. 31624

(E) The department may develop a measure of student 31625
academic progress for high school students using only data from 31626
assessments in English language arts and mathematics. If the 31627
department develops this measure, each school district and 31628
applicable school building shall be assigned a separate letter 31629
grade for it not sooner than the 2017-2018 school year. The 31630
district's or building's grade for that measure shall not be 31631

included in determining the district's or building's overall letter grade.	31632 31633
(F) (1) The letter grades assigned to a school district or building under this section shall be as follows:	31634 31635
(a) "A" for a district or school making excellent progress;	31636 31637
(b) "B" for a district or school making above average progress;	31638 31639
(c) "C" for a district or school making average progress;	31640
(d) "D" for a district or school making below average progress;	31641 31642
(e) "F" for a district or school failing to meet minimum progress.	31643 31644
(2) For the overall performance rating under division (D)	31645
(3) of this section, the department shall include a descriptor for each performance rating as follows:	31646 31647
(a) "Significantly exceeds state standards" for a performance rating of five stars;	31648 31649
(b) "Exceeds state standards" for a performance rating of four stars or four and one-half stars;	31650 31651
(c) "Meets state standards" for a performance rating of three stars or three and one-half stars;	31652 31653
(d) "Needs support to meet state standards" for a performance rating of two stars or two and one-half stars;	31654 31655
(e) "Needs significant support to meet state standards" for a performance rating of one star or one and one-half stars.	31656 31657

(3) For performance ratings for each component under 31658
divisions (D) (3) (a) to (f) of this section, the department shall 31659
include a description of each component and performance rating. 31660
The description shall include component-specific context to each 31661
performance rating earned, estimated comparisons to other school 31662
districts and buildings if appropriate, and any other 31663
information determined by the department. The descriptions shall 31664
be not longer than twenty-five words in length when possible. In 31665
addition to such descriptions, the department shall include the 31666
descriptors in division (F) (2) of this section for component 31667
performance ratings. 31668

(4) Each report card issued under this section shall 31669
include all of the following: 31670

(a) A graphic that depicts the performance ratings of a 31671
district or school on a color scale. The color associated with a 31672
performance rating of three stars shall be green and the color 31673
associated with a performance rating of one star shall be red. 31674

(b) An arrow graphic that shows data trends for 31675
performance ratings for school districts or buildings. The 31676
department shall determine the data to be used for this graphic, 31677
which shall include at least the three most recent years of 31678
data. 31679

(c) A description regarding the weights that are assigned 31680
to each component and used to determine an overall performance 31681
rating, as prescribed under division (D) (3) (g) of this section, 31682
which shall be included in the presentation of the overall 31683
performance rating on each report card. 31684

(G) When reporting data on student achievement and 31685
progress, the department shall disaggregate that data according 31686

to the following categories:	31687
(1) Performance of students by grade-level;	31688
(2) Performance of students by race and ethnic group;	31689
(3) Performance of students by gender;	31690
(4) Performance of students grouped by those who have been enrolled in a district or school for three or more years;	31691 31692
(5) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years;	31693 31694 31695
(6) Performance of students grouped by those who have been enrolled in a district or school for one year or less;	31696 31697
(7) Performance of students grouped by those who are economically disadvantaged;	31698 31699
(8) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code;	31700 31701 31702
(9) Performance of students grouped by those who are classified as English learners;	31703 31704
(10) Performance of students grouped by those who have disabilities;	31705 31706
(11) Performance of students grouped by those who are classified as migrants;	31707 31708
(12) Performance of students grouped by those who are identified as gifted in superior cognitive ability and the specific academic ability fields of reading and math pursuant to Chapter 3324. of the Revised Code. In disaggregating specific academic ability fields for gifted students, the department	31709 31710 31711 31712 31713

shall use data for those students with specific academic ability 31714
in math and reading. If any other academic field is assessed, 31715
the department shall also include data for students with 31716
specific academic ability in that field as well. 31717

(13) Performance of students grouped by those who perform 31718
in the lowest quintile for achievement on a statewide basis, as 31719
determined by a method prescribed by the department. 31720

The department may disaggregate data on student 31721
performance according to other categories that the department 31722
determines are appropriate. To the extent possible, the 31723
department shall disaggregate data on student performance 31724
according to any combinations of two or more of the categories 31725
listed in divisions (G) (1) to (13) of this section that it deems 31726
relevant. 31727

In reporting data pursuant to division (G) of this 31728
section, the department shall not include in the report cards 31729
any data statistical in nature that is statistically unreliable 31730
or that could result in the identification of individual 31731
students. For this purpose, the department shall not report 31732
student performance data for any group identified in division 31733
(G) of this section that contains less than ten students. If the 31734
department does not report student performance data for a group 31735
because it contains less than ten students, the department shall 31736
indicate on the report card that is why data was not reported. 31737

(H) The department may include with the report cards any 31738
additional education and fiscal performance data it deems 31739
valuable. 31740

(I) The department shall include on each report card a 31741
list of additional information collected by the department that 31742

is available regarding the district or building for which the 31743
report card is issued. When available, such additional 31744
information shall include student mobility data disaggregated by 31745
race and socioeconomic status, college enrollment data, and the 31746
reports prepared under section 3302.031 of the Revised Code. 31747

The department shall maintain a site on the world wide 31748
web. The report card shall include the address of the site and 31749
shall specify that such additional information is available to 31750
the public at that site. The department shall also provide a 31751
copy of each item on the list to the superintendent of each 31752
school district. The district superintendent shall provide a 31753
copy of any item on the list to anyone who requests it. 31754

(J) (1) (a) Except as provided in division (J) (1) (b) of this 31755
section, for any district that sponsors a conversion community 31756
school under Chapter 3314. of the Revised Code, the department 31757
shall combine data regarding the academic performance of 31758
students enrolled in the community school with comparable data 31759
from the schools of the district for the purpose of determining 31760
the performance of the district as a whole on the report card 31761
issued for the district under this section or section 3302.033 31762
of the Revised Code. 31763

(b) The department shall not combine data from any 31764
conversion community school that a district sponsors if the 31765
conversion community school is a dropout prevention and recovery 31766
community school, as defined in section 3314.02 of the Revised 31767
Code. The department shall include as an addendum to the 31768
district's report card the ratings and performance measures that 31769
are required under section 3314.017 of the Revised Code for any 31770
community school to which division (J) (1) (b) of this section 31771
applies. This addendum shall include, at a minimum, the data 31772

specified in divisions (C) (1) (a), (C) (2), and (C) (3) of section 31773
3314.017 of the Revised Code. 31774

(2) Any district that leases a building to a community 31775
school located in the district or that enters into an agreement 31776
with a community school located in the district whereby the 31777
district and the school endorse each other's programs may elect 31778
to have data regarding the academic performance of students 31779
enrolled in the community school combined with comparable data 31780
from the schools of the district for the purpose of determining 31781
the performance of the district as a whole on the district 31782
report card. Any district that so elects shall annually file a 31783
copy of the lease or agreement with the department. 31784

(3) Any municipal school district, as defined in section 31785
3311.71 of the Revised Code, that sponsors a community school 31786
located within the district's territory, or that enters into an 31787
agreement with a community school located within the district's 31788
territory whereby the district and the community school endorse 31789
each other's programs, may exercise either or both of the 31790
following elections: 31791

(a) To have data regarding the academic performance of 31792
students enrolled in that community school combined with 31793
comparable data from the schools of the district for the purpose 31794
of determining the performance of the district as a whole on the 31795
district's report card; 31796

(b) To have the number of students attending that 31797
community school noted separately on the district's report card. 31798

The election authorized under division (J) (3) (a) of this 31799
section is subject to approval by the governing authority of the 31800
community school. 31801

Any municipal school district that exercises an election 31802
to combine or include data under division (J) (3) of this 31803
section, by the first day of October of each year, shall file 31804
with the department documentation indicating eligibility for 31805
that election, as required by the department. 31806

(K) The department shall include on each report card the 31807
percentage of teachers in the district or building who are 31808
properly certified or licensed teachers, as defined in section 31809
3319.074 of the Revised Code, and a comparison of that 31810
percentage with the percentages of such teachers in similar 31811
districts and buildings. 31812

(L) (1) In calculating English language arts, mathematics, 31813
science, American history, or American government assessment 31814
passage rates used to determine school district or building 31815
performance under this section, the department shall include all 31816
students taking an assessment with accommodation or to whom an 31817
alternate assessment is administered pursuant to division (C) (1) 31818
or (3) of section 3301.0711 of the Revised Code and all students 31819
who take substitute examinations approved under division (B) (4) 31820
of section 3301.0712 of the Revised Code in the subject areas of 31821
science, American history and American government. 31822

(2) In calculating performance index scores, rates of 31823
achievement on the performance indicators established by the 31824
department under section 3302.02 of the Revised Code, and annual 31825
measurable objectives for determining adequate yearly progress 31826
for school districts and buildings under this section, the 31827
department shall do all of the following: 31828

(a) Include for each district or building only those 31829
students who are included in the ADM certified for the first 31830
full school week of October and are continuously enrolled in the 31831

district or building through the time of the spring 31832
administration of any assessment prescribed by division (A) (1) 31833
or (B) (1) of section 3301.0710 or division (B) of section 31834
3301.0712 of the Revised Code that is administered to the 31835
student's grade level; 31836

(b) Include cumulative totals from both the fall and 31837
spring administrations of the third grade English language arts 31838
achievement assessment and, to the extent possible, the summer 31839
administration of that assessment; 31840

(c) Include for each district or building any English 31841
learner in accordance with the department's plan, as approved by 31842
the United States secretary of education, to comply with the 31843
"Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 31844
to 6339. 31845

As used in this section, "English learner" has the same 31846
meaning as in section 3301.0731 of the Revised Code. 31847

(M) Beginning with the 2015-2016 school year and at least 31848
once every three years thereafter, the department shall review 31849
and may adjust the benchmarks for assigning letter grades or 31850
performance ratings to the performance measures and components 31851
prescribed under divisions (C) (3), (D), and (E) of this section. 31852

Sec. 3304.29. The bureau of services for the visually 31853
impaired shall: 31854

(A) Survey suitable vending facility concession 31855
opportunities for individuals who are blind on governmental 31856
property; 31857

(B) Obtain and make public, information concerning 31858
employment opportunities for individuals who are blind in 31859
suitable vending facilities; 31860

(C) License individuals who are blind to operate suitable vending facilities on governmental property; 31861
31862

~~(D) Adopt rules and do everything necessary and proper to carry out sections 3304.29 to 3304.34 of the Revised Code. 31863
31864~~

Sec. 3304.41. The opportunities for Ohioans with 31865
disabilities agency shall establish and administer a program for 31866
the use of funds appropriated for that purpose to provide 31867
personal care assistance to enable eligible individuals with 31868
severe physical disabilities to live and work independently. ~~The 31869
agency shall adopt rules in accordance with Chapter 119. of the 31870
Revised Code as necessary to carry out the purposes of this 31871
section. 31872~~

Sec. 3305.031. (A) As part of the process established 31873
under section 3305.03 of the Revised Code for designating an 31874
entity as a vendor and conducting periodic reviews of a vendor, 31875
the Ohio board of regents shall do all of the following: 31876

(1) Provide written notice to each public institution of 31877
higher education that an entity has applied to be designated as 31878
a vendor under section 3305.03 of the Revised Code; 31879

(2) Provide written notice to each public institution of 31880
higher education that a vendor is scheduled for a review; 31881

(3) Establish a comment period of not less than thirty 31882
days during which a public institution of higher education is 31883
authorized to comment about an entity's application for 31884
designation or a vendor's review and to request a meeting with 31885
the board of regents concerning the application or review; 31886

(4) Not later than fourteen days after the board makes a 31887
decision with respect to an application or review, including any 31888
rescission of a vendor's designation, provide written notice to 31889

each public institution of higher education of the board's 31890
decision. 31891

(B) If a meeting is requested by a public institution of 31892
higher education under division (A) (3) of this section, the 31893
board of regents shall do all of the following: 31894

(1) Notify each public institution of higher education of 31895
the meeting and its time and place; 31896

(2) Hold the meeting not less than ten but not more than 31897
thirty days after the end of the comment period; 31898

(3) Continue to accept comments concerning the application 31899
or review, as applicable, until five business days after the 31900
meeting is held. 31901

(C) The board of regents shall adopt rules under ~~section~~ 31902
~~3305.032~~ Chapter 119. of the Revised Code specifying the method 31903
to be used by public institutions of higher education in 31904
submitting comments to the board concerning an application or 31905
review. 31906

Sec. 3305.032. The Ohio board of regents ~~shall~~ may adopt 31907
rules ~~as the board considers necessary to carry out its duties~~ 31908
~~and responsibilities under this chapter. The rules shall be~~ 31909
~~adopted~~ in accordance with Chapter 119. of the Revised Code. ~~The~~ 31910
~~rules may~~ to provide for fees to be charged providers by the 31911
board to cover administrative and marketing expenses of the 31912
board. 31913

Sec. 3307.04. The general administration and the 31914
management of the state teachers retirement system is hereby 31915
vested in the state teachers retirement board, ~~which shall adopt~~ 31916
~~rules necessary for the fulfillment of its duties and~~ 31917
~~responsibilities under Chapter 3307. of the Revised Code. The~~ 31918

board shall adopt policies for the operation of the system, and 31919
the investment of funds as provided by section 3307.15 of the 31920
Revised Code, and may authorize its administrative officers, or 31921
committees composed of board members, to act for the board in 31922
accord with such policies. 31923

The board may take all appropriate action to avoid payment 31924
by the system or its members of federal or state income taxes on 31925
contributions to the system or amounts earned on such 31926
contributions and to comply with any plan qualification 31927
requirements, including those on distributions, established 31928
under Title 26 of the United States Code. 31929

The attorney general shall prescribe procedures for the 31930
adoption of rules authorized under this chapter, consistent with 31931
the provision of section 111.15 of the Revised Code under which 31932
all rules shall be filed in order to be effective. Such 31933
procedures shall establish methods by which notice of proposed 31934
rules is given to interested parties and rules adopted by the 31935
board published and otherwise made available. When it files a 31936
rule with the joint committee on agency rule review pursuant to 31937
section 111.15 of the Revised Code, the board shall submit to 31938
the Ohio retirement study council a copy of the full text of the 31939
rule, and if applicable, a copy of the rule summary and fiscal 31940
analysis required by division (B) of section 106.024 of the 31941
Revised Code. 31942

All rules adopted pursuant to this chapter, prior to 31943
August 20, 1976, shall be published and made available to 31944
interested parties by January 1, 1977. 31945

Sec. 3307.041. The state teachers retirement board shall 31946
do all of the following: 31947

(A) In consultation with the Ohio ethics commission, 31948
review any existing policy regarding the travel and payment of 31949
travel expenses of members and employees of the state teachers 31950
retirement board and adopt rules in accordance with section 31951
~~3307.04~~111.15 of the Revised Code establishing a new or revised 31952
policy regarding travel and payment of travel expenses. Not less 31953
than sixty days before adopting a new or revised policy, the 31954
board shall submit the policy to the Ohio retirement study 31955
council for review. 31956

(B) If the board intends to award a bonus to any employee 31957
of the board, adopt rules in accordance with section ~~3307.04~~ 31958
111.15 of the Revised Code establishing a policy regarding 31959
employee bonuses; 31960

(C) Provide copies of the rules adopted under divisions 31961
(A) and (B) of this section to each member of the Ohio 31962
retirement study council; 31963

(D) Submit to the Ohio retirement study council a proposed 31964
operating budget, including an administrative budget for the 31965
board, for the next immediate fiscal year and adopt that budget 31966
not earlier than sixty days after it is submitted to the 31967
council; 31968

(E) Submit to the council a plan describing how the board 31969
will improve the dissemination of public information pertaining 31970
to the board. 31971

Sec. 3307.35. (A) As used in this section and section 31972
3307.352 of the Revised Code, "other system retirant" means 31973
either of the following: 31974

(1) A member or former member of the public employees 31975
retirement system, Ohio police and fire pension fund, school 31976

employees retirement system, state highway patrol retirement 31977
system, or Cincinnati retirement system who is receiving from a 31978
system of which the retirant is a member or former member age 31979
and service or commuted age and service retirement, a benefit, 31980
allowance, or distribution under a plan established under 31981
section 145.81 or 3309.81 of the Revised Code, or a disability 31982
benefit; 31983

(2) A person who is participating or has participated in 31984
an alternative retirement plan established under Chapter 3305. 31985
of the Revised Code and is receiving a benefit, allowance, or 31986
distribution under the plan. 31987

(B) Subject to this section and section 3307.353 of the 31988
Revised Code, a superannuate or other system retirant may be 31989
employed as a teacher. 31990

(C) A superannuate or other system retirant employed in 31991
accordance with this section shall contribute to the state 31992
teachers retirement system in accordance with section 3307.26 of 31993
the Revised Code and the employer shall contribute in accordance 31994
with sections 3307.28 and 3307.31 of the Revised Code. Such 31995
contributions shall be received as specified in section 3307.14 31996
of the Revised Code. A superannuate or other system retirant 31997
employed as a teacher is not a member of the state teachers 31998
retirement system, does not have any of the rights, privileges, 31999
or obligations of membership, except as provided in this 32000
section, and is not eligible to receive health, medical, 32001
hospital, or surgical benefits under section 3307.39 of the 32002
Revised Code for employment subject to this section. 32003

(D) The employer that employs a superannuate or other 32004
system retirant shall notify the state teachers retirement board 32005
of the employment not later than the end of the month in which 32006

the employment commences. Any overpayment of benefits to a 32007
superannuate by the retirement system resulting from an 32008
employer's failure to give timely notice may be charged to the 32009
employer and may be certified and deducted as provided in 32010
section 3307.31 of the Revised Code. 32011

(E) On receipt of notice from an employer that a person 32012
who is an other system retirant has been employed, the state 32013
teachers retirement system shall notify the state retirement 32014
system of which the other system retirant was a member of such 32015
employment. 32016

(F) A superannuate or other system retirant who has 32017
received an allowance or benefit for less than two months when 32018
employment subject to this section or section 3305.05 of the 32019
Revised Code commences shall forfeit the allowance or benefit 32020
for any month the superannuate or retirant is employed prior to 32021
the expiration of such period. The allowance or benefit 32022
forfeited each month shall be equal to the monthly amount the 32023
superannuate or other system retirant is eligible to receive 32024
under a single lifetime benefit plan of payment described in 32025
division (A) of section 3307.60 of the Revised Code. 32026
Contributions shall be made to the retirement system from the 32027
first day of such employment, but service and contributions for 32028
that period shall not be used in the calculation of any benefit 32029
payable to the superannuate or other system retirant, and those 32030
contributions shall be refunded on the superannuate's or 32031
retirant's death or termination of the employment. Contributions 32032
made on compensation earned after the expiration of such period 32033
shall be used in calculation of the benefit or payment due under 32034
section 3307.352 of the Revised Code. 32035

For purposes of this division, "employment" does not 32036

include uncompensated volunteer work if the position is 32037
different from the superannuate's or other system retirant's 32038
position with the employer by which the superannuate or retirant 32039
was employed at the time of retirement. 32040

(G) On receipt of notice from the Ohio police and fire 32041
pension fund, public employees retirement system, school 32042
employees retirement system, or Cincinnati retirement system of 32043
the re-employment of a superannuate, the state teachers 32044
retirement system shall not pay, or if paid shall recover, the 32045
amount to be forfeited by the superannuate in accordance with 32046
section 145.38, 742.26, or 3309.341 of the Revised Code or any 32047
requirement of the Cincinnati retirement system. 32048

(H) If the disability benefit of an other system retirant 32049
employed under this section is terminated, the retirant shall 32050
become a member of the state teachers retirement system, 32051
effective on the first day of the month next following the 32052
termination, with all the rights, privileges, and obligations of 32053
membership. If the retirant, after the termination of the 32054
retirant's disability benefit, earns two years of service credit 32055
under this retirement system or under the public employees 32056
retirement system, Ohio police and fire pension fund, school 32057
employees retirement system, or state highway patrol retirement 32058
system, the retirant's prior contributions as an other system 32059
retirant under this section shall be included in the retirant's 32060
total service credit, as defined in section 3307.50 of the 32061
Revised Code, as a state teachers retirement system member, and 32062
the retirant shall forfeit all rights and benefits of this 32063
section. Not more than one year of credit may be given for any 32064
period of twelve months. 32065

(I) This section does not affect the receipt of benefits 32066

by or eligibility for benefits of any person who on August 20, 32067
1976, was receiving a disability benefit or service retirement 32068
pension or allowance from a state or municipal retirement system 32069
in Ohio and was a member of any other state or municipal 32070
retirement system of this state. 32071

~~(J) The state teachers retirement board may make the 32072
necessary rules to carry into effect this section and to prevent 32073
the abuse of the rights and privileges thereunder. 32074~~

Sec. 3307.353. (A) This section applies in the case of a 32075
person who is or most recently has been employed by an employer 32076
in a position that is customarily filled by a vote of members of 32077
a board or commission. 32078

(B) Except as otherwise provided in this section, a board 32079
or commission that proposes to continue the employment as a 32080
reemployed superannuate or rehire as a reemployed superannuate 32081
to the same position an individual described in division (A) of 32082
this section shall do both of the following ~~in accordance with 32083
rules adopted under division (E) of this section: 32084~~

(1) Not less than sixty days before the employment as a 32085
reemployed superannuate is to begin, give public notice that the 32086
person is or will be retired and is seeking employment with the 32087
employer; 32088

(2) Between fifteen and thirty days before the employment 32089
as a reemployed superannuate is to begin, hold a public meeting 32090
on the issue of the person being employed by the employer. 32091

The notice regarding division (B) (1) of this section shall 32092
include the time, date, and location at which the public meeting 32093
is to take place. 32094

(C) A board or commission that proposes to continue a 32095

person's employment or rehire the person as a reemployed 32096
superannuate to a position that the board or commission has 32097
urgent reasons to fill in an expedited manner shall give thirty 32098
days' notice under division (B) (1) of this section. The board or 32099
commission shall include an explanation in the notice of the 32100
urgent reasons requiring the position to be filled in an 32101
expedited manner. 32102

(D) A board or commission is not required to give notice 32103
under division (B) (1) or (C) of this section if the person has 32104
been retired for at least one year before the person's 32105
employment as a reemployed superannuate is to begin. 32106

~~(E) The state teachers retirement board shall adopt rules 32107
as necessary to implement this section. 32108~~

Sec. 3307.39. (A) The state teachers retirement board may 32109
enter into an agreement with insurance companies, health 32110
insuring corporations, or government agencies authorized to do 32111
business in the state for issuance of a policy or contract of 32112
health, medical, hospital, or surgical coverage, or any 32113
combination thereof, for those individuals receiving, under the 32114
STRS defined benefit plan, service retirement or a disability or 32115
survivor benefit who subscribe to the plan. Notwithstanding any 32116
other provision of this chapter, the policy or contract may also 32117
include coverage for any eligible individual's spouse and 32118
dependent children as the board considers appropriate. If all or 32119
any portion of the policy or contract premium is to be paid by 32120
any individual receiving service retirement or a disability or 32121
survivor benefit, the individual shall, by written 32122
authorization, instruct the board to deduct the premium agreed 32123
to be paid by the individual to the companies, corporations, or 32124
agencies. 32125

The board may contract for coverage on the basis of part 32126
or all of the cost of the coverage to be paid from appropriate 32127
funds of the state teachers retirement system. The cost paid 32128
from the funds of the system shall be included in the employer's 32129
contribution rate provided by section 3307.28 of the Revised 32130
Code. 32131

The board may enter into an agreement under this division 32132
for coverage of recipients of benefits under an STRS defined 32133
contribution plan if the plan selected includes health, medical, 32134
hospital, or surgical coverage, or any combination thereof. The 32135
board may contract for coverage on the basis that the cost of 32136
the coverage will be paid by the recipient or by the plan to 32137
which the recipient contributed under this chapter. The board 32138
may offer to recipients plans that provide for different levels 32139
of coverage or for prepayment of the cost of coverage. 32140

The board may provide for self-insurance of risk or level 32141
of risk as set forth in the contract with the companies, 32142
corporations, or agencies, and may provide through the self- 32143
insurance method specific coverage as authorized by the rules of 32144
the board. 32145

(B) The board may make a monthly payment to each recipient 32146
of service retirement, or a disability or survivor benefit under 32147
the STRS defined benefit plan who is enrolled in coverage under 32148
part B of the medicare program established under Title XVIII of 32149
"The Social Security Amendments of 1965," 79 Stat. 301 (1965), 32150
42 U.S.C.A. 1395j, as amended, and may make a monthly payment to 32151
a recipient of benefits under an STRS defined contribution plan 32152
who is eligible for that insurance coverage if the monthly 32153
payments are funded through the plan selected by the recipient. 32154
The payment shall be the greater of the following: 32155

(1) Twenty-nine dollars and ninety cents; 32156

(2) An amount determined by the board, which shall not 32157
exceed ninety per cent of the basic premium for the coverage, 32158
except that the amount shall not exceed the amount paid by the 32159
recipient. 32160

At the request of the board, the recipient shall certify 32161
the amount paid by the recipient for coverage described in this 32162
division. 32163

The board shall make all payments under this division 32164
beginning the month following receipt of satisfactory evidence 32165
of the payment for the coverage. 32166

(C) The board shall establish by rule requirements for the 32167
coordination of any coverage or payment provided under this 32168
section with any similar coverage or payment made available to 32169
the same individual by the public employees retirement system, 32170
Ohio police and fire pension fund, school employees retirement 32171
system, or state highway patrol retirement system. 32172

~~(D) The board shall make all other necessary rules 32173
pursuant to the purpose and intent of this section. 32174~~

Sec. 3307.393. As used in this section, "STRS defined 32175
benefit plan" means the plan established under sections 3307.50 32176
to 3307.79 of the Revised Code and "STRS defined contribution 32177
plan" means a plan established under section 3307.81 of the 32178
Revised Code. 32179

The STRS defined benefit plan or a STRS defined 32180
contribution plan may include a program under which a member 32181
participating in the plan or a member's employer is permitted to 32182
make additional deposits for the purpose of providing funds for 32183
the payment of health, medical, hospital, surgical, dental, or 32184

vision care expenses, including insurance premiums, deductible 32185
amounts, or copayments. The program may be a voluntary 32186
employees' beneficiary association, as described in section 32187
501(c) (9) of the Internal Revenue Code, 26 U.S.C. 501(c) (9), as 32188
amended; an account described in section 401(h) of the Internal 32189
Revenue Code, 26 U.S.C. 401(h), as amended; a medical savings 32190
account; or a similar type of program under which an individual 32191
may accumulate funds for the purpose of paying such expenses. To 32192
implement the program, the state teachers retirement board may 32193
enter into agreements with insurance companies or other entities 32194
authorized to conduct business in this state. 32195

~~If the STRS defined benefit plan or a STRS defined 32196
contribution plan includes a program described in this section, 32197
the board shall adopt rules to establish and administer the 32198
program. 32199~~

Sec. 3307.461. The state teachers retirement board may 32200
establish and maintain a qualified governmental excess benefit 32201
arrangement that meets the requirements of division (m) of 32202
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 32203
2085, 26 U.S.C.A. 415, as amended, and any regulations adopted 32204
thereunder. If established, the arrangement shall be a separate 32205
portion of the state teachers retirement system and be 32206
maintained solely for the purpose of providing to retired 32207
members that part of a benefit otherwise payable under this 32208
chapter that exceeds the limits established by section 415 of 32209
the "Internal Revenue Code of 1986," as amended. 32210

Members participating in an arrangement established under 32211
this section shall not be permitted to elect to defer 32212
compensation to the arrangement. Contributions to and benefits 32213
paid under an arrangement shall not be payable from a trust that 32214

is part of the system unless the trust is maintained solely for 32215
the purpose of providing such benefits. 32216

~~The board shall adopt rules to administer an arrangement 32217
established under this section. 32218~~

Sec. 3307.501. (A) As used in this section, "percentage 32219
increase" means the percentage that an increase in compensation 32220
is of the compensation paid prior to the increase. 32221

(B) For the purpose of determining final average salary 32222
under this section, "compensation" has the same meaning as in 32223
section 3307.01 of the Revised Code, except that it does not 32224
include any amount resulting from a percentage increase paid to 32225
a member during the member's two highest years of compensation, 32226
and any partial year of compensation as determined under 32227
divisions (C) (1) and (2) of this section to which the percentage 32228
increase also applies, if the percentage increase exceeds the 32229
greater of the following: 32230

(1) The highest percentage increase in compensation paid 32231
to the member during any of the three years immediately 32232
preceding the earlier of the member's two highest years of 32233
compensation; 32234

(2) A percentage increase paid to the member as part of an 32235
increase generally applicable to members employed by the 32236
employer. An increase shall be considered generally applicable 32237
if it is paid to members employed by a school district board of 32238
education in positions requiring a license issued under section 32239
3319.22 of the Revised Code in accordance with uniform criteria 32240
applicable to all such members or if paid to members employed by 32241
an employer other than a school district board of education in 32242
accordance with uniform criteria applicable to all such members. 32243

(C) The state teachers retirement board shall determine 32244
the final average salary of a member as follows: 32245

(1) For benefits beginning before August 1, 2015, by 32246
dividing the sum of the member's annual compensation for the 32247
three highest years of compensation for which the member made 32248
contributions plus any amount determined under division (E) of 32249
this section by three, except that if the member has a partial 32250
year of contributing service in the year the member's employment 32251
terminates and the compensation for the partial year is at a 32252
rate higher than the rate of compensation for any one of the 32253
member's highest three years of compensation, the board shall 32254
substitute the compensation for the partial year for the 32255
compensation for the same portion of the lowest of the member's 32256
three highest years of compensation; 32257

(2) For benefits beginning on or after August 1, 2015, 32258
except as provided in division (C)(3) of this section, by 32259
dividing the sum of the member's annual compensation for the 32260
five highest years of compensation for which the member made 32261
contributions plus any amount determined under division (E) of 32262
this section by five, except that if the member has a partial 32263
year of contributing service in the year the member's employment 32264
terminates and the compensation for the partial year is at a 32265
rate higher than the rate of compensation for any one of the 32266
member's highest five years of compensation, the board shall 32267
substitute the compensation for the partial year for the 32268
compensation for the same portion of the lowest of the member's 32269
five highest years of compensation; 32270

(3) For benefits beginning on or after August 1, 2015, 32271
that were preceded by a disability benefit effective before that 32272
date and with no break in benefits, by dividing the sum of the 32273

member's annual compensation for the three highest years of 32274
compensation for which the member made contributions plus any 32275
amount determined under division (E) of this section by three, 32276
except that if the member has a partial year of contributing 32277
service in the year the member's employment terminates and the 32278
compensation for the partial year is at a rate higher than the 32279
rate of compensation for any one of the member's highest three 32280
years of compensation, the board shall substitute the 32281
compensation for the partial year for the compensation for the 32282
same portion of the lowest of the member's three highest years 32283
of compensation. 32284

If a member has less than the requisite years of 32285
contributing membership, the member's final average salary shall 32286
be the member's total compensation for the period of 32287
contributing membership plus any amount determined under 32288
division (E) of this section divided by the total years, 32289
including any portion of a year, of contributing service. 32290

For the purpose of calculating benefits payable to a 32291
member qualifying for service credit under division (I) of 32292
section 3307.01 of the Revised Code, the board shall calculate 32293
the member's final average salary by dividing the member's total 32294
compensation as a teacher covered under this chapter plus any 32295
amount determined under division (E) of this section by the 32296
total number of years, including any portion of a year, of 32297
contributing membership during that period. If contributions 32298
were made for less than twelve months, the member's final 32299
average salary is the total amount of compensation paid to the 32300
member during all periods of contributions under this chapter. 32301

(D) Contributions made by a member on amounts that, 32302
pursuant to division (B) of this section, are not compensation 32303

or are not included, pursuant to division (E) of this section, 32304
for the purpose of determining final average salary shall be 32305
treated as additional deposits to the member's account under 32306
section 3307.26 of the Revised Code and used to provide 32307
additional annuity income. 32308

~~(E) The state teachers retirement board shall adopt rules-~~ 32309
~~establishing criteria and procedures for administering this-~~ 32310
~~division.~~ 32311

~~The board shall~~ notify each applicant for retirement of 32312
any amount excluded from the applicant's compensation in 32313
accordance with division (B) of this section and of the 32314
procedures ~~established by the board~~ for requesting a hearing on 32315
this exclusion. 32316

Any applicant for retirement who has had any amount 32317
excluded from the applicant's compensation in accordance with 32318
division (B) of this section may request a hearing on this 32319
exclusion. Upon receiving such a request, the board shall 32320
determine ~~in accordance with its criteria and procedures-~~ 32321
whether, for good cause as determined by the board, all or any 32322
portion of any amount excluded from the applicant's compensation 32323
in accordance with division (B) of this section, up to a maximum 32324
of seventy-five hundred dollars, is to be included in the 32325
determination of final average salary under division (C) of this 32326
section. Any determination of the board under this division 32327
shall be final. 32328

Sec. 3307.67. (A) Except as provided in divisions (D) and 32329
(E) of this section, the state teachers retirement board shall 32330
annually increase each allowance or benefit payable under the 32331
STRS defined benefit plan. Through July 31, 2013, the increase 32332
shall be three per cent. On and after August 1, 2013, the 32333

increase shall be two per cent. No allowance or benefit shall 32334
exceed the limit as annually determined pursuant to section 415 32335
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 32336
U.S.C.A. 415, as amended, and regulations adopted pursuant 32337
thereto but before August 1, 2013. The limit may be adjusted in 32338
accordance with rules adopted by the board. 32339

(B) The first increase is payable to all persons becoming 32340
eligible as follows: 32341

(1) For an allowance or benefit beginning on or after July 32342
1, 1971, but before August 1, 2013, upon such persons receiving 32343
an allowance or benefit for twelve months; 32344

(2) For an allowance or benefit beginning on or after 32345
August 1, 2013, that was immediately preceded by a disability 32346
benefit effective before that date but terminated on or after 32347
it, upon the date that would have been the disability benefit's 32348
next anniversary date; 32349

(3) For an allowance or benefit beginning on or after 32350
August 1, 2013, except for an allowance or benefit described in 32351
division (B)(2) of this section, upon such persons receiving an 32352
allowance or benefit for sixty months. 32353

The increased amount is payable for the ensuing twelve- 32354
month period or until the next increase is granted under this 32355
section, whichever is later. Subsequent increases shall be 32356
determined from the date of the first increase paid to the 32357
former member in the case of an allowance being paid a 32358
beneficiary under an option, or from the date of the first 32359
increase to the survivor first receiving an allowance or benefit 32360
in the case of an allowance or benefit being paid to the 32361
subsequent survivors of the former member. 32362

The date of the first increase under this section becomes 32363
the anniversary date for any future increases. 32364

The allowance or benefit used in the first calculation of 32365
an increase under this section shall remain as the base for all 32366
future increases, unless a new base is established. 32367

(C) If payment of a portion of a benefit is made to an 32368
alternate payee under section 3307.371 of the Revised Code, 32369
increases under this section granted while the order is in 32370
effect shall be apportioned between the alternate payee and the 32371
benefit recipient in the same proportion that the amount being 32372
paid to the alternate payee bears to the amount paid to the 32373
benefit recipient. 32374

If payment of a portion of a benefit is made to one or 32375
more beneficiaries under "option 4" under division (A) (4) of 32376
section 3307.60 of the Revised Code, each increase under this 32377
section granted while the plan of payment is in effect shall be 32378
divided among the designated beneficiaries in accordance with 32379
the portion each beneficiary has been allocated. 32380

The apportioned increases under this section shall begin 32381
with increases granted on or after October 27, 2006. 32382

(D) The board shall not make the increases it would 32383
otherwise make during the period July 1, 2013, through June 30, 32384
2014, to persons granted an allowance or benefit prior to July 32385
1, 2013. The board shall not increase any allowance or benefit 32386
granted on July 1, 2013, until July 1, 2015. 32387

(E) The board may adjust the increase payable under this 32388
section if the board's actuary, in its annual actuarial 32389
valuation required by section 3307.51 of the Revised Code or in 32390
other evaluations conducted under that section, determines that 32391

an adjustment does not materially impair the fiscal integrity of 32392
the retirement system or is necessary to preserve the fiscal 32393
integrity of the system. 32394

~~(F) The board shall make all rules necessary to carry out 32395
this section. 32396~~

Sec. 3307.671. In December 1980, and in December of each 32397
year thereafter, the state teachers retirement board may 32398
allocate an amount from the guarantee fund created in division 32399
(E) of section 3307.14 of the Revised Code to establish a 32400
temporary supplemental benefit fund for the purpose of making a 32401
lump sum benefit payment to all persons receiving an allowance, 32402
pension, or benefit under the STRS defined benefit plan for each 32403
of the twelve months preceding the first day of the following 32404
January. 32405

On or after July 1, 1980, and on or after the first day of 32406
July of each year thereafter, the board may determine the amount 32407
to be placed in a temporary supplemental benefit fund. Such 32408
amount, if placed, shall be not more than twenty-five per cent 32409
of the income from investments for the twelve months preceding 32410
the first day of July not otherwise required to be credited to 32411
the several funds set forth in section 3307.14 of the Revised 32412
Code. 32413

The board shall adopt rules ~~to administer this~~ 32414
~~supplemental benefit. The rules shall that~~ recognize the 32415
effective date of the allowance, pension, or benefit and the 32416
years of Ohio service credit for each recipient as an equitable 32417
basis for allocating the amount payable to each recipient. 32418

If the board determines that a supplemental benefit shall 32419
be paid under this section, it shall pay such amount within 32420

sixty calendar days following its allocation to the supplemental benefit fund. 32421
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Amounts paid pursuant to this section shall not be included in the base for increasing an allowance, pension, or benefit provided in section 3307.67 of the Revised Code and shall not incur any obligation or liability for future payments under this section. 32423
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Sec. 3307.6913. (A) As used in this section and in section 3307.6914 of the Revised Code, "eligible recipient" means any person receiving a benefit on July 1, 1999. 32428
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(B) For each eligible recipient of a benefit payable under section 3307.58, 3307.59, or 3307.60 of the Revised Code, the state teachers retirement board shall recalculate the annual single lifetime benefit, excluding any increases granted under section 3307.67 of the Revised Code, of the benefit payable to the recipient using division (B) of section 3307.38 of the Revised Code as that section existed immediately prior to ~~the effective date of this section~~ July 13, 2000, except that the recalculated annual single lifetime benefit shall be adjusted by the per cent shown in the schedule in the version of division (B) of section 3307.38 of the Revised Code that was in effect at the time the initial recipient's benefit was calculated on the basis of age and service. 32431
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(C) If the amount determined under division (B) of this section is greater than the annual single lifetime benefit granted the recipient, the board shall recalculate the recipient's benefit so that it equals the annual single lifetime benefit determined under division (B) of this section or its actuarial equivalent. 32444
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(D) The board shall include the increase in amount paid 32450
under this section in an individual's base for purposes of 32451
future increase in any benefit under section 3307.67 of the 32452
Revised Code. 32453

(E) The board shall make the recalculations required under 32454
this section not later than one hundred eighty days after ~~the~~ 32455
~~effective date of this section~~ July 13, 2000. ~~The board may adopt~~ 32456
~~rules to implement this section.~~ 32457

Sec. 3307.6914. (A) As used in this section: 32458

(1) "Cumulative percentage change in the CPI" means the 32459
total percentage change in the consumer price index prepared by 32460
the United States bureau of labor statistics for urban wage 32461
earners and clerical workers (CPI-W: U.S. city average, all 32462
items) from the thirty-first day of December immediately 32463
preceding the year in which the original benefit started through 32464
the thirty-first day of December immediately preceding ~~the~~ 32465
~~effective date of this section~~ July 13, 2000. 32466

(2) "Original benefit amount" has the same meaning as in 32467
section 3307.6911 of the Revised Code. 32468

(B) (1) Except as provided in division (B) (2) of this 32469
section, for each eligible recipient of a benefit payable under 32470
section 3307.58, 3307.59, 3307.60, 3307.63, 3307.631, or 3307.66 32471
of the Revised Code, the board shall determine an amount equal 32472
to the sum of the following amounts: 32473

(a) An amount equal to eighty-five per cent of the 32474
original benefit amount, except that if the recipient is not the 32475
individual to whom the original benefit amount was granted, the 32476
amount shall equal eighty-five per cent of the product obtained 32477
when the original benefit amount is multiplied by the percentage 32478

of the original benefit amount being paid to the recipient; 32479

(b) An amount equal to the product obtained when the 32480
amount determined under division (B) (1) of this section is 32481
multiplied by the cumulative percentage change in the CPI. 32482

(2) For each eligible recipient of a benefit under section 32483
3307.66 of the Revised Code that is payable by reason of the 32484
death of a member who, at the time of death, was receiving a 32485
benefit under section 3307.63 or 3307.631 of the Revised Code, 32486
the board shall determine all of the following: 32487

(a) The product obtained by multiplying the deceased 32488
member's final average salary by the cumulative percentage 32489
change in the CPI. 32490

(b) Eighty-five per cent of the product obtained under 32491
division (B) (2) (a) of this section. 32492

(c) The amount of the benefit that would be payable under 32493
section 3307.66 of the Revised Code if the product obtained 32494
under division (B) (2) (b) of this section was used as the 32495
deceased member's final average salary. 32496

(C) If the amount determined under division (B) of this 32497
section is greater than the annual benefit being paid to the 32498
recipient, the board shall recalculate the annual benefit 32499
payable on ~~the effective date of this section~~ July 13, 2000, so 32500
that it equals the amount determined under that division. If the 32501
recipient's benefit was recalculated under division (C) of 32502
section 3307.6913 of the Revised Code, the board shall use the 32503
recalculated benefit in making a determination under this 32504
section. 32505

(D) The board shall include the increase in amount paid 32506
under this section in an individual's base for purposes of 32507

future increase in any benefit under section 3307.67 of the Revised Code. 32508
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(E) The board shall make the recalculations required under this section not later than one hundred eighty days after ~~the effective date of this section~~ July 13, 2000. ~~The board may adopt rules to implement this section.~~ 32510
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Sec. 3307.701. (A) The state teachers retirement board may establish by rule payroll deduction plans for payment of the following: 32514
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(1) The cost of restoring service credit under section 3307.71 or 3307.711 of the Revised Code or purchasing any service credit members of the state teachers retirement system are eligible to purchase under this chapter; 32517
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(2) Charges for participation in programs established under section 3307.391 of the Revised Code; 32521
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(3) Deposits under section 3307.393 of the Revised Code and any charges for participating in the program established under that section. 32523
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(B) ~~In addition to any other matter considered relevant by the board, the~~ The rules adopted under this section shall specify all of the following: 32526
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(1) The types of service credit that may be paid for through payroll deduction, including the section of the Revised Code that authorizes the purchase of each type of service credit for which payment may be made by payroll deduction; 32529
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(2) The procedure for informing the member's employer and the system that the member wishes to use payroll deduction to purchase service credit or pay for participation in programs 32533
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established under section 3307.391 of the Revised Code;	32536
(3) The procedure to be followed by the system and employers to determine for each request the amount to be deducted, the number of deductions to be made, and the interval at which deductions will be made. The rules may provide for a minimum amount for each deduction. They may also provide for a maximum number of deductions for the purchase of any type of service credit.	32537 32538 32539 32540 32541 32542 32543
(4) The procedure to be followed by employers in transmitting amounts deducted from the compensation of their employees to the system;	32544 32545 32546
(5) The procedure to be followed by the system in crediting service credit to members who choose to purchase it through payroll deduction;	32547 32548 32549
(6) The time period within which employers are required to transmit amounts deducted from payrolls to the system;	32550 32551
(7) Procedures to be followed by the system and the member's employer for the member to pay in a single payment the balance of the cost of the credit when a member separates from service from the employer administering the member's payroll deduction plan.	32552 32553 32554 32555 32556
(C) (1) If the board establishes a payroll deduction plan under this section, it shall certify to the member's employer, for each member for whom deductions are to be made, the amount of each deduction and the payrolls from which deductions are to be made. The employer shall make the deductions as certified and transmit the amounts deducted in accordance with the rules established by the board under this section.	32557 32558 32559 32560 32561 32562 32563
(2) If an employer does not transmit amounts deducted from	32564

the compensation of an employee to the system within the time 32565
period specified in rules adopted under division (B)(6) of this 32566
section, the employer shall pay interest on the deducted amount 32567
compounded annually at a rate to be determined by the board from 32568
the date the amount is deducted to the date it is transmitted to 32569
the system. 32570

(D) Rules adopted under this section shall not affect any 32571
right to purchase service credit conferred by any other section 32572
of the Revised Code, including the right of a member under any 32573
such section to purchase only part of the service credit the 32574
member is eligible to purchase. 32575

(E) No payroll deduction made pursuant to this section may 32576
exceed the amount of a member's net compensation after all other 32577
deductions and withholdings required by law. 32578

(F) No payments made to the system under this section 32579
shall affect any contribution required by section 3307.26 or 32580
3307.28 of the Revised Code. 32581

Sec. 3307.711. (A) A member of the state teachers 32582
retirement system who has at least eighteen months of 32583
contributing service credit in the system, the police and 32584
firemen's disability and pension fund, public employees 32585
retirement system, school employees retirement system, or state 32586
highway patrol retirement system, and is a former member of or 32587
no longer contributing to the public employees retirement system 32588
or school employees retirement system may restore service credit 32589
under section 145.31 or 3309.26 of the Revised Code by making 32590
payments pursuant to this section through a payroll deduction 32591
plan established under section 3307.701 of the Revised Code. A 32592
member seeking to restore this service credit shall notify the 32593
state teachers retirement system on a form approved by the state 32594

teachers retirement board. After receiving the notice, the state
teachers retirement system shall request that the former
retirement system calculate under section 145.312 or 3309.262 of
the Revised Code the cost to the member to restore service
credit for each year or portion of a year of service for which
the member seeks to restore the service credit. The amount the
former retirement system certifies as the cost of restoring the
service credit, plus interest described in division (B) of this
section, is the cost to the member of restoring the service
credit. On receiving the certification from the former
retirement system, the state teachers retirement system shall
notify the member of the cost.

(B) For each year or portion of a year of service credit
restored under section 145.31 or 3309.26 of the Revised Code, a
member shall pay to the state teachers retirement system the
amount certified by the former retirement system plus interest
at a rate specified by the former retirement system under
section 145.312 or 3309.262 of the Revised Code for the period
during which deductions are made under section 3307.701 of the
Revised Code.

(C) The state teachers retirement board shall at least
annually transmit to the former retirement system notice and any
payments made to restore service credit under section 145.31 or
3309.26 of the Revised Code. The former retirement system shall
restore the service credit for the year or portion of a year for
which the payment was made.

~~(D) The board shall adopt rules to implement this section.~~

Sec. 3307.765. (A) As used in this section, "transferred
service credit" means service credit purchased or obtained under
section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41

of the Revised Code prior to the date a member commenced the 32625
employment covered by the state teachers retirement system for 32626
which the member is currently contributing to the system. 32627

(B) A member of the state teachers retirement system who 32628
has contributions on deposit with, but is no longer contributing 32629
to, a uniform retirement system shall, in computing years of 32630
total service, be given full credit for transferred service 32631
credit if a transfer to the state teachers retirement system is 32632
made under this section. At the request of a member, the uniform 32633
system shall transfer to the state teachers retirement system 32634
the sum of the following: 32635

(1) An amount equal to the amounts transferred to the 32636
uniform system under section 742.21, 742.214, 742.375, 5505.201, 32637
5505.40, or 5505.41 of the Revised Code; 32638

(2) Interest, determined as provided in division (E) of 32639
this section, on the amount specified in division (B)(1) of this 32640
section for the period from the last day of the year in which 32641
the transfer under section 742.21, 742.214, 742.375, 5505.201, 32642
5505.40, or 5505.41 of the Revised Code was made to the date a 32643
transfer is made under this section. 32644

(C) A member of the state teachers retirement system with 32645
at least eighteen months of contributing service credit with the 32646
state teachers retirement system who has received a refund of 32647
contributions to a uniform retirement system shall, in computing 32648
years of total service, be given full credit for transferred 32649
service credit if, for each year of service, the state teachers 32650
retirement system receives the sum of the following: 32651

(1) An amount, which shall be paid by the member, equal to 32652
the amount refunded by the uniform system to the member for that 32653

year for transferred service credit, with interest on that 32654
amount from the date of the refund to the date a payment is made 32655
under this section; 32656

(2) Interest, which shall be transferred by the uniform 32657
system, on the amount refunded to the member for the period from 32658
the last day of the year in which the transfer under section 32659
742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the 32660
Revised Code was made to the date the refund was made; 32661

(3) If the uniform system retained any portion of the 32662
amount transferred under section 742.21, 742.214, 742.375, 32663
5505.201, 5505.40, or 5505.41 of the Revised Code, an amount, 32664
which shall be transferred by the uniform system, equal to the 32665
amount retained, with interest on that amount for the period 32666
from the last day of the year in which the transfer under 32667
section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 32668
of the Revised Code was made to the date a transfer is made 32669
under this section. 32670

On receipt of payment from the member, the state teachers 32671
retirement system shall notify the uniform system, which, on 32672
receipt of the notice, shall make the transfer required by this 32673
division. Interest shall be determined as provided in division 32674
(E) of this section. 32675

(D) A member may choose to purchase only part of the 32676
credit the member is eligible to purchase under division (C) of 32677
this section in any one payment, subject to rules adopted by the 32678
state teachers retirement board. A member is ineligible to 32679
purchase or obtain service credit under this section for service 32680
to be used in the calculation of any retirement benefit 32681
currently being paid or payable to the member in the future 32682
under any other retirement program or for service credit that 32683

may be purchased or obtained under section 3307.761 of the Revised Code. 32684
32685

(E) Interest charged under this section shall be 32686
calculated separately for each year of service credit at the 32687
lesser of the actuarial assumption rate for that year of the 32688
state teachers retirement system or of the uniform retirement 32689
system to which the credit was transferred under section 742.21, 32690
742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised 32691
Code. The interest shall be compounded annually. 32692

(F) Any amounts transferred or paid under divisions (B) 32693
and (C) of this section that are attributable to contributions 32694
made by the member or to amounts paid to purchase service credit 32695
shall be credited to the teachers' savings fund created under 32696
section 3307.14 of the Revised Code. Any remaining amounts shall 32697
be credited to one or more of the funds created under that 32698
section as determined by the board. 32699

(G) At the request of the state teachers retirement 32700
system, the uniform retirement system shall certify to the state 32701
teachers retirement system a copy of the records of the service 32702
and contributions of a state teachers retirement system member 32703
who seeks service credit under this section. The uniform 32704
retirement system shall specify the portions of the amounts 32705
transferred that are attributable to employee contributions, 32706
employer contributions, and interest. 32707

(H) If a member of the state teachers retirement system 32708
who is not a current contributor elects to receive service 32709
credit under section 742.214 or 5505.41 of the Revised Code for 32710
transferred service credit, as defined in those sections, the 32711
system shall transfer to the uniform retirement system, as 32712
applicable, the amount specified in division (B) or (C) of 32713

section 742.214 or division (B) or (C) of section 5505.41 of the Revised Code. 32714
32715

~~(I) The board may adopt rules to implement this section.~~ 32716

Sec. 3307.77. (A) As used in this section, "employer" 32717
means the employer employing a member of the state teachers 32718
retirement system at the time the member commences an absence, 32719
or is granted a leave described in this section. 32720

(B) Any member of the state teachers retirement system 32721
participating in the STRS defined benefit plan or the STRS 32722
combined plan who is, or has been, prevented from making 32723
contributions under section 3307.26 of the Revised Code because 32724
of an absence due to the member's own illness or injury, or who 32725
is, or has been, granted a leave for educational, professional, 32726
or other purposes pursuant to section 3319.13, 3319.131, or 32727
3345.28 of the Revised Code or for any other reason approved by 32728
the state teachers retirement board, may purchase service 32729
credit, not to exceed two years for each such period of absence 32730
or leave, either by having deductions made in accordance with 32731
division (C) of this section or by making the payment required 32732
by division (D) of this section. 32733

(C) If the absence or leave begins and ends in the same 32734
year, the member may purchase credit for the absence or leave by 32735
having the employer deduct and transmit to the system from 32736
payrolls in that year employee contributions on the amount 32737
certified by the employer as the compensation the member would 32738
have received had the member remained employed in the position 32739
held when the absence or leave commenced. The deductions may be 32740
made even though the minimum compensation provided by law for 32741
the member is reduced thereby, unless the amount to be deducted 32742
exceeds the compensation to be paid the member from the time 32743

deductions begin until the end of the year, in which case credit 32744
may not be purchased under this division. The employer shall pay 32745
the system the employer contributions on the compensation amount 32746
certified under this division. Employee and employer 32747
contributions shall be made at the rates in effect at the time 32748
the absence or leave occurred. If the employee or employer rates 32749
in effect change during the absence or leave, the contributions 32750
for each month of the absence or leave shall be made at the rate 32751
in effect for that month. 32752

(D) If the absence or leave does not begin and end in the 32753
same year or the member does not purchase the credit under 32754
division (C) of this section, a member may purchase credit for 32755
the absence or leave by paying to the system the sum of the 32756
following for each year of credit purchased: 32757

(1) An amount determined by multiplying the employee rate 32758
of contribution in effect at the time the absence or leave 32759
commenced by the member's annual compensation for the member's 32760
last full year of service prior to the commencement of the 32761
absence or leave, or, if the member has not had a full year of 32762
service, the compensation the member would have received for the 32763
year the absence or leave commenced had the member continued in 32764
service for a full year; 32765

(2) Interest compounded annually, at a rate determined by 32766
the board, on the amount determined under division (D) (1) of 32767
this section from the day following the last day of the year in 32768
which the absence or leave terminated to the date of payment; 32769

(3) Interest compounded annually, at a rate determined by 32770
the board, on an amount equal to the employer's contribution 32771
required by this division from the day following the last day of 32772
the year in which the absence or leave terminated to the date of 32773

payment. 32774

The employer shall pay to the system for each year of 32775
credit purchased under this division an amount determined by 32776
multiplying the employer contribution rate in effect at the time 32777
the absence or leave commenced by the member's annual 32778
compensation for the member's last full year of service prior to 32779
the commencement of the absence or leave, or, if the member has 32780
not had a full year of service, the compensation the member 32781
would have received for the year the absence or leave commenced 32782
had the member continued in service for a full year. 32783

(E) A member who chooses to purchase service credit under 32784
division (D) of this section may choose to purchase only part of 32785
the credit for which the member is eligible in any one payment. 32786

~~(F) The state teachers retirement board may adopt rules to 32787
implement this section. 32788~~

Sec. 3309.04. The general administration and management of 32789
the school employees retirement system and making effective 32790
Chapter 3309. of the Revised Code are hereby vested in the 32791
school employees retirement board which ~~may adopt rules in-~~ 32792
~~accordance with section 111.15 of the Revised Code and may~~ 32793
authorize its administrative officers, or committees composed of 32794
members of said board, to act for the board in accordance with 32795
such policies and subject to subsequent approval by the board. 32796

Notice of proposed rules shall be given to interested 32797
parties and rules adopted by the board shall be published and 32798
otherwise made available. When it files a rule with the joint 32799
committee on agency rule review pursuant to section 111.15 of 32800
the Revised Code, the board shall submit to the Ohio retirement 32801
study council a copy of the full text of the rule, and if 32802

applicable, a copy of the rule summary and fiscal analysis 32803
required by division (B) of section 106.024 of the Revised Code. 32804

All rules adopted pursuant to this chapter, prior to 32805
August 20, 1976, shall be published and made available to 32806
interested parties by January 1, 1977. 32807

Sec. 3309.041. The school employees retirement board shall 32808
do all of the following: 32809

(A) In consultation with the Ohio ethics commission, 32810
review any existing policy regarding the travel and payment of 32811
travel expenses of members and employees of the school employees 32812
retirement board and adopt rules in accordance with section 32813
~~3309.04-111.15~~ of the Revised Code establishing a new or revised 32814
policy regarding travel and payment of travel expenses. Not less 32815
than sixty days before adopting a new or revised policy, the 32816
board shall submit the policy to the Ohio retirement study 32817
council for review. 32818

(B) If the board intends to award a bonus to any employee 32819
of the board, adopt rules in accordance with section ~~3309.04-~~ 32820
111.15 of the Revised Code establishing a policy regarding 32821
employee bonuses; 32822

(C) Provide copies of the rules adopted under divisions 32823
(A) and (B) of this section to each member of the Ohio 32824
retirement study council; 32825

(D) Submit to the Ohio retirement study council a proposed 32826
operating budget, including an administrative budget for the 32827
board, for the next immediate fiscal year and adopt that budget 32828
not earlier than sixty days after it is submitted to the 32829
council; 32830

(E) Submit to the council a plan describing how the board 32831

will improve the dissemination of public information pertaining 32832
to the board. 32833

Sec. 3309.27. (A) The school employees retirement board 32834
may establish by rule payroll deduction plans for payment of the 32835
following: 32836

(1) The cost of restoring service credit under section 32837
3309.26 or 3309.261 of the Revised Code or purchasing any 32838
service credit members of the school employees retirement system 32839
are eligible to purchase under this chapter; 32840

(2) Charges for participation in programs established 32841
under section 3309.691 of the Revised Code; 32842

(3) Deposits under section 3309.692 of the Revised Code 32843
and any charges for participating in the program established 32844
under that section. 32845

(B) ~~In addition to any other matter considered relevant by~~ 32846
~~the board, the~~ The rules adopted under this section shall 32847
specify all of the following: 32848

(1) The types of service credit that may be paid for 32849
through payroll deduction, including the section of the Revised 32850
Code that authorizes the purchase of each type of service credit 32851
for which payment may be made by payroll deduction; 32852

(2) The procedure for informing the member's employer and 32853
the system that the member wishes to use payroll deduction to 32854
purchase service credit or pay for participation in programs 32855
established under section 3309.691 of the Revised Code; 32856

(3) The procedure to be followed by the system and 32857
employers to determine for each request the amount to be 32858
deducted, the number of deductions to be made, and the interval 32859

at which deductions will be made. The rules may provide for a 32860
minimum amount for each deduction or a maximum number of 32861
deductions for the purchase of any type of service credit. 32862

(4) The procedure to be followed by employers in 32863
transmitting amounts deducted from the compensation of their 32864
employees to the system; 32865

(5) The procedure to be followed by the system in 32866
crediting service credit to members who choose to purchase it 32867
through payroll deduction. 32868

(C) If the board establishes a payroll deduction plan 32869
under this section, it shall certify to the member's employer, 32870
for each member for whom deductions are to be made, the amount 32871
of each deduction and the payrolls from which deductions are to 32872
be made. The employer shall make the deductions as certified and 32873
transmit the amounts deducted in accordance with the rules 32874
established by the board under this section. 32875

(D) Rules adopted under this section shall not affect any 32876
right to purchase service credit conferred by any other section 32877
of the Revised Code, including the right of a member under any 32878
such section to purchase only part of the service credit the 32879
member is eligible to purchase. 32880

(E) No payroll deduction made pursuant to this section may 32881
exceed the amount of a member's net compensation after all other 32882
deductions and withholdings required by law. 32883

Sec. 3309.30. For service subsequent to June 30, 1955, the 32884
retirement board shall credit a year of service credit to any 32885
member employed on a full-time basis for nine or more months of 32886
service within a year. For contributing and prior service before 32887
July 1, 1955 only eight or more months of service on a full-time 32888

basis within a year will be necessary for a year of service 32889
credit. Effective July 1, 1977, full-time service is defined as 32890
one hundred twenty or more days of school service during the 32891
school year. If less than one hundred twenty days, such service 32892
shall be prorated on the basis of one hundred eighty days. ~~The~~ 32893
~~board shall adopt rules as necessary to carry out the intent of~~ 32894
~~this section.~~ The board shall credit not more than one year for 32895
all service rendered in any year. 32896

Sec. 3309.301. (A) As used in this section, "paying 32897
system" and "transferring system" have the same meanings as in 32898
section 3309.35 of the Revised Code. 32899

(B) (1) Except as provided in division (B) (2) of this 32900
section, a member of the school employees retirement system with 32901
at least eighteen months of contributing service in the system, 32902
the public employees retirement system, or the state teachers 32903
retirement system who exempted self from membership in one or 32904
more of the systems pursuant to section 145.03 or 3309.23 of the 32905
Revised Code, or former section 3307.25 or 3309.25 of the 32906
Revised Code, or was exempt under section 3307.24 of the Revised 32907
Code, may purchase credit for each year or portion of a year of 32908
service for which the member was exempted. 32909

(2) A member may not purchase credit under this section 32910
for service that was exempted from contribution under section 32911
3309.23 of the Revised Code and subject to the tax on wages 32912
imposed by the "Federal Insurance Contributions Act," 68A Stat. 32913
415 (1954), 26 U.S.C.A. 3101, as amended. 32914

(C) Upon receipt of a request from a member eligible to 32915
purchase credit under this section and certification of the 32916
member's service and compensation from the employer for which 32917
the exempt service was performed, the school employees 32918

retirement system shall determine the amount of credit the member is eligible to purchase in accordance with divisions (C) (1) and (2) of this section.

(1) If the credit to be purchased is for service exempted under section 3309.23 or former section 3309.25 of the Revised Code, determine the amount of credit that would have been earned had the service not been exempt.

(2) If the credit to be purchased is for service exempted under section 145.03 or 3307.24, or former section 3307.25 of the Revised Code, request certification from the applicable retirement system that the service was exempt and the amount of service credit that would have been earned had the service not been exempt.

(D) For each year or portion of a year of credit purchased under this section, a member shall pay to the retirement system an amount determined by multiplying the member's compensation for the twelve months of contributing service preceding the month in which the member applies to purchase the credit by a percentage rate established by rule of the school employees retirement board ~~adopted under division (H) of this section.~~

(E) ~~Subject to board rules,~~ a A member may purchase all or part of the credit the member is eligible to purchase under this section in one or more payments. If the member purchases the credit in more than one payment, compound interest at a rate specified by rule of the board shall be charged on the balance remaining after the first payment is made.

(F) Credit purchasable under this section shall not exceed one year of service for any twelve-month period. If the period of service for which credit is purchasable under this section is

concurrent with a period of service that will be used to 32948
calculate a retirement benefit from this system, the public 32949
employees retirement system, or the state teachers retirement 32950
system, the amount of the credit shall be adjusted in accordance 32951
with rules adopted by the school employees retirement board. 32952

A member who is also a member of the public employees 32953
retirement system or the state teachers retirement system shall 32954
purchase credit for any service for which the member exempted 32955
self under section 145.03 or 3309.23 of the Revised Code, or 32956
former section 3307.25 or 3309.25 of the Revised Code, or was 32957
exempt under section 3307.24 of the Revised Code, from the 32958
retirement system in which the member has the greatest number of 32959
years of service credit. If the member receives benefits under 32960
section 3309.35 of the Revised Code, the state retirement system 32961
that is the paying system under that section shall receive from 32962
the system or systems that are the transferring systems the 32963
amounts paid by the member for purchase of credit for exempt 32964
service plus interest at the actuarial assumption rate of the 32965
transferring system. The interest shall be for the period 32966
beginning on the date of the member's last payment for purchase 32967
of the credit and ending on the date of the member's retirement. 32968

(G) If a member dies or withdraws from service, any 32969
payment made by the member under this section shall be 32970
considered as accumulated contributions of the member. 32971

~~(H) The retirement board shall adopt rules to implement 32972
this section. 32973~~

Sec. 3309.34. (A) (1) (a) A member of the school employees 32974
retirement system is eligible for service retirement before 32975
August 1, 2017, if the member: 32976

(i) Has at least five years of total service credit and has attained sixty years of age;	32977 32978
(ii) Has at least thirty years of total service credit at any age;	32979 32980
(iii) Has at least twenty-five years of total service credit and has attained fifty-five years of age.	32981 32982
(b) A member who has at least twenty-five years of total service credit on or before August 1, 2017, is eligible for retirement under division (A) (1) (a) (ii) or (iii) of this section.	32983 32984 32985 32986
(c) A member is eligible for retirement under division (A) (1) (a) of this section if as of August 1, 2017, the member will have less than twenty-five years of total service credit but, not later than that date, pays to the retirement system an amount equal to the additional liability to the system resulting from the member's retirement under this division.	32987 32988 32989 32990 32991 32992
(2) (a) Except as provided in division (A) (1) (c) of this section, a member who on August 1, 2017, has less than twenty-five years of total service credit is eligible for service retirement under this division if the member:	32993 32994 32995 32996
(i) Has earned at least ten years of total service credit and has attained sixty-two years of age;	32997 32998
(ii) Has earned at least twenty-five years of total service credit and has attained sixty years of age;	32999 33000
(iii) Has earned at least thirty years of total service credit and has attained fifty-seven years of age.	33001 33002
(b) The board, by rule adopted under division (D) of this section, may adjust the retirement eligibility requirements of	33003 33004

division (A) (2) (a) of this section if the board's actuary, in 33005
its evaluation under division (C) of this section, determines 33006
that an adjustment is necessary to ensure that the retirement 33007
system meets the thirty-year amortization period requirement of 33008
section 3309.211 of the Revised Code. 33009

(B) A member may retire by filing an application for 33010
retirement with the school employees retirement board on a form 33011
provided by the board. The board shall not retire the member 33012
sooner than the first day of the month next following the later 33013
of: 33014

(1) The last day of employment for which compensation was 33015
paid; 33016

(2) The attainment of minimum age and service credit 33017
eligibility for service or commuted service retirement. 33018

(C) In each five-year period, the board shall direct its 33019
actuary to evaluate the retirement eligibility requirements of 33020
this section. 33021

~~(D) The board, in consultation with its actuary, shall 33022
adopt rules to implement this section. 33023~~

Sec. 3309.345. (A) This section applies in the case of a 33024
person who is or most recently has been employed by an employer 33025
in a position that is customarily filled by a vote of members of 33026
a board or commission. 33027

(B) Except as otherwise provided in this section, a board 33028
or commission that proposes to continue the employment as a 33029
reemployed retirant or rehire as a reemployed retirant to the 33030
same position an individual described in division (A) of this 33031
section shall do both of the following ~~in accordance with rules 33032
adopted under division (E) of this section: 33033~~

(1) Not less than sixty days before the employment as a
reemployed retirant is to begin, give public notice that the
person is or will be retired and is seeking employment with the
employer;

(2) Between fifteen and thirty days before the employment
as a reemployed retirant is to begin, hold a public meeting on
the issue of the person being employed by the employer.

The notice regarding division (B) (1) of this section shall
include the time, date, and location at which the public meeting
is to take place.

(C) A board or commission that proposes to continue a
person's employment or rehire the person as a reemployed
retirant to a position that the board or commission has urgent
reasons to fill in an expedited manner shall give thirty days
notice under division (B) (1) of this section. The board or
commission shall include an explanation in the notice of the
urgent reasons requiring the position to be filled in an
expedited manner.

(D) A board or commission is not required to give notice
under division (B) (1) of this section if the person has been
retired for at least one year before the person's employment as
a reemployed retirant is to begin.

~~(E) The school employees retirement board shall adopt
rules as necessary to implement this section.~~

Sec. 3309.363. (A) As used in this section:

(1) "Retirement allowance" means any of the following as
appropriate:

(a) An allowance calculated under section 3309.36 of the

Revised Code before any reduction for early retirement or 33062
election under section 3309.46 of the Revised Code of a plan of 33063
payment; 33064

(b) An allowance calculated under division (A) of section 33065
3309.45 of the Revised Code; 33066

(c) An allowance calculated under division (B) (1) (a) of 33067
section 3309.381 of the Revised Code. 33068

(2) "CBBC" means the contribution based benefit cap, which 33069
is a limit established by the school employees retirement board 33070
on the retirement allowance a member may receive. 33071

(B) Based on the advice of an actuary appointed by the 33072
board, the board shall designate a number as the CBBC factor. 33073
The board may, from time to time, revise the factor pursuant to 33074
advice from an actuary appointed by the board. 33075

(C) Beginning on and after August 1, 2024, before paying a 33076
retirement allowance, the board shall make all of the following 33077
calculations: 33078

(1) Determine an amount equal to the value of the member's 33079
accumulated contributions, including any contributions used to 33080
fund a disability benefit under section 3309.40 of the Revised 33081
Code and a portion of any amounts paid by an employer under 33082
section 3309.33 of the Revised Code, as determined by an actuary 33083
appointed by the board; 33084

(2) Determine the amount of a single life annuity that is 33085
the actuarial equivalent of the amount determined under division 33086
(C) (1) of this section, adjusted for the age of the member at 33087
the time of retirement or, when appropriate, the age at the time 33088
of the member's death; 33089

(3) Multiply the annuity amount determined under division 33090
(C) (2) of this section by the CBBC factor. 33091

(D) The amount determined under division (C) (3) of this 33092
section is the member's CBBC. Beginning on and after August 1, 33093
2024, if the retirement allowance the member would receive 33094
exceeds the member's CBBC, the board shall reduce the retirement 33095
allowance to an amount equal to the member's CBBC. 33096

(E) If a member's retirement allowance is reduced under 33097
this section, the reduced retirement allowance is the member's 33098
single lifetime allowance for purposes of sections 3309.36, 33099
3309.381, and 3309.45 of the Revised Code.— 33100

~~(F) The board may adopt rules to implement this section.~~ 33101

Sec. 3309.374. (A) Until December 31, 2017, the school 33102
employees retirement board shall annually increase each 33103
allowance, pension, or benefit payable under this chapter by 33104
three per cent. 33105

(B) Effective January 1, 2018, the retirement board may 33106
annually increase each allowance, pension, or benefit payable 33107
under this chapter by the percentage increase, if any, in the 33108
consumer price index, not to exceed two and one-half per cent, 33109
as determined by the United States bureau of labor statistics 33110
(U.S. city average for urban wage earners and clerical workers: 33111
"all items 1982-84=100") for the twelve-month period ending on 33112
the thirtieth day of June of the immediately preceding calendar 33113
year. No increase shall be made for a period in which the 33114
consumer price index did not increase. 33115

(C) The first increase is payable to all persons becoming 33116
eligible after June 30, 1971, upon such persons receiving an 33117
allowance, pension, or benefit for twelve months, except that a 33118

recipient of an allowance, pension, or benefit that commences on 33119
or after January 1, 2018, is eligible for an increase under 33120
division (B) of this section on and after the number of 33121
anniversaries of the allowance, pension, or benefit determined 33122
by the retirement board. 33123

The increased amount is payable for the ensuing twelve- 33124
month period or until the next increase is granted under this 33125
section, whichever is later. Subsequent increases shall be 33126
determined from the date of the first increase paid to the 33127
former member in the case of an allowance being paid a 33128
beneficiary under an option, or from the date of the first 33129
increase to the survivor first receiving an allowance or benefit 33130
in the case of an allowance or benefit being paid to the 33131
subsequent survivors of the former member. 33132

The date of the first increase under this section becomes 33133
the anniversary date for any future increases. 33134

(D) The allowance or benefit used in the first calculation 33135
of an increase under this section shall remain as the base for 33136
all future increases, unless a new base is established. Any 33137
increase resulting from payment of a recalculated benefit under 33138
Section 3 of Substitute Senate Bill No. 270 of the 123rd general 33139
assembly shall be included in the calculation of future 33140
increases under this section. 33141

(E) If payment of a portion of a benefit is made to an 33142
alternate payee under section 3309.671 of the Revised Code, 33143
increases under this section granted while the order is in 33144
effect shall be apportioned between the alternate payee and the 33145
retirant or disability benefit recipient in the same proportion 33146
that the amount being paid to the alternate payee bears to the 33147
amount paid to the retirant or disability benefit recipient. 33148

If payment of a portion of a benefit is made to one or more beneficiaries under "plan F" under division (B) (3) (e) of section 3309.46 of the Revised Code, each increase under this section granted while the plan of payment is in effect shall be divided among the designated beneficiaries in accordance with the portion each beneficiary has been allocated.

(F) No allowance, pension, or benefit payable under this chapter shall exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 415, as amended.

(G) Before granting an increase under division (B) of this section, the retirement board may adjust the percentage of any increase if the board's actuary, in its annual actuarial valuation required by section 3309.21 of the Revised Code, or in other evaluations conducted under that section, determines that an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the retirement system.

~~(H) The retirement board shall make all rules necessary to carry out this section.~~

Sec. 3309.375. (A) Except as otherwise provided in division (B) of this section, the board of the school employees retirement system shall make available to each retirant or disability benefit recipient receiving a monthly allowance or benefit on or after January 1, 1968, who has attained the age of sixty-five years, and who is not eligible to receive hospital insurance benefits under the federal old age, survivors, and disability insurance program, hospital insurance coverage substantially equivalent to the federal hospital insurance benefits, "Social Security Amendments of 1965," 79 Stat. 291, 42

U.S.C.A. 1395c, as amended. This coverage shall also be made 33179
available to the spouse, widow, or widower of such retirant or 33180
disability benefit recipient provided such spouse, widow, or 33181
widower has attained age sixty-five and is not eligible to 33182
receive hospital insurance benefits under the federal old age, 33183
survivors, and disability insurance program. The widow or 33184
widower of a retirant or disability benefit recipient shall be 33185
eligible for such coverage only if ~~he or she~~the widow or widower 33186
is the recipient of a monthly allowance or benefit from this 33187
system. Not less than twenty-five per cent of the cost for such 33188
coverage shall be paid from the appropriate funds of the school 33189
employees retirement system and the remainder by the recipient 33190
of the allowance or benefit. 33191

The cost of such coverage, paid from the funds of the 33192
system, shall be included in the employer's rate provided by 33193
sections 3309.49 and 3309.51 of the Revised Code. The retirement 33194
~~board is authorized to make all necessary rules pursuant to the~~ 33195
~~purpose and intent of this section, and~~ shall contract for such 33196
coverage as provided in section 3309.69 of the Revised Code. 33197

Notwithstanding sections 3309.49 and 3309.51 of the 33198
Revised Code, the employer's contribution rate shall not be 33199
increased until July 1, 1969, or later to reflect the increased 33200
costs created by this section. 33201

(B) The board need not make the hospital insurance 33202
coverage described in division (A) of this section available to 33203
any person for whom it is prohibited by section 3309.69 of the 33204
Revised Code from paying or reimbursing the cost of such 33205
insurance. 33206

Sec. 3309.3712. The school employees retirement board may 33207
establish and maintain a qualified governmental excess benefit 33208

arrangement that meets the requirements of division (m) of 33209
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 33210
2085, 26 U.S.C.A. 415, as amended, and any regulations adopted 33211
thereunder. If established, the arrangement shall be a separate 33212
portion of the school employees retirement system and be 33213
maintained solely for the purpose of providing to retired 33214
members that part of a benefit otherwise payable under this 33215
chapter that exceeds the limits established by section 415 of 33216
the "Internal Revenue Code of 1986," as amended. 33217

Members participating in an arrangement established under 33218
this section shall not be permitted to elect to defer 33219
compensation to the arrangement. Contributions to and benefits 33220
paid under an arrangement shall not be payable from a trust that 33221
is part of the system unless the trust is maintained solely for 33222
the purpose of providing such benefits. 33223

~~The board shall adopt rules to administer an arrangement~~ 33224
~~established under this section.~~ 33225

Sec. 3309.39. (A) The school employees retirement system 33226
shall provide disability coverage to each member who has at 33227
least five years of total service credit. 33228

Not later than October 16, 1992, the school employees 33229
retirement board shall give each person who is a member on July 33230
29, 1992, the opportunity to elect disability coverage either 33231
under section 3309.40 of the Revised Code or under section 33232
3309.401 of the Revised Code. The board shall mail notice of the 33233
election, accompanied by an explanation of the coverage under 33234
each of the Revised Code sections and a form on which the 33235
election is to be made, to each member at the member's last 33236
known address. The board shall also provide the explanation and 33237
form to any member at the member's request. 33238

Regardless of whether the member actually receives notice 33239
of the right to make an election, a member who fails to file a 33240
valid election under this section shall be considered to have 33241
elected disability coverage under section 3309.40 of the Revised 33242
Code. To be valid, an election must be made on the form provided 33243
by the board, signed by the member, and filed with the board not 33244
later than one hundred eighty days after the date the notice was 33245
mailed, or, in the case of a form provided at the request of a 33246
member, a date specified by rule of the board. Once made, an 33247
election is irrevocable, but if the member ceases to be a member 33248
of the system, the election is void. If a person who makes an 33249
election under this section also makes an election under section 33250
145.35 or 3307.62 of the Revised Code, the election made for the 33251
system that pays a disability benefit to that person shall 33252
govern the benefit. 33253

Disability coverage shall be provided under section 33254
3309.401 of the Revised Code for persons who become members 33255
after July 29, 1992, and for members who elect under this 33256
division to be covered under section 3309.401 of the Revised 33257
Code. 33258

The board may adopt rules governing elections made under 33259
this division. 33260

(B) (1) Application for a disability benefit may be made by 33261
a member, by a person acting in the member's behalf, or by the 33262
member's employer, if the member meets all of the following 33263
conditions: 33264

(a) Has at least five years of total service credit; 33265

(b) Has disability coverage under section 3309.40 or 33266
3309.401 of the Revised Code; 33267

(c) Is not receiving a disability benefit under this 33268
chapter or Chapter 145., 742., 3305., 3307., or 5505. of the 33269
Revised Code, or the Cincinnati retirement system; 33270

(d) Is not applying for the disability benefit based on a 33271
disabling condition that the system determines was caused by 33272
commission of either of the following: 33273

(i) A felony the member was convicted of, pled guilty to, 33274
or was found not guilty of by reason of insanity; 33275

(ii) An act for which the member was adjudicated a 33276
delinquent child, that if committed by an adult, would be a 33277
felony. 33278

(2) The application for a disability benefit shall be made 33279
on a form provided by the board. The benefit payable to any 33280
member who is approved for a disability benefit shall become 33281
effective on the first day of the month next following the later 33282
of the following: 33283

(a) The last day for which compensation was paid; 33284

(b) The date on which the member's most recent application 33285
for a disability benefit was filed. 33286

(C) Medical examination of a member who has applied for a 33287
disability benefit shall be conducted by a competent 33288
disinterested physician or physicians selected by the board to 33289
determine whether the member is mentally or physically 33290
incapacitated for the performance of the member's last assigned 33291
primary duty as an employee by a disabling condition either 33292
permanent or presumed to be permanent for twelve continuous 33293
months following the filing of an application. Such disability 33294
must have occurred before termination of the member's 33295
contributing service and since last becoming a member or have 33296

increased since last becoming a member to such extent as to make 33297
the disability permanent or presumed to be permanent for twelve 33298
continuous months following the filing of an application. 33299

(D) Application for a disability benefit must be made 33300
within two years from the date the member's contributing service 33301
terminated, unless the board determines that the member's 33302
medical records demonstrate conclusively that at the time the 33303
two-year period expired, the member was physically or mentally 33304
incapacitated for duty as an employee and unable to make 33305
application. Application may not be made by any person receiving 33306
a service retirement allowance or commuted service retirement 33307
allowance under section 3309.36 or 3309.381 or former section 33308
3309.38 of the Revised Code or any person who, pursuant to 33309
section 3309.42 of the Revised Code, has been paid the 33310
accumulated contributions standing to the credit of the person's 33311
individual account in the employees' savings fund. 33312

(E) If the physician or physicians determine that the 33313
member qualifies for a disability benefit, the board concurs 33314
with the determination, and the member agrees to any recommended 33315
medical treatment and vocational rehabilitation as specified in 33316
divisions (F) and (G) of this section, the member shall receive 33317
a disability benefit under section 3309.40 or 3309.401 of the 33318
Revised Code. The action of the board shall be final. 33319

(F) The board shall adopt rules requiring a disability 33320
benefit recipient, as a condition of continuing to receive a 33321
disability benefit, to agree in writing to obtain any medical 33322
treatment recommended by the board's physician and submit 33323
medical reports regarding the treatment. If the board determines 33324
that a disability benefit recipient is not obtaining the medical 33325
treatment or the board does not receive a required medical 33326

report, the disability benefit shall be suspended until the 33327
treatment is obtained, the report is received by the board, or 33328
the board's physician certifies that the treatment is no longer 33329
helpful or advisable. Should the recipient's failure to obtain 33330
treatment or submit a medical report continue for one year, the 33331
recipient's right to the disability benefit shall be terminated 33332
as of the effective date of the original suspension. 33333

~~(G) (1)~~ (G) A disability benefit recipient shall obtain any 33334
vocational rehabilitation recommended by the board's physician 33335
or other consultant and submit reports regarding the 33336
rehabilitation. If the board determines that a recipient is not 33337
obtaining the rehabilitation or the board does not receive a 33338
required report, the disability benefit shall be suspended until 33339
the rehabilitation is obtained, the report is received by the 33340
board, or the board's physician or consultant certifies that 33341
rehabilitation is no longer helpful or advisable. If the 33342
recipient's failure to obtain rehabilitation or submit a 33343
required report continues for one year, the recipient's right to 33344
the disability benefit shall be terminated as of the effective 33345
date of the original suspension. 33346

~~(2) The board shall adopt rules to implement this 33347
division. 33348~~

(H) In the event an employer files an application for a 33349
disability benefit as a result of a member having been separated 33350
from service because the member is considered to be mentally or 33351
physically incapacitated for the performance of the member's 33352
last assigned primary duty as an employee, and the physician or 33353
physicians selected by the board report to the board that the 33354
member is physically and mentally capable of performing service 33355
similar to that from which the member was separated, and the 33356

board concurs in such report, then the board shall so certify to 33357
the employer and the employer shall restore the member to the 33358
member's previous position and salary or to a similar position 33359
and salary. 33360

Sec. 3309.392. (A) A recipient of a disability benefit 33361
granted under this chapter on or after January 7, 2013, but 33362
~~before the effective date of this amendment~~ April 6, 2017, who 33363
is enrolled in health care coverage under section 3309.69 of the 33364
Revised Code shall apply for social security disability 33365
insurance benefit payments under 42 U.S.C. 423 if the recipient 33366
meets the requirements of divisions (a) (1) (A), (B), and (C) of 33367
that section. 33368

(B) A recipient of a disability benefit granted under this 33369
chapter on or after ~~the effective date of this amendment~~ April 33370
6, 2017, who is enrolled in health care coverage under section 33371
3309.69 of the Revised Code shall apply for both of the 33372
following: 33373

(1) Social security disability insurance benefit payments 33374
under 42 U.S.C. 423 if the recipient meets the requirements of 33375
divisions (a) (1) (A), (B), and (C) of that section; 33376

(2) Hospital insurance benefits under 42 U.S.C. 426(b), if 33377
both of the following are the case: 33378

(a) The recipient had medicare qualified government 33379
employment, as defined in 42 U.S.C. 410(p). 33380

(b) The recipient would have met the requirements of 33381
divisions (a) (1) (A), (B), and (C) of 42 U.S.C. 423 if the 33382
medicare qualified government employment was treated as 33383
employment under 42 U.S.C. 410(a). 33384

(C) Unless the school employees retirement system 33385

determines that good cause exists to exempt the recipient from 33386
the requirements of this section, a recipient who is subject to 33387
division (A) or (B) of this section shall file the applications 33388
required by those divisions as follows: 33389

(1) For a recipient who on ~~the effective date of this~~ 33390
~~amendment~~ April 6, 2017, is enrolled in health care coverage 33391
under section 3309.69 of the Revised Code, not later than one 33392
hundred eighty days after ~~the effective date of this amendment~~ 33393
April 6, 2017; 33394

(2) For a recipient who enrolls in health care coverage 33395
under section 3309.69 of the Revised Code on or after ~~the~~ 33396
~~effective date of this amendment~~ April 6, 2017, not later than 33397
ninety days after enrolling. 33398

(D) The recipient shall file a copy of each completed 33399
application and a copy of the social security administration's 33400
acknowledgement of receipt of the application with the 33401
retirement system. The system shall accept the copy and 33402
acknowledgement as evidence of the recipient's application. 33403

The recipient shall file with the system a copy of the 33404
social security administration's final action on the recipient's 33405
application for social security disability insurance benefit 33406
payments or hospital insurance benefits, as applicable. 33407

(E) (1) Unless an exemption is granted under division (C) 33408
of this section: 33409

(a) A recipient subject to division (A) or (B) of this 33410
section who fails without just cause to apply for social 33411
security disability insurance benefit payments or to comply with 33412
division (D) of this section shall have the recipient's 33413
disability benefit suspended until the recipient applies for the 33414

payments and complies with division (D) of this section. 33415

(b) A recipient subject to division (B) of this section 33416
who fails without just cause to apply for hospital insurance 33417
benefits or to comply with division (D) of this section shall 33418
have the recipient's disability benefit suspended until the 33419
recipient applies for the benefits and complies with division 33420
(D) of this section. 33421

(2) A recipient subject to division (B) of this section 33422
whose application for hospital insurance benefits is approved by 33423
the social security administration shall enroll in coverage for 33424
those benefits. A recipient who fails to enroll in coverage for 33425
hospital insurance benefits is not eligible for health care 33426
coverage under section 3309.69 of the Revised Code until the 33427
recipient enrolls in the coverage for hospital insurance 33428
benefits. 33429

~~(F) The school employees retirement board may adopt rules-~~ 33430
~~as it considers necessary to implement this section.~~ 33431

Sec. 3309.472. For one year after ~~the effective date of-~~ 33432
~~this section~~September 9, 1988, a member who resigned due to 33433
pregnancy prior to ~~the effective date of this section~~September 33434
9, 1988 may purchase service credit for a period following the 33435
resignation during which she did not make contributions under 33436
section 3309.47 of the Revised Code, if she meets both of the 33437
following conditions: 33438

(A) She has earned a minimum of one year of service credit 33439
subsequent to the date of her return to employment as a 33440
contributor to the retirement system; 33441

(B) She returned to employment as a contributor not later 33442
than the first day of classes of the third school year following 33443

the date of her resignation. 33444

Service credit purchased by a member under this section 33445
may not exceed the lesser of two years or an amount equal to the 33446
period from the effective date of her resignation to the date of 33447
her return to employment as a contributor, except that service 33448
credit may be purchased for more than one period of absence due 33449
to pregnancy, but the total service credit purchased may not 33450
exceed two years. The member must submit evidence satisfactory 33451
to the school employees retirement board documenting that her 33452
resignation was due to pregnancy and that she meets the 33453
requirement of division (B) of this section. 33454

For each year of service credit purchased under this 33455
section: 33456

(1) The member shall pay to the retirement system for 33457
credit to her accumulated account an amount equal to her 33458
retirement contributions for full-time employment for the first 33459
year of service subsequent to her return to employment as a 33460
contributor to the retirement system, plus compound interest 33461
thereon, at a rate established by the retirement board, from the 33462
date of the member's return to employment as a contributor to 33463
the date of payment; 33464

(2) The member's employer at the time of resignation shall 33465
pay an amount certified by the retirement system, which shall be 33466
an amount equal to the employer contribution for full-time 33467
employment for the member's first year of service subsequent to 33468
her return to employment as a contributor, plus compound 33469
interest thereon, at a rate established by the retirement board, 33470
from the date of the member's return to employment as a 33471
contributor to the date of payment. 33472

A member may purchase all or part of the credit for which she is eligible in one or more payments. ~~The retirement board may adopt rules to implement this section.~~

Sec. 3309.473. (A) Except as provided in division (D) of this section, a member of the school employees retirement system who resigned due to pregnancy or adoption of a child may purchase service credit for a period following the resignation during which the member did not make contributions under section 3309.47 of the Revised Code, if the member meets both of the following conditions:

(1) The member has earned a minimum of one year of service credit subsequent to the date of the member's return to employment as a contributor to the system.

(2) The member returned to employment as a contributor not later than the first day of classes of the third school year following the date of resignation.

Service credit purchased under this section may not exceed the lesser of two years or an amount equal to the period from the effective date of the resignation to the date of return to employment as a contributor. Service credit may be purchased for more than one period of resignation due to pregnancy or adoption of a child, but the total service credit purchased may not exceed two years. The member must submit evidence satisfactory to the school employees retirement board documenting that the resignation was due to pregnancy or adoption of a child and that the member meets the requirement in division (A)(1) of this section.

(B) For each year of service credit purchased under this section:

(1) The member shall pay to the system for credit to the member's accumulated account an amount equal to the member's contributions for full-time employment for the first year of service subsequent to the member's return to employment as a contributor, plus compound interest thereon at a rate established by the board, from the date of the member's return to employment as a contributor to the date of payment.

(2) The member's employer at the time of resignation shall pay an amount certified by the system, which shall be an amount equal to the employer contribution for full-time employment for the member's first year of service subsequent to the member's return to employment as a contributor, plus compound interest thereon at a rate established by the board, from the date of the member's return to employment as a contributor to the date of payment.

(C) A member may purchase all or part of the credit for which the member is eligible in one or more payments. Service credit purchased under this section shall be included in the member's total service credit.

(D) A member who has purchased service credit under section 3309.472 of the Revised Code for a period of absence may not purchase credit under this section for the same period of absence.

~~(E) The board may adopt rules to implement this section.~~

Sec. 3309.474. (A) As used in this section, "state retirement system" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system.

(B) A state retirement system member who while a member of the school employees retirement system was out of service due to a leave of absence approved by the member's employer may purchase from the school employees retirement system service credit for any period during the leave for which contributions were not made under section 3309.47 of the Revised Code.

For purposes of this section, a period of leave commences on the first day for which employee and employer contributions were not made to the system and ends on the earlier of the termination of the leave or the member's return to contributing service.

(C) (1) For each year of service purchased, the member shall pay to the school employees retirement system for credit to the member's accumulated account with that system an amount equal to the sum of the following:

(a) An amount determined by multiplying the compensation the member would have received during the leave by the employee contribution rate in effect at that time;

(b) An amount determined by multiplying the compensation the member would have received during the leave by the employer contribution rate in effect at that time;

(c) Compound interest at a rate determined by the school employees retirement board from the first day of the year following the date the leave commenced to the date of payment.

(2) If the employee or employer contribution rate changed during the leave, contributions for each month of the leave shall be made at the rate in effect for that month.

(D) Service credit purchased under this section for any period of leave shall not exceed two years. Credit may be

purchased for more than one period of leave, but the total 33560
number of years purchased shall not exceed the lesser of five 33561
years or the member's total accumulated number of years of 33562
service as a contributor to the school employees retirement 33563
system. The member may choose to purchase only part of such 33564
credit in any one payment, ~~subject to board rules.~~ 33565

(E) Service credit purchased under this section shall be 33566
considered the equivalent of Ohio service credit. 33567

~~(F) The board may adopt rules under section 3309.04 of the 33568
Revised Code to implement this section.~~ 33569

Sec. 3309.69. (A) The school employees retirement board 33570
may establish a program to provide medical, hospital, surgical, 33571
prescription, or other health care coverage, benefits, 33572
reimbursement, or any combination thereof, to eligible 33573
individuals or dependents. 33574

Any program established under this section shall be 33575
designed and administered by the board. In establishing a 33576
program, the board may do any of the following: 33577

(1) Enter into an agreement with persons or government 33578
agencies authorized to do business in the state for issuance of 33579
a policy or contract of health, medical, hospital, prescription, 33580
surgical, or other health care benefits, or any combination 33581
thereof; 33582

(2) Provide for self-insurance of risk or level of risk 33583
and provide through the self-insurance method specific benefits 33584
as authorized by the rules of the board; 33585

(3) Provide reimbursements or subsidies to eligible 33586
participants; 33587

(4) Make disbursements;	33588
(5) Determine levels of coverage and costs for the program;	33589 33590
(6) Take any other action it considers necessary to establish and administer the program.	33591 33592
(B) If it establishes a health care program, the board shall establish eligibility criteria and any other requirements for participation. To be eligible, an individual must meet the criteria established by the board and be one or more of the following:	33593 33594 33595 33596 33597
(1) A former member receiving benefits pursuant to section 3309.34, 3309.35, 3309.36, or 3309.381 or former section 3309.38 of the Revised Code;	33598 33599 33600
(2) A disability benefit recipient receiving a disability benefit pursuant to section 3309.35, 3309.39, 3309.40, or 3309.401 of the Revised Code;	33601 33602 33603
(3) A beneficiary receiving monthly benefits pursuant to section 3309.45 of the Revised Code;	33604 33605
(4) The beneficiary of a former member who is receiving monthly benefits pursuant to section 3309.46 of the Revised Code;	33606 33607 33608
(5) A dependent, as determined under rules adopted by the board, of an individual described in divisions (B) (1) to (4) of this section.	33609 33610 33611
(C) The cost paid from the funds of the system for coverage under this section shall be included in the employer contribution under sections 3309.49 and 3309.491 of the Revised Code.	33612 33613 33614 33615

(D) (1) The board may require payment of a premium for participation in the health care program. Participation is deemed consent for the deduction of premiums from any pension, benefit, or annuity provided under this chapter to an eligible participant.

(2) An individual who fails to pay any required premium or receives any coverage or payment to which the individual is not entitled shall pay or repay any amount due the system. If an individual fails to pay or repay an amount due, the system may withhold the amount from any pension, benefit, annuity, or payment due the individual or the individual's beneficiary under this chapter or collect the amount in any other manner provided by law.

(E) A health care program participant who is eligible for coverage under medicare part B, "Supplementary Medical Insurance Benefits for the Aged and Disabled," 42 U.S.C. 1395j, as amended, shall enroll for that coverage. The board shall, beginning the month following receipt of satisfactory evidence of the payment for coverage, make a monthly payment to the participant in an amount determined by the board for such coverage that is not less than forty-five dollars and fifty cents, except that the board shall make no payment to a participant who is not eligible for coverage under medicare part B or pay an amount that exceeds the amount paid by the recipient for the coverage.

(F) The board shall establish by rule requirements for the coordination of any coverage, payment, or benefit provided under this section or section 3309.375 of the Revised Code with any similar coverage, payment, or benefit made available to the same individual by the public employees retirement system, Ohio

police and fire pension fund, state teachers retirement system, 33646
or state highway patrol retirement system. 33647

~~(G) The board shall make all other necessary rules— 33648
pursuant to the purpose and intent of this section. 33649~~

~~(H) This section does not require the board to establish, 33650
maintain, offer, or continue any health care program. This 33651
section does not require the board to provide or continue access 33652
to any health care program, or any level of coverage or costs 33653
provided under the program, if the board establishes or 33654
maintains a program under this section. 33655~~

Sec. 3309.692. As used in this section, "SERS defined 33656
benefit plan" means the plan established under sections 3309.18 33657
to 3309.70 of the Revised Code and "SERS defined contribution 33658
plan" means the plan established under section 3309.81 of the 33659
Revised Code. 33660

The SERS defined benefit plan or a SERS defined 33661
contribution plan may include a program under which a member 33662
participating in the plan or a member's employer is permitted to 33663
make additional deposits for the purpose of providing funds for 33664
the payment of health, medical, hospital, surgical, dental, or 33665
vision care expenses, including insurance premiums, deductible 33666
amounts, or copayments. The program may be a voluntary 33667
employees' beneficiary association, as described in section 33668
501(c)(9) of the Internal Revenue Code, 26 U.S.C. 501(c)(9), as 33669
amended; an account described in section 401(h) of the Internal 33670
Revenue Code, 26 U.S.C. 401(h), as amended; a medical savings 33671
account; or a similar type of program under which an individual 33672
may accumulate funds for the purpose of paying such expenses. To 33673
implement the program, the school employees retirement board may 33674
enter into agreements with insurance companies or other entities 33675

authorized to conduct business in this state. 33676

~~If the SERS defined benefit plan or a SERS defined contribution plan includes a program described in this section, the board shall adopt rules to administer the program.~~ 33677
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Sec. 3309.731. (A) As used in this section, "transferred service credit" means service credit purchased or obtained under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code prior to the date a member commenced the employment covered by the school employees retirement system for which the member is currently contributing to the system. 33680
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(B) A member of the school employees retirement system who has contributions on deposit with, but is no longer contributing to, a uniform retirement system shall, in computing years of service, be given full credit for transferred service credit if a transfer to the school employees retirement system is made under this section. At the request of a member, the uniform system shall transfer to the school employees retirement system the sum of the following: 33686
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(1) An amount equal to the amounts transferred to the uniform system under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code; 33694
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(2) Interest, determined as provided in division (E) of this section, on the amount specified in division (B) (1) of this section for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date a transfer is made under this section. 33697
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(C) A member of the school employees retirement system with at least eighteen months of contributing service credit 33703
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with the school employees retirement system who has received a 33705
refund of contributions to a uniform retirement system shall, in 33706
computing years of service, be given full credit for transferred 33707
service credit if, for each year of service, the school 33708
employees retirement system receives the sum of the following: 33709

(1) An amount, which shall be paid by the member, equal to 33710
the amount refunded by the uniform system to the member for that 33711
year for transferred service credit, with interest on that 33712
amount from the date of the refund to the date a payment is made 33713
under this section; 33714

(2) Interest, which shall be transferred by the uniform 33715
system, on the amount refunded to the member for the period from 33716
the last day of the year in which the transfer under section 33717
742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the 33718
Revised Code was made to the date the refund was made; 33719

(3) If the uniform system retained any portion of the 33720
amount transferred under section 742.21, 742.214, 742.375, 33721
5505.201, 5505.40, or 5505.41 of the Revised Code, an amount, 33722
which shall be transferred by the uniform system, equal to the 33723
amount retained, with interest on that amount for the period 33724
from the last day of the year in which the transfer under 33725
section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 33726
of the Revised Code was made to the date a transfer is made 33727
under this section. 33728

On receipt of payment from the member, the school 33729
employees retirement system shall notify the uniform system, 33730
which, on receipt of the notice, shall make the transfer 33731
required by this division. Interest shall be determined as 33732
provided in division (E) of this section. 33733

(D) Service credit purchased or obtained under this 33734
section shall be considered the equivalent of Ohio service 33735
credit. A member may choose to purchase only part of the credit 33736
the member is eligible to purchase under division (C) of this 33737
section in any one payment, ~~subject to rules adopted by the~~ 33738
~~school employees retirement board~~. A member is ineligible to 33739
purchase or obtain service credit under this section for service 33740
to be used in the calculation of any retirement benefit 33741
currently being paid or payable to the member in the future 33742
under any other retirement program or for service credit that 33743
may be purchased or obtained under section 3309.73 of the 33744
Revised Code. 33745

(E) Interest charged under this section shall be 33746
calculated separately for each year of service credit at the 33747
lesser of the actuarial assumption rate for that year of the 33748
school employees retirement system or of the uniform retirement 33749
system to which the credit was transferred under section 742.21, 33750
742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised 33751
Code. The interest shall be compounded annually. 33752

(F) Any amounts transferred or paid under divisions (B) 33753
and (C) of this section that are attributable to contributions 33754
made by the member or to amounts paid to purchase service credit 33755
shall be credited to the employees' savings fund created under 33756
section 3309.47 of the Revised Code. Any remaining amounts shall 33757
be credited to one or more of the funds created under that 33758
section as determined by the board. 33759

(G) At the request of the school employees retirement 33760
system, the uniform retirement system shall certify to the 33761
school employees retirement system a copy of the records of the 33762
service and contributions of a school employees retirement 33763

system member who seeks service credit under this section. The 33764
uniform retirement system shall specify the portions of the 33765
amounts transferred that are attributable to employee 33766
contributions, employer contributions, and interest. 33767

(H) If a member of the school employees retirement system 33768
who is not a current contributor elects to receive service 33769
credit under section 742.214 or 5505.41 of the Revised Code for 33770
transferred service credit, as defined in those sections, the 33771
system shall transfer to the uniform retirement system, as 33772
applicable, the amount specified in division (B) or (C) of 33773
section 742.214 or division (B) or (C) of section 5505.41 of the 33774
Revised Code. 33775

~~(I) The board may adopt rules to implement this section.~~ 33776

Sec. 3309.81. The school employees retirement board may 33777
establish one or more plans consisting of benefit options that 33778
provide for an individual account for each participating member 33779
and under which benefits are based solely on the amounts that 33780
have accumulated in the account. The plans may include options 33781
under which a member participating in a plan may receive 33782
definitely determinable benefits. 33783

Each plan established under this section shall meet the 33784
requirements of sections 3309.81 to 3309.98 of the Revised Code— 33785
~~and any rules adopted in accordance with section 3309.80 of the~~ 33786
~~Revised Code.~~ It may include life insurance, annuities, variable 33787
annuities, regulated investment trusts, pooled investment funds, 33788
or other forms of investment. 33789

The board may administer the plans, enter into contracts 33790
with other entities to administer the plans, or both. 33791

Sec. 3310.031. (A) The department of education and 33792

workforce shall adopt rules under ~~section 3310.17~~ Chapter 119. 33793
of the Revised Code establishing procedures for granting 33794
educational choice scholarships to eligible students attending a 33795
nonpublic school at the time the director of education and 33796
workforce grants the school a charter under section 3301.16 of 33797
the Revised Code. The procedures shall include ~~at least~~ both of 33798
the following: 33799

(1) Provisions for extending the application period for 33800
scholarships for the following school year, if necessary due to 33801
the timing of the award of the nonpublic school's charter, in 33802
order for students enrolled in the school at the time the 33803
charter is granted to apply for scholarships for the following 33804
school year; 33805

(2) Provisions for notifying the resident districts of the 33806
nonpublic school's students that the nonpublic school has been 33807
granted a charter and that educational choice scholarships may 33808
be awarded to the school's students for the following school 33809
year. 33810

(B) A student who is enrolled in a nonpublic school at the 33811
time the school's charter is granted is an eligible student if 33812
the student satisfies any of the following conditions: 33813

(1) At the end of the last school year before the student 33814
enrolled in the nonpublic school, the student was enrolled in a 33815
school building operated by the student's resident district or 33816
in a community school established under Chapter 3314. of the 33817
Revised Code and, for the current or following school year, the 33818
student otherwise would be assigned under section 3319.01 of the 33819
Revised Code to a school building described in division (A) (1) 33820
of section 3310.03 of the Revised Code. 33821

(2) The student was not enrolled in any public or other nonpublic school before the student enrolled in the nonpublic school and, for the current or following school year, otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of section 3310.03 of the Revised Code.

(3) At the end of the last school year before the student enrolled in the nonpublic school, the student was enrolled in a school building operated by the student's resident district and, during that school year, the building met the conditions described in division (A)(1) of section 3310.03 of the Revised Code.

(4) At the end of the last school year before the student enrolled in the nonpublic school, the student was enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would have been assigned under section 3319.01 of the Revised Code to a school building that, during that school year, met the conditions described in division (A)(1) of section 3310.03 of the Revised Code.

Sec. 3310.17. ~~(A) The department of education and workforce shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for the administration of the educational choice scholarship pilot program.~~

~~(B) The department of education and workforce shall not require chartered nonpublic schools to comply with any education laws or rules or other requirements that are not specified in sections 3310.01 to 3310.17 of the Revised Code or in rules necessary for the administration of the program, adopted under division (A) of this section, and that otherwise would not apply to a chartered nonpublic school.~~

Sec. 3310.41. (A) As used in this section:	33852
(1) "Alternative public provider" means either of the following providers that agrees to enroll a child in the provider's special education program to implement the child's individualized education program or an education plan developed by the school district under division (L) of this section and to which the child's parent owes fees for the services provided to the child:	33853 33854 33855 33856 33857 33858 33859
(a) A school district that is not the school district in which the child is entitled to attend school;	33860 33861
(b) A public entity other than a school district.	33862
(2) "Eligible applicant" means any of the following:	33863
(a) Either of the natural or adoptive parents of a qualified special education child, except as otherwise specified in this division.	33864 33865 33866
When the marriage of the natural or adoptive parents of the child has been terminated by a divorce, dissolution of marriage, or annulment, or when the natural or adoptive parents of the child are living separate and apart under a legal separation decree, and a court has issued an order allocating the parental rights and responsibilities with respect to the child, "eligible applicant" means the residential parent as designated by the court. If the court issues a shared parenting decree, "eligible applicant" means either parent. "Eligible applicant" does not mean a parent whose custodial rights have been terminated.	33867 33868 33869 33870 33871 33872 33873 33874 33875 33876 33877
(b) The custodian of a qualified special education child, when a court has granted temporary, legal, or permanent custody of the child to an individual other than either of the natural	33878 33879 33880

or adoptive parents of the child or to a government agency;	33881
(c) The guardian of a qualified special education child,	33882
when a court has appointed a guardian for the child;	33883
(d) The grandparent of a qualified special education	33884
child, when the grandparent is the child's attorney in fact	33885
under a power of attorney executed under sections 3109.51 to	33886
3109.62 of the Revised Code or when the grandparent has executed	33887
a caretaker authorization affidavit under sections 3109.65 to	33888
3109.73 of the Revised Code;	33889
(e) The surrogate parent appointed for a qualified special	33890
education child pursuant to division (B) of section 3323.05 and	33891
section 3323.051 of the Revised Code;	33892
(f) A qualified special education child, if the child does	33893
not have a custodian or guardian and the child is at least	33894
eighteen years of age and less than twenty-two years of age.	33895
(3) "Entitled to attend school" means entitled to attend	33896
school in a school district under section 3313.64 or 3313.65 of	33897
the Revised Code.	33898
(4) "Formula ADM" has the same meaning as in section	33899
3317.02 of the Revised Code.	33900
(5) "Preschool child with a disability" and	33901
"individualized education program" have the same meanings as in	33902
section 3323.01 of the Revised Code.	33903
(6) "Qualified special education child" is a child who is	33904
at least three years of age and less than twenty-two years of	33905
age and who either was enrolled in the school district in which	33906
the child is entitled to attend school in any grade from	33907
preschool through twelve in the school year prior to the year in	33908

which a scholarship under this section is sought for the child 33909
or is eligible to enter school in any grade preschool through 33910
twelve or is less than twenty-two years of age in the school 33911
district in which the child is entitled to attend school in the 33912
school year in which a scholarship under this section is sought 33913
for the child and for whom any of the following conditions 33914
apply: 33915

(a) The school district in which the child is entitled to 33916
attend school has identified the child as autistic. A child who 33917
has been identified as having a "pervasive developmental 33918
disorder - not otherwise specified (PPD-NOS)" shall be 33919
considered to be an autistic child for purposes of this section. 33920

(b) The school district in which the child is entitled to 33921
attend school has developed an individualized education program 33922
under Chapter 3323. of the Revised Code for the child that 33923
includes services related to autism. 33924

(c) The child has been diagnosed as autistic by a 33925
physician or psychologist. 33926

(d) All of the following apply: 33927

(i) The child is enrolled in a chartered or nonchartered 33928
nonpublic school, is home educated in accordance with section 33929
3321.042 of the Revised Code, or is a student older than 33930
compulsory school age and less than twenty-two years of age and 33931
received a home education in accordance with section 3321.042 of 33932
the Revised Code and has not received a diploma under section 33933
3313.6110 of the Revised Code. 33934

(ii) The child has an individualized education program 33935
developed under Chapter 3323. of the Revised Code that includes 33936
services related to autism. 33937

(iii) The child is still eligible to receive transition 33938
services under the child's individualized education program. 33939

(7) "Registered private provider" means a nonpublic school 33940
or other nonpublic entity that has been approved by the 33941
department of education and workforce to participate in the 33942
program established under this section. 33943

(8) "Special education program" means a school or facility 33944
that provides special education and related services to children 33945
with disabilities. 33946

(B) There is hereby established the autism scholarship 33947
program. Under the program, the department shall pay a 33948
scholarship under section 3317.022 of the Revised Code to an 33949
eligible applicant upon application of that eligible applicant 33950
pursuant to procedures and deadlines established by rule of the 33951
department. Each scholarship shall be used only to pay tuition 33952
for the child on whose behalf the scholarship is awarded to 33953
attend a special education program or programs that implements 33954
the child's individualized education program or education plan 33955
and that is operated by an alternative public provider or by a 33956
registered private provider, and to pay for other services 33957
agreed to by the provider and the eligible applicant that are 33958
not included in the individualized education program or 33959
education plan but are associated with educating the child. Upon 33960
agreement with the eligible applicant, the alternative public 33961
provider or the registered private provider may modify the 33962
services provided to the child. The purpose of the scholarship 33963
is to permit the eligible applicant the choice to send the child 33964
to a special education program or programs, instead of the one 33965
operated by or for the school district in which the child is 33966
entitled to attend school, to receive the services prescribed in 33967

the child's individualized education program or education plan 33968
once the individualized education program or education plan is 33969
finalized and any other services agreed to by the provider and 33970
the eligible applicant. The services provided under the 33971
scholarship shall include an educational component or services 33972
designed to assist the child to benefit from the child's 33973
education. 33974

At the discretion of the eligible applicant, multiple 33975
alternative public providers or registered private providers may 33976
be contracted to provide services to implement an individualized 33977
education program or education plan as the eligible applicant 33978
and providers determine are necessary and associated with 33979
educating the qualified special education child. A qualified 33980
special education child shall not be limited to receiving 33981
services from a single provider for any services as identified 33982
in the individualized education program or education plan, 33983
including a single type of service. 33984

(C) Services, including intervention services, educational 33985
services, academic services, tutoring services, aide services, 33986
and other related special education services, provided through 33987
the program established under this section may be provided 33988
virtually by any of the following: 33989

(1) An educational aide or assistant who holds a valid 33990
permit issued under section 3319.088 of the Revised Code; 33991

(2) An instructional assistant who holds a valid permit 33992
issued under section 3310.43 of the Revised Code; 33993

(3) A qualified, credentialed provider in accordance with 33994
standards established by the department; 33995

(4) A teacher or substitute teacher licensed by the state 33996

board of education. 33997

(D) A scholarship under this section shall not be awarded 33998
to an eligible applicant while the child's individualized 33999
education program is being developed by the school district in 34000
which the child is entitled to attend school, or while any 34001
administrative or judicial mediation or proceedings with respect 34002
to the content of the child's individualized education program 34003
are pending. A scholarship under this section shall not be used 34004
for a child to attend a public special education program that 34005
operates under a contract, compact, or other bilateral agreement 34006
between the school district in which the child is entitled to 34007
attend school and another school district or other public 34008
provider, or for a child to attend a community school 34009
established under Chapter 3314. of the Revised Code. However, 34010
nothing in this section or in any rule adopted by the department 34011
shall prohibit an eligible applicant whose child attends a 34012
public special education program under a contract, compact, or 34013
other bilateral agreement, or an eligible applicant whose child 34014
attends a community school, from applying for and accepting a 34015
scholarship under this section so that the eligible applicant 34016
may withdraw the child from that program or community school and 34017
use the scholarship for the child to attend a special education 34018
program for which the eligible applicant is required to pay for 34019
services for the child. 34020

(E) Except for development of the child's individualized 34021
education program or education plan, the school district in 34022
which a qualified special education child is entitled to attend 34023
school and the child's school district of residence, as defined 34024
in section 3323.01 of the Revised Code, if different, are not 34025
obligated to provide the child with a free appropriate public 34026
education under Chapter 3323. of the Revised Code for as long as 34027

the child continues to attend the special education program 34028
operated by either an alternative public provider or a 34029
registered private provider for which a scholarship is awarded 34030
under the autism scholarship program. If at any time, the 34031
eligible applicant for the child decides no longer to accept 34032
scholarship payments and enrolls the child in the special 34033
education program of the school district in which the child is 34034
entitled to attend school, that district shall provide the child 34035
with a free appropriate public education under Chapter 3323. of 34036
the Revised Code. 34037

(F) A child attending a special education program with a 34038
scholarship under this section shall continue to be entitled to 34039
transportation to and from that program in the manner prescribed 34040
by law. 34041

(G) As prescribed in division (A) (2) (h) of section 3317.03 34042
of the Revised Code, a child who is not a preschool child with a 34043
disability for whom a scholarship is awarded under this section 34044
shall be counted in the formula ADM of the district in which the 34045
child is entitled to attend school and not in the formula ADM of 34046
any other school district. 34047

(H) A scholarship shall not be paid under section 3317.022 34048
of the Revised Code to an eligible applicant for payment of 34049
tuition owed to a nonpublic entity unless that entity is a 34050
registered private provider. The department shall approve 34051
entities that meet the standards established by rule of the 34052
department for the program established under this section. 34053

(I) The department shall adopt rules under Chapter 119. of 34054
the Revised Code prescribing ~~procedures necessary to implement~~ 34055
~~this section, including, but not limited to,~~ procedures and 34056
deadlines for eligible applicants to apply for scholarships, 34057

standards for registered private providers, and procedures for approval of entities as registered private providers. 34058
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The rules also shall specify that intervention services, including virtual services, under the autism scholarship program may be provided by a qualified, credentialed provider, including an educator or substitute teacher licensed by the state board of education, and shall additionally include, ~~but not be limited to,~~ all of the following: 34060
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(1) A behavior analyst certified by a nationally recognized organization that certifies behavior analysts; 34066
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(2) A psychologist licensed to practice in this state under Chapter 4732. of the Revised Code; 34068
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(3) An independent school psychologist or school psychologist licensed to practice in this state under Chapter 4732. of the Revised Code; 34070
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(4) Any person employed by a licensed psychologist, licensed independent school psychologist, or licensed school psychologist, while carrying out specific tasks, under the licensee's supervision, as an extension of the licensee's legal and ethical authority as specified under Chapter 4732. of the Revised Code who is ascribed as "psychology trainee," "psychology assistant," "psychology intern," or other appropriate term that clearly implies their supervised or training status; 34073
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(5) Unlicensed persons holding a doctoral degree in psychology or special education from a program approved by the department; 34082
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(6) A "registered behavior technician" as described under rule 5123-9-41 of the Administrative Code working under the 34085
34086

supervision and following the intervention plan of a certified 34087
Ohio behavior analyst or a behavior analyst certified by a 34088
nationally recognized organization that certifies behavior 34089
analysts; 34090

(7) A "certified Ohio behavior analyst" under Chapter 34091
4783. of the Revised Code; 34092

(8) An occupational therapist or physical therapist 34093
licensed to practice in this state under Chapter 4755. of the 34094
Revised Code; 34095

(9) A speech-language pathologist licensed to practice in 34096
this state under Chapter 4753. of the Revised Code; 34097

(10) An intervention specialist who holds a valid license 34098
issued by the state board; 34099

(11) A literacy intervention specialist certified through 34100
pathways recognized by the Ohio dyslexia committee established 34101
by section 3323.25 of the Revised Code. To the extent that 34102
certification for any of the following positions is approved by 34103
the Ohio dyslexia committee under section 3323.25 of the Revised 34104
Code, literary intervention specialists may include: 34105

(a) A structured literacy dyslexia interventionist; 34106

(b) A structured literacy dyslexia specialist; 34107

(c) A certified academic language practitioner; 34108

(d) A certified academic language therapist. 34109

(12) An educational aide or assistant with a valid permit 34110
issued under section 3319.088 of the Revised Code; 34111

(13) An instructional assistant with a valid permit issued 34112
in accordance with section 3310.43 of the Revised Code; 34113

~~(14) Any other qualified individual as determined by the department.~~ 34114
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Supervision of a qualified, credentialed provider may be conducted virtually. 34116
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(J) For billing purposes under the autism scholarship program, services provided by a teacher or substitute teacher licensed by the state board of education shall be classified as academic services and shall not be classified as aide services. The department shall use this differentiation to simplify monthly audit procedures. 34118
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(K) The department shall provide reasonable notice to all eligible applicants receiving a scholarship under the autism scholarship program, alternative public providers, and registered private providers of any amendment to a rule governing, or change in the administration of, the autism scholarship program. 34124
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(L) If a child qualifies for the autism scholarship program pursuant to a diagnosis under division (A)(6)(c) of this section and does not have an individualized education program that includes services related to autism, the school district in which the child is entitled to attend school shall develop an education plan for the child. 34130
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(M) Not later than the thirtieth day of June each year, each alternative public provider and registered private provider enrolling students receiving autism scholarships shall submit to the department, in a form and manner prescribed by the department, the tuition rates charged by the provider for the following school year. 34136
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(N) The department shall not require an eligible applicant 34142

who applies for or receives a scholarship under this section to 34143
complete any kind of income verification regarding the student's 34144
family income. 34145

(O) The department shall maintain a list of each 34146
registered private provider and the location of that provider on 34147
its publicly accessible web site. 34148

Sec. 3310.64. The department of education and workforce 34149
shall adopt rules in accordance with Chapter 119. of the Revised 34150
Code prescribing procedures ~~necessary~~ to implement sections 34151
3310.51 to 3310.63 of the Revised Code including, ~~but not~~ 34152
~~limited to,~~ procedures for parents to apply for scholarships, 34153
standards for registered private providers, and procedures for 34154
registration of private providers. 34155

The rules also shall specify that intervention services, 34156
including virtual services, under the Jon Peterson special needs 34157
scholarship program may be provided by a qualified, credentialed 34158
provider, including an educator or substitute teacher licensed 34159
by the state board of education, and shall additionally include, 34160
~~but not be limited to,~~ the credentialed professionals listed in 34161
division (C) of section 3310.58 of the Revised Code. 34162

The rules also shall specify that supervision of a 34163
qualified, credentialed provider may be conducted virtually. 34164

Sec. 3313.377. (A) As used in this section: 34165

(1) "Energy conservation measure" has the same meaning as 34166
in section 3313.372 of the Revised Code. 34167

(2) "Energy saving measure" has the same meaning as in 34168
section 3313.373 of the Revised Code. 34169

(B) The Ohio facilities construction commission may issue 34170

a loan from funds in the school energy performance contracting loan fund created in section 3313.378 of the Revised Code to a board of education of a city, exempted village, local, or joint vocational school district that applies for a loan under section 3313.372 or 3313.373 of the Revised Code.

(C) Nothing in this section prohibits a board of education that receives a loan under this section from utilizing any other energy efficiency program.

(D) The terms of a loan issued under this section shall be as follows:

(1) Two per cent annual interest on the loan;

(2) The full loan amount, plus interest, shall be repaid in not more than ten years from the issuance of the loan;

(3) Repayment on the loan begins six months after the installation of the energy conservation measures is complete or the implementation of energy savings measures is completed;

(4) Any other provision considered appropriate by the commission.

(E) All repayment amounts for any loans issued under this section shall be made to the commission. The commission shall deposit all repayment amounts received in the school energy performance contracting loan fund created in section 3313.378 of the Revised Code.

(F) If the commission enters into an agreement with a board for a loan under this section, the commission shall promptly direct the treasurer of state to remit money from the school energy performance contracting loan fund to the board as provided in the terms of the agreement.

~~(C) The commission shall adopt rules to implement this section, including a loan application.~~ 34199
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Sec. 3313.616. (A) Notwithstanding the requirements of 34201
sections 3313.61, 3313.611, and 3313.612 of the Revised Code, 34202
the board of education of any city, exempted village, or local 34203
school district or the governing authority of any chartered 34204
nonpublic school may grant a high school diploma to any veteran 34205
of World War II, the Korean conflict, or the Vietnam conflict 34206
who is a resident of this state or who was previously enrolled 34207
in any high school in this state if all of the following apply: 34208

(1) The veteran either: 34209

(a) Left a public or nonpublic school located in any state 34210
prior to graduation in order to serve in the armed forces of the 34211
United States; 34212

(b) Left a public or nonpublic school located in any state 34213
prior to graduation due to family circumstances and subsequently 34214
entered the armed forces of the United States. 34215

(2) The veteran received an honorable discharge from the 34216
armed forces of the United States. 34217

(3) The veteran has not been granted a diploma as provided 34218
in section 3313.61 or 3313.612 of the Revised Code, a diploma of 34219
adult education as provided in section 3313.611 of the Revised 34220
Code, or a diploma under this section. 34221

(B) Notwithstanding the requirements of sections 3313.61, 34222
3313.611, and 3313.612 of the Revised Code, the board of 34223
education of any city, exempted village, or local school 34224
district or the governing authority of any chartered nonpublic 34225
school may grant a high school diploma to any woman who left 34226
high school during World War II, the Korean conflict, or the 34227

Vietnam conflict and who is a resident of this state or was 34228
previously enrolled in any high school in this state, if both of 34229
the following apply: 34230

(1) The woman either: 34231

(a) Left a public or nonpublic school located in any state 34232
prior to graduation in order to join the workforce to support 34233
her family or to join the war effort; 34234

(b) Left a public or nonpublic school located in any state 34235
prior to graduation due to family circumstances and subsequently 34236
joined the workforce or war effort. 34237

(2) The woman has not been granted a diploma as provided 34238
in section 3313.61 or 3313.612 of the Revised Code, a diploma of 34239
adult education as provided in section 3313.611 of the Revised 34240
Code, or a diploma under this section. 34241

(C) If a person who would otherwise qualify for a diploma 34242
under this section is deceased, the board of education of any 34243
school district or the governing authority of any chartered 34244
nonpublic school may award such diploma to the person 34245
posthumously and may present that diploma to a living relative 34246
of the person. 34247

(D) The department of veterans services, in accordance 34248
with section 111.15 of the Revised Code, and with the advice and 34249
consent of the veterans advisory committee established under 34250
division (J) of section 5902.02 of the Revised Code, shall 34251
develop and adopt rules ~~to implement this section. Such rules~~ 34252
~~shall include, but not be limited to, rules~~ establishing 34253
procedures for application and verification of eligible persons 34254
for a diploma under this section. 34255

Sec. 3313.6111. (A) The department of education and 34256

workforce shall establish the state seal of biliteracy, which 34257
may be attached or affixed to the high school transcript of a 34258
student enrolled in a public or chartered nonpublic school. The 34259
state seal of biliteracy shall demonstrate the attainment of a 34260
high level of proficiency by a graduate of a public or chartered 34261
nonpublic high school in one or more languages in addition to 34262
English, sufficient for meaningful use in college and a career. 34263
The purpose of the state seal of biliteracy shall be to: 34264

- (1) Encourage students to study languages; 34265
- (2) Certify the attainment of biliteracy; 34266
- (3) Provide employers with a method of identifying 34267
individuals with language and biliteracy skills; 34268
- (4) Provide institutions of higher education with an 34269
additional method to recognize applicants for admission; 34270
- (5) Prepare students with twenty-first century skills; 34271
- (6) Recognize the value of foreign language and native 34272
language instruction in public schools; and 34273
- (7) Strengthen inter-group relationships, affirm the value 34274
of diversity, and honor the multiple cultures and languages of a 34275
community. 34276

(B) (1) A school district, community school established 34277
under Chapter 3314. of the Revised Code, STEM school established 34278
under Chapter 3326. of the Revised Code, college-preparatory 34279
boarding school established under Chapter 3328. of the Revised 34280
Code, or chartered nonpublic school may attach or affix the 34281
state seal of biliteracy to the transcript of a student enrolled 34282
in the school who meets the requirements prescribed under 34283
division (C) (1) of this section. A district or school shall not 34284

be required to attach or affix the state seal of biliteracy on 34285
the transcript of a student enrolled in the school. 34286

(2) Each school district, community school, STEM school, 34287
college-preparatory boarding school, and chartered nonpublic 34288
school shall maintain appropriate records to identify students 34289
who have completed the requirements for earning a state seal of 34290
biliteracy as prescribed under division (C)(1) of this section, 34291
and if the district or school has a policy of attaching or 34292
affixing the state seal of biliteracy to student transcripts, 34293
the district or school shall make the appropriate designation on 34294
the transcript of a student who completes the requirements. 34295

(C) The department shall do the following: 34296

(1) Establish the requirements and criteria for earning a 34297
state seal of biliteracy, including assessments of foreign 34298
language and English proficiency; 34299

(2) Prepare and deliver to participating school districts, 34300
community schools, STEM schools, college-preparatory boarding 34301
schools, and chartered nonpublic schools an appropriate 34302
mechanism for assigning a state seal of biliteracy on a 34303
student's transcript indicating that the student has been 34304
assigned the seal; 34305

(3) Provide any other information it considers necessary 34306
for school districts, community schools, STEM schools, college- 34307
preparatory boarding schools, and chartered nonpublic schools to 34308
participate in the assigning of a state seal of biliteracy; 34309

~~(4) Adopt rules in accordance with Chapter 119. of the 34310
Revised Code to implement the provisions of this section. 34311~~

(D) A student shall not be charged a fee to be assigned a 34312
state seal of biliteracy on their transcript. A student may be 34313

required to pay a fee to demonstrate proficiency in a language, 34314
including the cost of a standardized test to determine 34315
proficiency in a language. 34316

(E) As used in this section, "foreign language" refers to 34317
any language other than English, including modern languages, 34318
Latin, American sign language, native American languages, and 34319
native languages. 34320

Sec. 3313.902. (A) As used in this section: 34321

(1) "Approved industry credential or certificate" means a 34322
credential or certificate that is approved by the chancellor of 34323
higher education. 34324

(2) "Approved institution" means an eligible institution 34325
that has been approved to participate in the adult diploma pilot 34326
program under this section. 34327

(3) "Approved program of study" means a program of study 34328
offered by an approved institution that satisfies the 34329
requirements of division (B) of this section. 34330

(4) An eligible student's "career pathway training program 34331
amount" means the following: 34332

(a) If the student is enrolled in a tier one career 34333
pathway training program, \$4,800; 34334

(b) If the student is enrolled in a tier two career 34335
pathway training program, \$3,200; 34336

(c) If the student is enrolled in a tier three career 34337
pathway training program, \$1,600. 34338

(5) "Eligible institution" means any of the following: 34339

(a) A community college established under Chapter 3354. of 34340

the Revised Code; 34341

(b) A technical college established under Chapter 3357. of 34342
the Revised Code; 34343

(c) A state community college established under Chapter 34344
3358. of the Revised Code; 34345

(d) An Ohio technical center recognized by the chancellor 34346
that provides post-secondary workforce education. 34347

(6) "Eligible student" means an individual who is at least 34348
eighteen years of age and has not received a high school diploma 34349
or a certificate of high school equivalence, as defined in 34350
section 4109.06 of the Revised Code. 34351

(7) A "tier one career pathway training program" is a 34352
career pathway training program that requires more than six 34353
hundred hours of technical training, as determined by the 34354
department of education and workforce. 34355

(8) A "tier two career pathway training program" is a 34356
career pathway training program that requires more than three 34357
hundred hours of technical training but less than six hundred 34358
hours of technical training, as determined by the department. 34359

(9) A "tier three career pathway training program" is a 34360
career pathway training program that requires three hundred 34361
hours or less of technical training, as determined by the 34362
department. 34363

(10) An eligible student's "work readiness training 34364
amount" means the following: 34365

(a) If the student's grade level upon initial enrollment 34366
in an approved program of study at an approved institution is 34367
below the ninth grade, ~~as determined in accordance with rules~~ 34368

~~adopted under division (E) of this section, \$1,500.~~ 34369

(b) If the student's grade level upon initial enrollment 34370
in an approved program of study at an approved institution is at 34371
or above the ninth grade, ~~as determined in accordance with rules~~ 34372
~~adopted under division (E) of this section, \$750.~~ 34373

(B) The adult diploma pilot program is hereby established 34374
to permit an eligible institution to obtain approval from the 34375
department of education and workforce and the chancellor to 34376
develop and offer a program of study that allows an eligible 34377
student to obtain a high school diploma. A program shall be 34378
eligible for this approval if it satisfies all of the following 34379
requirements: 34380

(1) The program allows an eligible student to complete the 34381
requirements for obtaining a high school diploma that are 34382
specified in rules adopted under division (E) of this section 34383
while also completing requirements for an approved industry 34384
credential or certificate. 34385

(2) The program includes career advising and outreach. 34386

(3) The program includes opportunities for students to 34387
receive a competency-based education. 34388

(C) Notwithstanding sections 3313.61, 3313.611, 3313.613, 34389
3313.614, 3313.618, and 3313.619 of the Revised Code, the 34390
department shall grant a high school diploma to each eligible 34391
student who enrolls in an approved program of study at an 34392
approved institution and completes the requirements for 34393
obtaining a high school diploma that are specified in rules 34394
adopted under division (E) of this section. 34395

(D) (1) The department shall calculate the following amount 34396
for each eligible student enrolled in each approved 34397

institution's approved program of study: 34398

(The student's career pathway training program amount + 34399
the student's work readiness training amount) X 1.2 34400

(2) Except as provided in division (D)(4) of this section, 34401
the department shall pay the amount calculated for an eligible 34402
student under division (D)(1) of this section to the approved 34403
institution in which the student is enrolled in the following 34404
manner: 34405

(a) Twenty-five per cent of the amount calculated under 34406
division (D)(1) of this section shall be paid to the approved 34407
institution after the student successfully completes the first 34408
third of the approved program of study, as determined by the 34409
department; 34410

(b) Twenty-five per cent of the amount calculated under 34411
division (D)(1) of this section shall be paid to the approved 34412
institution after the student successfully completes the second 34413
third of the approved program of study, as determined by the 34414
department; 34415

(c) Fifty per cent of the amount calculated under division 34416
(D)(1) of this section shall be paid to the approved institution 34417
after the student successfully completes the final third of the 34418
approved program of study, as determined by the department. 34419

(3) Of the amount paid to an approved institution under 34420
division (D)(2) of this section, the institution may use the 34421
amount that is in addition to the student's career pathway 34422
training amount and the student's work readiness training amount 34423
for the associated services of the approved program of study. 34424
These services include counseling, advising, assessment, and 34425
other services as determined or required by the department. 34426

(4) If the department and the chancellor determine that it is appropriate for an entity other than the department to make full or partial payments for an eligible student under division (D) (2) of this section, that entity shall make those payments and the department shall not make those payments.

(E) The director of education and workforce, in consultation with the chancellor, shall adopt the following rules for the implementation of the adult diploma pilot program, ~~including all of the following:~~

(1) The requirements for applying for program approval;

(2) The requirements for obtaining a high school diploma through the program, including the requirement to obtain a passing score on an assessment that is appropriate for the career pathway training program that is being completed by the eligible student, and the date on which these requirements take effect;

(3) The assessment or assessments that may be used to complete the assessment requirement for each career pathway training program under division (E) (2) of this section and the score that must be obtained on each assessment in order to pass the assessment;

(4) Guidelines regarding the funding of the program under division (D) of this section, including a method of funding for students who transfer from one approved institution to another approved institution prior to completing an approved program of study;

(5) Circumstances under which an eligible student may be charged for tuition, supplies, or associated fees while enrolled in an approved institution's approved program of study;

(6) A requirement that an eligible student may not be charged for tuition, supplies, or associated fees while enrolled in an approved institution's approved program of study except in the circumstances described under division (E) (5) of this section;

(7) The payment of federal funds that are to be used by approved programs of study at approved institutions.

Sec. 3317.072. (A) The transportation collaboration fund is hereby created in the state treasury for fiscal years 2022 and 2023. The fund shall consist of money appropriated for this purpose by the general assembly. The department of education and workforce shall use money in the fund for grants awarded under this section.

(B) (1) For fiscal years 2022 and 2023, the department shall award transportation collaboration grants each fiscal year to city, local, and exempted village school districts for efforts that lead to shared resource management, routing consolidation, regional collaboration, or other activities that have the potential to reduce transportation operating costs.

(2) The department shall determine the amount of each grant awarded, but no grant shall exceed \$10,000 for any fiscal year.

(3) The department shall adopt rules regarding all of the following:

(a) The process for city, local, and exempted village school districts to submit applications for grants awarded under this section, including the deadline for those applications to be submitted;

(b) The application form for grants awarded under this

section; 34485

(c) The requirements and process for grant recipients to 34486
be eligible to renew their grants in future fiscal years; 34487

~~(d) Any other rules necessary to implement the provisions~~ 34488
~~of this section.~~ 34489

Sec. 3318.60. (A) As used in this section and section 34490
3318.61 of the Revised Code: 34491

(1) "Acquisition of classroom facilities" means 34492
constructing, reconstructing, repairing, or making additions to 34493
classroom facilities. 34494

(2) "Ohio facilities construction commission" and 34495
"classroom facilities" have the same meanings as in section 34496
3318.01 of the Revised Code. 34497

(B) There is hereby established the college-preparatory 34498
boarding school facilities program. Under the program, the Ohio 34499
facilities construction commission shall provide assistance to 34500
the boards of trustees of college-preparatory boarding schools 34501
established under Chapter 3328. of the Revised Code for the 34502
acquisition of classroom facilities. 34503

(C) The program shall comply with sections 3318.01 to 34504
3318.20 of the Revised Code, except as follows: 34505

(1) The commission, in consultation with the board of 34506
trustees of a college-preparatory boarding school, shall 34507
determine the basic project cost based on all campus facilities 34508
needed for the school's programs and operations and shall take 34509
into account any unique spaces or square footages needed for 34510
such facilities when calculating the basic project cost. 34511
Regardless of the inclusion of nonclassroom facilities in the 34512

calculation of the basic project cost, state funds provided 34513
under the program shall be used only to pay for the acquisition 34514
of classroom facilities that do not exceed the construction and 34515
design standards established by the commission. 34516

(2) To be eligible for assistance under the program, the 34517
board of trustees of a college-preparatory boarding school shall 34518
secure at least twenty million dollars of private money to 34519
satisfy its share of the basic project cost. Funds provided by 34520
the board may be used for any type of facility. 34521

(3) A college-preparatory boarding school shall not be 34522
included in the ranking required by section 3318.011 of the 34523
Revised Code. The commission shall initiate procedures for the 34524
school's project when the contract required by section 3328.12 34525
of the Revised Code has been executed. 34526

(4) No requirement related to the issuance of bonds or 34527
securities or the levying of taxes by a school district shall 34528
apply to a college-preparatory boarding school or its board of 34529
trustees. 34530

(5) The agreement entered into by the commission with the 34531
board of trustees of a college-preparatory boarding school under 34532
section 3318.08 of the Revised Code shall provide for 34533
termination of the contract and release of the funds encumbered 34534
at the time of the project's conditional approval, if the board 34535
fails to secure the amount specified in division (C) (2) of this 34536
section within such period after the execution of the agreement 34537
as may be fixed by the commission. 34538

~~(D) Within the ninety-day period immediately following 34539
September 29, 2011, the commission shall adopt rules necessary 34540
for the implementation and administration of the program. 34541~~

Sec. 3323.02. As used in this section, "IDEIA" means the 34542
"Individuals with Disabilities Education Improvement Act of 34543
2004," Pub. L. No. 108-446. 34544

It is the purpose of this chapter to ensure that all 34545
children with disabilities residing in this state who are at 34546
least three years of age and less than twenty-two years of age, 34547
including children with disabilities who have been suspended or 34548
expelled from school, have available to them a free appropriate 34549
public education. No school district, county board of 34550
developmental disabilities, or other educational agency shall 34551
receive state or federal funds for special education and related 34552
services unless those services for children with disabilities 34553
are provided in accordance with IDEIA and related provisions of 34554
the Code of Federal Regulations, the provisions of this chapter, 34555
rules and standards adopted by the department of education and 34556
workforce, and any procedures or guidelines issued by the 34557
director of education and workforce. Any options or discretion 34558
provided to the state by IDEIA may be exercised in state law or 34559
in rules or standards adopted by the department of education and 34560
workforce. 34561

~~The department of education and workforce shall establish 34562
rules or standards for the provision of special education and 34563
related services for all children with disabilities who are at 34564
least three years of age and less than twenty-two years of age 34565
residing in the state, regardless of the severity of their 34566
disabilities, including children with disabilities who have been 34567
suspended or expelled from school. The department of education 34568
and workforce shall consult with the department of children and 34569
youth on rules or standards regarding the provision of special 34570
education and related services for children with disabilities 34571
from three to five years of age. The state law and the rules or 34572~~

~~standards of the department of education and workforce may 34573
impose requirements that are not required by IDEIA or related 34574
provisions of the Code of Federal Regulations. The school- 34575
district of residence is responsible, in all instances, for 34576
ensuring that the requirements of Part B of IDEIA are met for 34577
every eligible child in its jurisdiction, regardless of whether 34578
services are provided by another school district, other 34579
educational agency, or other agency, department, or entity, 34580
unless IDEIA or related provisions of the Code of Federal 34581
Regulations, another section of this chapter, or a rule adopted 34582
by the department of education and workforce specifies that 34583
another school district, other educational agency, or other 34584
agency, department, or entity is responsible for ensuring 34585
compliance with Part B of IDEIA. 34586~~

~~The department of children and youth shall, as 34587
appropriate, incorporate the department of education and 34588
workforce's rules or standards for providing special education 34589
and related services for children with disabilities into the 34590
licensing requirements for preschool programs under sections 34591
3301.52 to 3301.59 of the Revised Code. 34592~~

Notwithstanding division (A) (4) of section 3301.53 of the 34593
Revised Code and any rules adopted pursuant to that section and 34594
division (A) of section 3313.646 of the Revised Code, a board of 34595
education of a school district may provide special education and 34596
related services for preschool children with disabilities in 34597
accordance with this chapter and section 3301.52, divisions (A) 34598
(1) to (3) and (A) (5) and (6) of section 3301.53, and sections 34599
3301.54 to 3301.59 of the Revised Code. 34600

The department of education and workforce may require any 34601
state or local agency to provide documentation that special 34602

education and related services for children with disabilities 34603
provided by the agency are in compliance with the requirements 34604
of this chapter. 34605

Not later than the first day of February of each year the 34606
department of education and workforce shall furnish the 34607
chairpersons of the education committees of the house of 34608
representatives and the senate with a report on the status of 34609
implementation of special education and related services for 34610
children with disabilities required by this chapter. The report 34611
shall include but shall not be limited to the following items: 34612
the most recent available figures on the number of children 34613
identified as children with disabilities and the number of 34614
identified children receiving special education and related 34615
services. The information contained in these reports shall be 34616
public information. 34617

Sec. 3323.08. (A) Each school district shall submit a plan 34618
to the department of education and workforce that provides 34619
assurances that the school district will provide for the 34620
education of children with disabilities within its jurisdiction 34621
and has in effect policies, procedures, and programs that are 34622
consistent with the policies and procedures adopted by the 34623
department in accordance with section 612 of the "Individuals 34624
with Disabilities Education Improvement Act of 2004," 20 U.S.C. 34625
1412, and that meet the conditions applicable to school 34626
districts under section 613 of that act, 20 U.S.C. 1413. 34627

Each district's plan shall do all of the following: 34628

(1) Provide, as specified in section 3323.11 of the 34629
Revised Code and in accordance with standards established by the 34630
department, for an organizational structure and necessary and 34631
qualified staffing and supervision for the identification of and 34632

provision of special education and related services for children 34633
with disabilities; 34634

(2) Provide, as specified by section 3323.03 of the 34635
Revised Code and in accordance with standards established by the 34636
department, for the identification, location, and evaluation of 34637
all children with disabilities residing in the district, 34638
including children with disabilities who are homeless children 34639
or are wards of the state and children with disabilities 34640
attending private schools and who are in need of special 34641
education and related services. A practical method shall be 34642
developed and implemented to determine which children with 34643
disabilities are currently receiving needed special education 34644
and related services. 34645

(3) Provide, as specified by section 3323.07 of the 34646
Revised Code and standards established by the department, for 34647
the establishment and maintenance of special education and 34648
related services for children with disabilities who are at least 34649
three years of age and less than twenty-two years of age, 34650
including children with disabilities who have been suspended or 34651
expelled from school. 34652

(4) Provide, as specified by section 3323.04 of the 34653
Revised Code and in accordance with standards adopted by the 34654
department, for an individualized education program for each 34655
child with a disability who is at least three years of age and 34656
less than twenty-two years of age residing within the district; 34657

(5) Provide, as specified by section 3323.02 of the 34658
~~Revised Code and in accordance with standards established by the~~ 34659
~~department,~~ for special education and related services and a 34660
free appropriate public education for every child with a 34661
disability who is at least three years of age and less than 34662

twenty-two years of age, including children with disabilities 34663
who have been suspended or expelled from school; 34664

(6) Provide procedural safeguards and prior written notice 34665
as required under section 3323.05 of the Revised Code and the 34666
standards established by the department; 34667

(7) Outline the steps that have been or are being taken to 34668
comply with standards established by the department. 34669

(B) (1) A school district may arrange, by a cooperative 34670
agreement or contract with one or more school districts or with 34671
a cooperative education or joint vocational school district or 34672
an educational service center, to provide for the 34673
identification, location, and evaluation of children with 34674
disabilities, and to provide special education and related 34675
services for such children that meet the standards established 34676
by the department. A school district may arrange, by a 34677
cooperative agreement or contract, for the provision of related 34678
services for children with disabilities that meet the standards 34679
established by the department. 34680

(2) A school district shall arrange by interagency 34681
agreement with one or more school districts or with a 34682
cooperative education or joint vocational school district or an 34683
educational service center or other providers of early learning 34684
services to provide for the identification, location, evaluation 34685
of children with disabilities of ages birth through five years 34686
of age and for the transition of children with disabilities at 34687
age three in accordance with the standards established by the 34688
department. A school district may arrange by interagency 34689
agreement with providers of early learning services to provide 34690
special education and related services for such children that 34691
meet the standards established by the department. 34692

(3) If at the time an individualized education program is developed for a child a school district is not providing special education and related services required by that individualized education program, the school district may arrange by contract with a nonpublic entity for the provision of the special education and related services, provided the special education and related services meet the standards for special education and related services established by the department and is provided within the state.

(4) Any cooperative agreement or contract under division (B)(1) or (2) of this section involving a local school district shall be approved by the governing board of the educational service center which serves that district.

(C) No plan of a local school district shall be submitted to the department until it has been approved by the superintendent of the educational service center which serves that district.

(D) Upon approval of a school district's plan by the department, the district shall immediately certify students for state funds under section 3317.03 of the Revised Code to implement and maintain such plan. The district shall, in accordance with guidelines adopted by the department, identify problems relating to the provision of qualified personnel and adequate facilities, and indicate the extent to which the cost of programs required under the plan will exceed anticipated state reimbursement. Each school district shall immediately implement the identification, location, and evaluation of children with disabilities in accordance with this chapter, and shall implement those parts of the plan involving placement and provision of special education and related services.

Sec. 3324.11. No rule adopted by the director of education 34723
and workforce pursuant to this chapter, ~~section 3301.07 of the~~ 34724
~~Revised Code,~~ or any other provision of the Revised Code shall 34725
permit a school district to report that it has provided services 34726
to a student identified as gifted unless those services are paid 34727
for by the district. Nothing in this section shall prohibit a 34728
district from requiring a student to pay the costs of advanced 34729
placement or international baccalaureate examinations. 34730

Sec. 3328.12. The department of education and workforce 34731
shall enter into a contract with the operator of each college- 34732
preparatory boarding school established under this chapter. The 34733
contract shall stipulate the following: 34734

(A) The school's board of trustees shall oversee the 34735
acquisition of a facility for the school. 34736

(B) The operator shall operate the school in accordance 34737
with the terms of the proposal accepted by the department under 34738
section 3328.11 of the Revised Code, including the plan for 34739
increasing the grade levels offered by the school. 34740

(C) The school shall comply with the provisions of this 34741
chapter. 34742

(D) The school shall comply with any other provisions of 34743
law specified in the contract ~~and the rules adopted by the~~ 34744
~~department under section 3328.50 of the Revised Code.~~ 34745

(E) The school shall comply with the bylaws adopted by the 34746
board of trustees under section 3328.13 of the Revised Code. 34747

(F) The school shall meet the academic goals and other 34748
performance standards specified in the contract. 34749

(G) The school shall have a fiscal officer who meets 34750

standards established for the purposes of this division by the department. 34751
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(H) In accordance with procedures specified in the contract, the department shall monitor the operation, programs, and facilities of the school, including conducting on-site visits of the school. 34753
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(I) The department may take actions, as specified in the contract, to resolve issues of noncompliance by the school of the provisions of this chapter, the contract, the bylaws adopted by the board of trustees, or rules adopted by the department. Such specified actions shall include procedures for notice of noncompliance and an appeal process. 34757
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(J) The department or the operator may terminate the contract in accordance with the procedures specified in the contract, which shall include at least a requirement that the party seeking termination give prior notice of the intent to terminate the contract and a requirement that the party receiving such notice be granted an opportunity to redress any grievances cited in the notice prior to the termination. 34763
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(K) If the school closes for any reason, the school's board of trustees shall execute the closing in the manner specified in the contract. 34770
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Sec. 3328.13. The board of trustees of each college-preparatory boarding school established under this chapter shall adopt bylaws for the oversight and operation of the school that are consistent with the provisions of this chapter, ~~the rules adopted under section 3328.50 of the Revised Code,~~ and the contract between the operator and the department of education and workforce. The bylaws shall include procedures for the 34773
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appointment of future members of the school's board of trustees 34780
upon expiration of the terms of the initial members, which 34781
procedures shall comply with section 3328.15 of the Revised 34782
Code. The bylaws also shall include standards for the admission 34783
of students to the school and their dismissal from the school. 34784
The bylaws shall be subject to the approval of the department. 34785

Sec. 3332.031. The state board of career colleges and 34786
schools shall: 34787

~~(A)~~ Adopt rules under Chapter 119. of the Revised Code 34788
necessary to carry out its duties and responsibilities under 34789
this chapter; 34790

~~(B)~~ Establish minimum standards for the registration and 34791
operation of private career schools including but not 34792
necessarily limited to standards to ensure school financial 34793
stability; 34794

~~(C)~~(B) Issue certificates of registration to private 34795
career schools pursuant to division (A) of section 3332.05 of 34796
the Revised Code; 34797

~~(D)~~(C) Suspend or revoke the certificate of registration 34798
of schools pursuant to sections 3332.09 and 3332.091 of the 34799
Revised Code; 34800

~~(E)~~(D) Establish minimum standards for certificate, 34801
diploma, and degree programs offered by schools; 34802

~~(F)~~(E) Issue program authorization pursuant to divisions 34803
(B) and (C) of section 3332.05 of the Revised Code; 34804

~~(G)~~(F) Suspend or revoke program authorization for schools 34805
pursuant to sections 3332.09 and 3332.091 of the Revised Code; 34806

~~(H)~~(G) Establish minimum standards, including but not 34807

necessarily limited to a code of ethics, for agents employed by 34808
schools registered under this chapter to reasonably ensure that 34809
such agents provide adequate, ethical, and accurate information 34810
to prospective students; 34811

~~(I)~~ (H) Grant permits to agents pursuant to sections 34812
3332.10 and 3332.11 of the Revised Code; 34813

~~(J)~~ (I) Suspend or revoke an agent's permit pursuant to 34814
section 3123.47 or 3332.12 of the Revised Code; 34815

~~(K)~~ (J) Monitor recruitment and admissions practices of 34816
schools holding certificates of registration to ensure 34817
compliance with this chapter and the rules of the board; 34818

~~(L)~~ ~~(1)~~ (K) (1) Adopt rules requiring all schools to provide 34819
all applicant students, prior to their signing enrollment 34820
agreements, written information concerning the school's 34821
graduation and placement rates for each of the preceding three 34822
years and any other information the board deems pertinent. 34823

(2) Adopt rules requiring all schools to provide any 34824
student or applicant student, prior to the signing of any 34825
financial aid, grant, or loan application, written information 34826
concerning the obligations of a student obtaining such financial 34827
aid, grant, or loan. 34828

(3) Upon request, a school shall furnish the board with a 34829
copy of all information required by this division. The board 34830
shall monitor schools to ensure their compliance with this 34831
division. 34832

~~(M)~~ (L) Adopt a rule requiring all schools to include, in 34833
the enrollment agreement, notice that any problems the student 34834
is having with the school, or complaints the student has about 34835
the school, may be directed to the board, which notice shall 34836

include the telephone number of the executive director of the board; 34837
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~~(N)~~(M) Report annually to the governor and the general assembly on the activities of the board and private career schools, and make legislative recommendations when necessary to enable the board to better serve the student population and the schools registered under this chapter; 34839
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~~(O)~~(N) Adopt a rule requiring a uniform tuition refund policy for all schools subject to this chapter. In adopting the rule, the board shall consider the tuition refund policies effectuated by state-supported colleges and universities. Each school subject to this chapter shall furnish to each prospective student, prior to the signing of an enrollment agreement, a copy of the tuition refund policy. 34844
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~~(P)~~(O) Adopt a rule establishing minimum standards for all faculty and instructional staff in all instructional programs at a school. In the case of full-time faculty members employed for degree programs, such standards shall include all of the following: 34851
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(1) A prohibition against employing on or after July 1, 1993, any new full-time faculty member to teach the general study portion of any degree program, unless the person holds a master's degree in the subject matter discipline or holds a master's degree in education with proficiency in the subject matter discipline demonstrated in accordance with the standards adopted by the board. 34856
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(2) Except as provided under the standards adopted pursuant to division ~~(P)~~~~(3)~~(O) (3) of this section, a prohibition against employing or reemploying on or after July 1, 1998, any 34863
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full-time faculty member to teach the general study portion of 34866
any degree program, unless the person holds a master's degree in 34867
the subject matter discipline or holds a master's degree in 34868
education with proficiency in the subject matter discipline 34869
demonstrated in accordance with the standards adopted by the 34870
board. 34871

(3) Standards under which the board, upon written request 34872
submitted to the board prior to July 1, 1994, by any school, may 34873
exempt the school from the prohibition adopted pursuant to 34874
division ~~(P)~~ ~~(2)~~ (0) (2) of this section with regard to any 34875
individual full-time faculty member employed by the school who 34876
has demonstrated outstanding teaching performance in the general 34877
study portion of any degree program at the school for a period 34878
of at least six years prior to July 1, 1993. 34879

(4) Definitions of "full-time faculty member," "new 34880
faculty member," and any other term the board considers 34881
necessary to define. 34882

~~(Q)~~ (P) Adopt a rule prohibiting a school or branch campus 34883
thereof from claiming accreditation from an accrediting agency 34884
in any of its advertising, recruiting, or promotional materials 34885
unless the agency is recognized as an accrediting agency by the 34886
United States department of education. 34887

Sec. 3332.09. (A) The state board of career colleges and 34888
schools may, except as provided in division (B) of this section, 34889
limit, suspend, revoke, or refuse to issue or renew a 34890
certificate of registration or program authorization or may 34891
impose a penalty pursuant to section 3332.091 of the Revised 34892
Code for any one or combination of the following causes: 34893

(1) Violation of any provision of sections 3332.01 to 34894

3332.09 of the Revised Code, the board's minimum standards, or any rule made by the board;	34895 34896
(2) Furnishing of false, misleading, deceptive, altered, or incomplete information or documents to the board;	34897 34898
(3) The holding of a certificate of registration by a person who has pleaded guilty or has been found guilty of a felony or has pleaded guilty or been found guilty of a crime involving moral turpitude;	34899 34900 34901 34902
(4) The signing of an application or the holding of a certificate of registration by a person who is addicted to the use of any controlled substance, or who is found to be mentally incompetent;	34903 34904 34905 34906
(5) Violation of any commitment made in an application for a certificate of registration or program authorization;	34907 34908
(6) Presenting to prospective students, either at the time of solicitation or enrollment, or through advertising, mail circulars, or phone solicitation, misleading, deceptive, false, or fraudulent information relating to any program, employment opportunity, or opportunities for enrollment in accredited institutions of higher education after entering or completing programs offered by the holder of a certificate of registration;	34909 34910 34911 34912 34913 34914 34915
(7) Failure to provide or maintain premises or equipment for offering programs in a safe and sanitary condition;	34916 34917
(8) Refusal by an agent to display the agent's permit upon demand of a prospective student or other interested person;	34918 34919
(9) Failure to maintain financial resources adequate for the satisfactory conduct of programs as presented in the plan of operation or to retain a sufficient number and qualified staff	34920 34921 34922

of instruction, except that nothing in this chapter requires an instructor to be licensed by the state board of education or to hold any type of post-high school degree;

(10) Offering training or programs other than those presented in the application, except that schools may offer special courses adapted to the needs of individual students when the special courses are in the subject field specified in the application;

(11) Discrimination in the acceptance of students upon the basis of race, color, religion, sex, or national origin;

(12) Accepting the services of an agent not holding a valid permit issued under section 3332.10 or 3332.11 of the Revised Code;

(13) The use of monetary or other valuable consideration by the school's agents or representatives to induce prospective students to enroll in the school, or the practice of awarding monetary or other valuable considerations without board approval to students in exchange for procuring the enrollment of others;

(14) Failure to provide at the request of the board, any information, records, or files pertaining to the operation of the school or recruitment and enrollment of students.

(B) The board shall not refuse to issue a certificate of registration to an applicant because the applicant was found guilty of or pleaded guilty to an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(C) If the board modifies or adopts additional minimum standards ~~or rules~~ pursuant to section 3332.031 of the Revised Code, all schools and agents shall have sixty days from the effective date of the modifications or additional standards ~~or~~

~~rules~~ to comply with such modifications or additions. 34952

Sec. 3333.04. The chancellor of higher education shall: 34953

(A) Make studies of state policy in the field of higher 34954
education and formulate a master plan for higher education for 34955
the state, considering the needs of the people, the needs of the 34956
state, and the role of individual public and private 34957
institutions within the state in fulfilling these needs; 34958

(B) (1) Report annually to the governor and the general 34959
assembly on the findings from the chancellor's studies and the 34960
master plan for higher education for the state; 34961

(2) Report at least semiannually to the general assembly 34962
and the governor the enrollment numbers at each state-assisted 34963
institution of higher education. 34964

(C) Approve or disapprove the establishment of new 34965
branches or academic centers of state colleges and universities; 34966

(D) Approve or disapprove the establishment of state 34967
technical colleges or any other state institution of higher 34968
education; 34969

(E) Recommend the nature of the programs, undergraduate, 34970
graduate, professional, state-financed research, and public 34971
services which should be offered by the state colleges, 34972
universities, and other state-assisted institutions of higher 34973
education in order to utilize to the best advantage their 34974
facilities and personnel; 34975

(F) Recommend to the state colleges, universities, and 34976
other state-assisted institutions of higher education graduate 34977
or professional programs, including, but not limited to, doctor 34978
of philosophy, doctor of education, and juris doctor programs, 34979

that could be eliminated because they constitute unnecessary 34980
duplication, as shall be determined using the process developed 34981
pursuant to this division, or for other good and sufficient 34982
cause. Prior to recommending a program for elimination, the 34983
chancellor shall hold at least one public hearing on the matter 34984
to determine whether the program should be recommended for 34985
elimination. The chancellor shall provide notice of each hearing 34986
within a reasonable amount of time prior to its scheduled date. 34987

For purposes of determining the amounts of any state 34988
instructional subsidies paid to state colleges, universities, 34989
and other state-assisted institutions of higher education, the 34990
chancellor may exclude students enrolled in any program that the 34991
chancellor has recommended for elimination pursuant to this 34992
division except that the chancellor shall not exclude any such 34993
student who enrolled in the program prior to the date on which 34994
the chancellor initially commences to exclude students under 34995
this division. 34996

The chancellor and state colleges, universities, and other 34997
state-assisted institutions of higher education shall jointly 34998
develop a process for determining which existing graduate or 34999
professional programs constitute unnecessary duplication. 35000

(G) Recommend to the state colleges, universities, and 35001
other state-assisted institutions of higher education programs 35002
which should be added to their present programs; 35003

(H) Conduct studies for the state colleges, universities, 35004
and other state-assisted institutions of higher education to 35005
assist them in making the best and most efficient use of their 35006
existing facilities and personnel; 35007

(I) Make recommendations to the governor and general 35008

assembly concerning the development of state-financed capital 35009
plans for higher education; the establishment of new state 35010
colleges, universities, and other state-assisted institutions of 35011
higher education; and the establishment of new programs at the 35012
existing state colleges, universities, and other institutions of 35013
higher education; 35014

(J) Review the appropriation requests of the public 35015
community colleges and the state colleges and universities and 35016
submit to the office of budget and management and to the 35017
chairpersons of the finance committees of the house of 35018
representatives and of the senate the chancellor's 35019
recommendations in regard to the biennial higher education 35020
appropriation for the state, including appropriations for the 35021
individual state colleges and universities and public community 35022
colleges. For the purpose of determining the amounts of 35023
instructional subsidies to be paid to state-assisted colleges 35024
and universities, the chancellor shall define "full-time 35025
equivalent student" by program per academic year. The definition 35026
may take into account the establishment of minimum enrollment 35027
levels in technical education programs below which support 35028
allowances will not be paid. Except as otherwise provided in 35029
this section, the chancellor shall make no change in the 35030
definition of "full-time equivalent student" in effect on 35031
November 15, 1981, which would increase or decrease the number 35032
of subsidy-eligible full-time equivalent students, without first 35033
submitting a fiscal impact statement to the president of the 35034
senate, the speaker of the house of representatives, the 35035
legislative service commission, and the director of budget and 35036
management. The chancellor shall work in close cooperation with 35037
the director of budget and management in this respect and in all 35038
other matters concerning the expenditures of appropriated funds 35039

by state colleges, universities, and other institutions of higher education. 35040
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(K) Seek the cooperation and advice of the officers and trustees of both public and private colleges, universities, and other institutions of higher education in the state in performing the chancellor's duties and making the chancellor's plans, studies, and recommendations; 35042
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(L) Appoint advisory committees consisting of persons associated with public or private secondary schools, members of the state board of education, or personnel of the department of education and workforce; 35047
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(M) Appoint advisory committees consisting of college and university personnel, or other persons knowledgeable in the field of higher education, or both, in order to obtain their advice and assistance in defining and suggesting solutions for the problems and needs of higher education in this state; 35051
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(N) Approve or disapprove all new degrees and new degree programs at all state colleges, universities, and other state-assisted institutions of higher education. 35056
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When considering approval of a new degree or degree program for a state institution of higher education, as defined in section 3345.011 of the Revised Code, the chancellor shall take into account the extent to which the degree or degree program aligns with the state's workforce development priorities. 35059
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~~(O) Adopt such rules as are necessary to carry out the chancellor's duties and responsibilities. The rules shall prescribe procedures for the chancellor to follow when taking actions associated with the chancellor's duties and~~ 35065
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responsibilities and shall indicate which types of actions are 35069
subject to those procedures. The procedures adopted under this 35070
division shall be in addition to any other procedures prescribed 35071
by law for such actions. However, if any other provision of the 35072
Revised Code ~~or rule adopted by the chancellor~~ prescribes 35073
different procedures for such an action, the procedures adopted 35074
under this division shall not apply to that action to the extent 35075
they conflict with the procedures otherwise prescribed by law. 35076
The procedures adopted under this division shall include at 35077
least the following: 35078

(1) Provision for public notice of the proposed action; 35079

(2) An opportunity for public comment on the proposed 35080
action, which may include a public hearing on the action by the 35081
chancellor; 35082

(3) Methods for parties that may be affected by the 35083
proposed action to submit comments during the public comment 35084
period; 35085

(4) Written publication of the final action taken by the 35086
chancellor and the chancellor's rationale for the action; 35087

(5) A timeline for the process described in divisions (O) 35088
(1) to (4) of this section. 35089

(P) Make recommendations to the governor and the general 35090
assembly regarding the design and funding of the student 35091
financial aid programs specified in sections 3333.122, 3333.21 35092
to 3333.26, and 5910.02 of the Revised Code; 35093

(Q) Participate in education-related state or federal 35094
programs on behalf of the state and assume responsibility for 35095
the administration of such programs in accordance with 35096
applicable state or federal law; 35097

(R) Adopt rules for student financial aid programs as 35098
required by sections 3333.122, 3333.21 to 3333.26, 3333.28, and 35099
5910.02 of the Revised Code, and perform any other 35100
administrative functions assigned to the chancellor by those 35101
sections; 35102

(S) Conduct enrollment audits of state-supported 35103
institutions of higher education; 35104

(T) Appoint consortia of college and university personnel 35105
to advise or participate in the development and operation of 35106
statewide collaborative efforts, including the Ohio 35107
supercomputer center, the Ohio academic resources network, 35108
OhioLink, and the Ohio learning network. For each consortium, 35109
the chancellor shall designate a college or university to serve 35110
as that consortium's fiscal agent, financial officer, and 35111
employer. Any funds appropriated for the consortia shall be 35112
distributed to the fiscal agents for the operation of the 35113
consortia. The chancellor may restructure existing consortia, 35114
appointed under this division, in accordance with procedures 35115
adopted under divisions (O) (1) to (5) of this section. 35116

A consortium shall follow the rules of the college or 35117
university that serves as its fiscal agent, except that when 35118
making a purchase with appropriated funds of any product that 35119
includes semiconductors, a consortium shall conduct the purchase 35120
in accordance with rules adopted by the director of 35121
administrative services under division (B) of section 125.09 of 35122
the Revised Code for giving preference to Buy Ohio products. 35123

~~(U) Adopt rules establishing advisory duties and 35124
responsibilities of the department of higher education not 35125
otherwise prescribed by law; 35126~~

~~(V)~~ Respond to requests for information about higher education from members of the general assembly and direct staff to conduct research or analysis as needed for this purpose.

Notwithstanding any provision of law to the contrary, and to reduce duplicative reporting, the chancellor may use data or information submitted to the higher education information system and other public data exchanges, as determined appropriate, to fulfill reporting requirements, provided the information is materially consistent.

Sec. 3333.052. (A) The chancellor of higher education, with the assistance of the department of job and family services, shall establish the community college acceleration program to enhance financial, academic, and personal support services to students in need of support from local social service agencies. The program shall identify the services and resources available to assist eligible students enrolled in a community college established under Chapter 3354., a state community college established under Chapter 3358., a technical college established under Chapter 3357., or a university branch campus established under Chapter 3355. of the Revised Code.

(B) The chancellor shall adopt rules to ~~administer the program. The rules shall specify~~ the types of services provided by the program, which may include any of the following:

- (1) Comprehensive and personalized advisement;
- (2) Career counseling;
- (3) Tutoring;
- (4) Tuition waivers;
- (5) Financial assistance to defray the costs of

transportation and textbooks. 35155

Sec. 3333.073. The chancellor of higher education may 35156
require a state institution of higher education, as defined in 35157
section 3345.011 of the Revised Code, to conduct a viability 35158
analysis of any program offered at that institution and submit 35159
the findings of the analysis to the chancellor, if the 35160
chancellor determines that the program has a low completion 35161
rate, low enrollment rate, or meets other criteria determined 35162
relevant by the chancellor. ~~The chancellor may adopt rules to~~ 35163
~~implement this section.~~ 35164

Sec. 3333.125. (A) As used in this section: 35165

(1) "Eligible student" means an individual who satisfies 35166
all of the following: 35167

(a) The individual is an Ohio resident. 35168

(b) The individual is enrolled in an eligible school. 35169

(c) The individual has passed a drug test. 35170

(d) The individual does not have more than three moving 35171
violations in two consecutive years. If an individual who the 35172
eligible school has determined is an eligible student has three 35173
moving violations in two consecutive years while participating 35174
in the program, the individual shall no longer be considered 35175
eligible for continued participation in the program. 35176

(e) The individual has not plead guilty to or been 35177
convicted of operating a vehicle under the influence of alcohol 35178
or a drug of abuse under section 4511.19 of the Revised Code in 35179
the past twelve months. If an individual who the eligible school 35180
has determined is an eligible student pleads guilty to or is 35181
convicted of operating a vehicle under the influence of alcohol 35182

or a drug of abuse while participating in the program, the 35183
individual shall no longer be considered eligible for continued 35184
participation in the program. 35185

(f) The individual meets any additional eligibility 35186
criteria established under rules adopted by the chancellor, in 35187
consultation with the director of public safety, under division 35188
(F) of this section. 35189

(2) "Eligible school" means either of the following: 35190

(a) A commercial driver training school certified by the 35191
director of public safety as holding a license issued pursuant 35192
to section 4508.03 or 4508.09 of the Revised Code, rules adopted 35193
under either of those sections, and other necessary standards 35194
and procedures as determined by the director; 35195

(b) A program exempted from licensure by the director of 35196
public safety under section 4508.07 of the Revised Code but 35197
approved to be a commercial driver training school by the 35198
chancellor and the director for purposes of the student aid 35199
program at any of the following: 35200

(i) A state institution of higher education, as defined in 35201
section 3345.011 of the Revised Code; 35202

(ii) A career college or school in this state that holds a 35203
certificate of registration from the state board of career 35204
colleges and schools under Chapter 3332. of the Revised Code; 35205

(iii) A private, nonprofit institution in this state that 35206
holds a certificate of authorization pursuant to Chapter 1713. 35207
of the Revised Code; 35208

(iv) A private institution exempt from regulation under 35209
Chapter 3332. of the Revised Code as prescribed in section 35210

3333.046 of the Revised Code, if the program has a certificate 35211
of authorization pursuant to Chapter 1713. of the Revised Code; 35212

(v) A career-technical center, joint vocational school 35213
district, comprehensive career-technical center, or compact 35214
career-technical center offering adult training. 35215

No commercial driver training school that charges 35216
employers recruiting fees shall be certified under this 35217
division. 35218

(3) "Employed in this state" means either of the 35219
following: 35220

(a) An individual is employed as a truck driver by an 35221
entity that has a valid mailing address in the state. 35222

(b) An individual is self-employed as a truck driver using 35223
a valid mailing address in the state. 35224

(4) "Moving violation" has the same meaning as in section 35225
4510.01 of the Revised Code. 35226

(B) The commercial truck driver student aid program is 35227
hereby established. Under the program, the chancellor of higher 35228
education shall make awards to eligible schools. Schools that 35229
receive such awards shall distribute to an eligible student who 35230
commits to reside in and be employed in this state for a minimum 35231
of one year upon completion of a commercial driver training 35232
program a combination of a grant and a loan in the amounts 35233
prescribed by the chancellor under division (D) of this section 35234
to pay for the costs of a commercial driver training program at 35235
an eligible school. 35236

(C) There is hereby established in the state treasury the 35237
commercial truck driver student aid fund, which shall consist of 35238

funds appropriated by the general assembly for purposes of this 35239
section and funds received as repayment for loans awarded under 35240
this section. 35241

The fund shall be used by the chancellor for grants and 35242
loans made under this section and for expenses of creating and 35243
administering the program. 35244

(D) (1) The chancellor shall determine the grant and loan 35245
amount awarded to an eligible student. 35246

Except as provided in division (D) (2) of this section, the 35247
chancellor also shall award a loan to an eligible student in the 35248
same amount as the grant. A loan for an eligible student's 35249
program costs under this section shall not exceed ten thousand 35250
dollars. The total amount of a grant and a loan awarded to an 35251
eligible student under this section shall not exceed the cost of 35252
tuition and related expenses for an eligible school's commercial 35253
driver training program. 35254

(2) If, for any academic year, the amounts available for 35255
support of the program are inadequate to provide grants and 35256
loans to all eligible students who apply for participation or 35257
are participating in the program, the chancellor shall 35258
proportionately reduce the amount of each grant and loan to be 35259
awarded for the academic year. 35260

(E) (1) The chancellor shall be responsible for making 35261
deposits and withdrawals and maintaining records pertaining to 35262
the student aid program. 35263

(2) Each eligible student who accepts a grant or loan 35264
under division (B) of this section shall sign a promissory note 35265
payable to the state in the event the student fails to do either 35266
of the following: 35267

(a) Satisfy the residency and employment requirement under that division;	35268 35269
(b) Complete the commercial driver training program in which the student was enrolled.	35270 35271
(3) The amount payable under the note shall be the amount of the grant or loan accepted by the student plus interest accrued annually beginning either one calendar year after the student completes a commercial driver training program or immediately after the student disenrolls from, or does not complete, a commercial driver training program. The chancellor shall determine the interest rate and period of repayment under the note. The chancellor may consult with the attorney general and the treasurer of state when determining the interest rate and period of repayment.	35272 35273 35274 35275 35276 35277 35278 35279 35280 35281
(4) The note shall stipulate that the obligation to make payments under the note is canceled once either of the following applies to the student:	35282 35283 35284
(a) The student completes a commercial driver training program and meets the residency and employment requirement under division (B) of this section.	35285 35286 35287
(b) The student dies or becomes totally and permanently disabled.	35288 35289
(F) The chancellor, in consultation with the director of public safety, shall adopt rules, in accordance with Chapter 119. of the Revised Code, necessary for the operation of the program, including rules for all of the following:	35290 35291 35292 35293
(1) Terms and conditions for loans under the program;	35294
(2) Requirements for certification of commercial driver	35295

training schools; 35296

(3) Additional eligibility criteria that the chancellor determines necessary for individuals participating in the program. 35297
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Sec. 3333.126. (A) As used in this section, "eligible student" means a student to whom all of the following apply: 35300
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(1) The student receives an Ohio college opportunity grant under section 3333.122 of the Revised Code. 35302
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(2) The student has completed at least two years of a bachelor's degree program. 35304
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(3) The student is making progress toward completing the student's bachelor's degree program. 35306
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(B) In addition to the Ohio college opportunity grant a student is awarded under section 3333.122 of the Revised Code, the chancellor shall award an eligible student with a supplemental grant. Funding for this supplemental grant shall be paid for from funds appropriated for grants awarded under section 3333.122 of the Revised Code. Supplemental grants awarded under this section shall be subject to the same requirements as a grant awarded under section 3333.122 of the Revised Code, including divisions (D) (1) and (E) of that section. 35308
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The chancellor shall award supplemental grants under this section only if the chancellor determines that sufficient funds remain for that purpose after the chancellor awards grants under section 3333.122 of the Revised Code. 35318
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(C) The chancellor shall adopt rules to ~~implement this section. The rules shall include~~ establish a method to calculate 35322
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supplemental grant amounts. 35324

Sec. 3333.127. (A) As used in this section: 35325

(1) "Cost of attendance" has the same meaning as in 20 35326
U.S.C. 108711. 35327

(2) "Eligible student" means a student to whom all of the 35328
following apply: 35329

(a) The student is a resident of this state under rules 35330
adopted by the chancellor of higher education under section 35331
3333.31 of the Revised Code. 35332

(b) The student has not attained a bachelor's degree from 35333
a qualifying institution or an institution of higher education 35334
in another state prior to applying for a grant under this 35335
section. 35336

(c) The student, while in good standing, disenrolled from 35337
a qualifying institution and did not transfer to a qualifying 35338
institution or an institution of higher education in another 35339
state in the two semesters or eight months immediately following 35340
the student's disenrollment. For the purposes of this division, 35341
"good standing" includes being in good academic standing and not 35342
having a record of disciplinary issues, including being 35343
suspended or expelled from the qualifying institution. 35344

Qualifying institutions that do not use a semester 35345
calendar shall use eight months as the metric for determining a 35346
student's disenrollment period. 35347

(d) Subject to division (A)(2)(c) of this section, the 35348
student enrolls in a qualifying institution within five years of 35349
disenrolling from the qualifying institution. 35350

(e) The student is not enrolled in the college credit plus 35351

program established under Chapter 3365. of the Revised Code. 35352

(f) The student meets any other eligibility criteria 35353
determined necessary by the chancellor. 35354

(3) "Qualifying institution" means any of the following: 35355

(a) A state institution of higher education, as defined in 35356
section 3345.011 of the Revised Code; 35357

(b) A private nonprofit institution of higher education 35358
that holds a certificate of authorization pursuant to Chapter 35359
1713. of the Revised Code; 35360

(c) An institution with a certificate of registration from 35361
the state board of career colleges and schools under Chapter 35362
3332. of the Revised Code; 35363

(d) A private institution exempt from regulation under 35364
Chapter 3332. of the Revised Code as prescribed in section 35365
3333.046 of the Revised Code; 35366

(e) An Ohio technical center, as defined in section 35367
3333.94 of the Revised Code. 35368

(B) The chancellor shall establish the second chance grant 35369
program. Under the program, the chancellor shall award a one- 35370
time grant of not more than three thousand dollars to each 35371
eligible student approved to participate in the program. 35372

(C) Eligible students shall apply to participate in the 35373
program in a form and manner prescribed by the chancellor. The 35374
chancellor shall approve each applicant who is enrolled in a 35375
qualifying institution and who has a cost of attendance 35376
remaining for the academic year in which the application is 35377
approved after all other financial aid for which that applicant 35378
qualifies has been applied to the applicant's account at the 35379

institution. The chancellor shall approve applications in the 35380
order in which they are received. 35381

(D) The chancellor shall pay grants to the qualifying 35382
institution in which a participant is enrolled in the academic 35383
year in which the participant's application is approved. The 35384
qualifying institution shall apply the grant to a participant's 35385
cost of attendance for that academic year. If any amount of the 35386
grant remains after it is applied to the participant's cost of 35387
attendance for that year, the qualifying institution shall apply 35388
that remaining amount to the participant's cost of attendance 35389
for any other academic year in which the student is enrolled in 35390
the institution. The qualifying institution shall return to the 35391
chancellor any grant amount remaining after a participant 35392
graduates or disenrolls from the institution. 35393

(E) In each academic year, the chancellor shall submit to 35394
the general assembly, in accordance with section 101.68 of the 35395
Revised Code, a report that contains all of the following: 35396

(1) The number of eligible students participating in the 35397
program who received a grant in that academic year; 35398

(2) The qualifying institutions from which the 35399
participants disenrolled, as described in division (A) (2) (c) of 35400
this section; 35401

(3) The types of academic programs in which the 35402
participants were enrolled prior to disenrolling from qualifying 35403
institutions; 35404

(4) The types of academic programs in which participants 35405
were enrolled when they received grants under the program; 35406

(5) Information regarding how the grants were used; 35407

(6) If the participant completed a degree program with the grant. 35408
35409

(F) The second chance grant program fund is hereby created 35410
in the state treasury, to consist of such amounts designated for 35411
the purposes of the fund by the general assembly. The fund shall 35412
be administered by the chancellor and shall be used to pay 35413
grants under the program established under this section. The 35414
fund also may be used by the chancellor to implement and 35415
administer the second chance grant program. 35416

~~(G) The chancellor shall adopt rules to administer the 35417
program. 35418~~

Sec. 3333.13. As used in sections 3333.13 to ~~3333.137~~ 35419
3333.136 of the Revised Code, "employed as a service attorney" 35420
means any of the following: 35421

(A) An attorney who works a minimum of thirty-five hours 35422
per week for a minimum of forty-five weeks each service year and 35423
who is employed by any of the following: 35424

(1) The state public defender; 35425

(2) The prosecuting attorney of a county; 35426

(3) A county public defender commission; 35427

(4) A joint county public defender commission to represent 35428
indigent persons. 35429

(B) Counsel appointed by the court or selected by an 35430
indigent person under division (E) of section 120.16 or division 35431
(E) of section 120.26 of the Revised Code, who works in an area 35432
designated as an underserved community under section 3333.132 of 35433
the Revised Code for a minimum of five hundred twenty hours each 35434
service year. 35435

(C) An attorney engaged in the private practice of law, 35436
who practices civil law, and who works in an area designated as 35437
an underserved community under section 3333.132 of the Revised 35438
Code for a minimum of five hundred twenty hours each service 35439
year. 35440

Sec. 3333.136. The chancellor of higher education may 35441
accept gifts of money from any source for the implementation and 35442
administration of sections 3333.13 to ~~3333.137~~ 3333.136 of the 35443
Revised Code. The chancellor shall pay all gifts accepted under 35444
this section into the state treasury to the credit of the 35445
underserved community fund, which is hereby created. 35446

The chancellor shall pay all damages collected under 35447
division (B) (3) of section 3333.135 of the Revised Code into the 35448
state treasury to the credit of the rural practice incentive 35449
fund, which is hereby created. 35450

The chancellor shall use the underserved community fund 35451
and the rural practice incentive fund for the implementation and 35452
administration of sections 3333.13 to ~~3333.137~~ 3333.136 of the 35453
Revised Code. 35454

Sec. 3333.168. (A) As used in this section: 35455

(1) "Community college" means a community college 35456
established under Chapter 3354., a technical college established 35457
under Chapter 3357., or a state community college established 35458
under Chapter 3358. of the Revised Code. 35459

(2) "Dual enrollment" means concurrent enrollment by an 35460
individual at both a state university and a community college. 35461

(3) "Guaranteed pathway" means an articulation or transfer 35462
agreement included in the initiative established under this 35463
section that a state university and community college enter into 35464

in accordance with the policies and procedures adopted under 35465
section 3333.16 of the Revised Code. 35466

(4) "Joint academic programming" means a structured 35467
pathway curriculum agreement that permits an individual to 35468
attain a specific degree that has been jointly developed by at 35469
least one community college and at least one state university. 35470

(5) "State university" has the same meaning as in section 35471
3345.011 of the Revised Code. 35472

(B) Pursuant to section 3333.16 of the Revised Code, the 35473
chancellor of higher education shall establish the Ohio 35474
guaranteed transfer pathways initiative. Each state university 35475
shall participate in the initiative. Under the initiative, a 35476
student shall be permitted to do both of the following: 35477

(1) Complete an associate's degree at a community college 35478
and transfer those credits to a state university to continue 35479
making progress toward a bachelor's degree; 35480

(2) Transfer credits from a community college to a state 35481
university, regardless of the geographic proximity between the 35482
college and university. 35483

(C) Each state university shall enter into agreements with 35484
multiple community colleges to establish both joint academic 35485
programming and dual enrollment opportunities to assist students 35486
in completing their degrees in a timely and cost-effective 35487
manner. 35488

(D) Each community college and state university annually 35489
shall report to the Ohio articulation and transfer network 35490
oversight board established by the chancellor the number of 35491
guaranteed pathways and joint academic programming or dual 35492
enrollment opportunities the college or university offers. The 35493

oversight board shall compile that reported information and 35494
provide a summary of it to the chancellor. That summary shall 35495
include both of the following: 35496

(1) Confirmation that each community college and state 35497
university is in compliance with the requirements prescribed 35498
under this section; 35499

(2) Any recommendations necessary to enhance and 35500
strengthen the guaranteed pathways and joint academic 35501
programming or dual enrollment opportunities offered by 35502
community colleges and state universities. 35503

~~(E) The chancellor shall adopt rules to implement this 35504
section. 35505~~

Sec. 3333.28. (A) The chancellor of higher education shall 35506
establish the nurse education assistance program, the purpose of 35507
which shall be to make loans to students enrolled in 35508
prelicensure nurse education programs at institutions approved 35509
by the board of nursing under section 4723.06 of the Revised 35510
Code and postlicensure nurse education programs approved by the 35511
chancellor under section 3333.04 of the Revised Code or offered 35512
by an institution holding a certificate of authorization issued 35513
under Chapter 1713. of the Revised Code. The board of nursing 35514
shall assist the chancellor in administering the program. 35515

(B) There is hereby created in the state treasury the 35516
nurse education assistance fund, which shall consist of all 35517
money transferred to it pursuant to section 4743.05 of the 35518
Revised Code. The fund shall be used by the chancellor for loans 35519
made under division (A) of this section and for expenses of 35520
administering the loan program. 35521

(C) Between July 1, 2005, and January 1, 2012, the 35522

chancellor shall distribute money in the nurse education 35523
assistance fund in the following manner: 35524

(1) (a) Fifty per cent of available funds shall be awarded 35525
as loans to registered nurses enrolled in postlicensure nurse 35526
education programs described in division (A) of this section. To 35527
be eligible for a loan, the applicant shall provide the 35528
chancellor with a letter of intent to practice as a faculty 35529
member at a prelicensure or postlicensure program for nursing in 35530
this state upon completion of the applicant's academic program. 35531

(b) If the borrower of a loan under division (C) (1) (a) of 35532
this section secures employment as a faculty member of an 35533
approved nursing education program in this state within six 35534
months following graduation from an approved nurse education 35535
program, the chancellor may forgive the principal and interest 35536
of the student's loans received under division (C) (1) (a) of this 35537
section at a rate of twenty-five per cent per year, for a 35538
maximum of four years, for each year in which the borrower is so 35539
employed. A deferment of the service obligation, and other 35540
conditions regarding the forgiveness of loans may be granted as 35541
provided by the rules adopted under division (D) (7) of this 35542
section. 35543

(c) Loans awarded under division (C) (1) (a) of this section 35544
shall be awarded on the basis of the student's expected family 35545
contribution, with preference given to those applicants with the 35546
lowest expected family contribution. However, the chancellor may 35547
consider other factors the chancellor determines relevant in 35548
ranking the applications. 35549

(d) Each loan awarded to a student under division (C) (1) 35550
(a) of this section shall be not less than five thousand dollars 35551
per year. 35552

(2) Twenty-five per cent of available funds shall be 35553
awarded to students enrolled in prelicensure nurse education 35554
programs for registered nurses, as defined in section 4723.01 of 35555
the Revised Code. 35556

(3) Twenty-five per cent of available funds shall be 35557
awarded to students enrolled in nurse education programs as 35558
determined by the chancellor, with preference given to programs 35559
aimed at increasing enrollment in an area of need. 35560

After January 1, 2012, the chancellor shall determine the 35561
manner in which to distribute loans under this section. 35562

(D) Subject to the requirements specified in division (C) 35563
of this section, the chancellor shall adopt rules in accordance 35564
with Chapter 119. of the Revised Code establishing: 35565

(1) Eligibility criteria for receipt of a loan; 35566

(2) Loan application procedures; 35567

(3) The amounts in which loans may be made and the total 35568
amount that may be loaned to an individual; 35569

(4) The total amount of loans that can be made each year; 35570

(5) The percentage of the money in the fund that must 35571
remain in the fund at all times as a fund balance; 35572

(6) Interest and principal repayment schedules; 35573

(7) Conditions under which a portion of principal and 35574
interest obligations incurred by an individual under the program 35575
will be forgiven; 35576

(8) Conditions under which all or a portion of the 35577
principal and interest obligations incurred by an individual who 35578
is deployed on active duty outside of the state or who is the 35579

spouse of a person deployed on active duty outside of the state 35580
may be deferred or forgiven. 35581

(9) Ways that the program may be used to encourage 35582
individuals who are members of minority groups to enter the 35583
nursing profession. 35584

~~(10) Any other matters incidental to the operation of the 35585
program. 35586~~

(E) The obligation to repay a portion of the principal and 35587
interest on a loan made under this section shall be forgiven if 35588
the recipient of the loan meets the criteria for forgiveness 35589
established by division (C) (1) (b) of this section, in the case 35590
of loans awarded under division (C) (1) (a) of this section, or by 35591
the chancellor under the rule adopted under division (D) (7) of 35592
this section, in the case of other loans awarded under this 35593
section. 35594

(F) The obligation to repay all or a portion of the 35595
principal and interest on a loan made under this section may be 35596
deferred or forgiven if the recipient of the loan meets the 35597
criteria for deferment or forgiveness established by the 35598
chancellor under the rule adopted under division (D) (8) of this 35599
section. 35600

(G) The receipt of a loan under this section shall not 35601
affect a student's eligibility for assistance, or the amount of 35602
that assistance, granted under section 3333.122, 3333.22, 35603
3333.26, 5910.03, 5910.032, or 5919.34 of the Revised Code, but 35604
the rules of the chancellor may provide for taking assistance 35605
received under those sections into consideration when 35606
determining a student's eligibility for a loan under this 35607
section. 35608

(H) As used in this section, "active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

Sec. 3333.37. As used in sections 3333.37 to 3333.375 of the Revised Code, the following words and terms have the following meanings unless the context indicates a different meaning or intent:

(A) "Cost of attendance" means all costs of a student incurred in connection with a program of study at an eligible institution, as determined by the institution, including tuition; instructional fees; room and board; books, computers, and supplies; and other related fees, charges, and expenses.

(B) "Eligible institution" means one of the following:

(1) A state-assisted post-secondary educational institution within the state;

(2) A nonprofit institution of higher education within the state that holds a certificate of authorization issued under Chapter 1713. of the Revised Code, that is accredited by the appropriate regional and, when appropriate, professional accrediting associations within whose jurisdiction it falls, is authorized to grant a bachelor's degree or higher, and satisfies other conditions ~~as set forth in the policy guidelines;~~

(3) A private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code.

(C) "Eligible student" means either of the following:

(1) An undergraduate student who meets all of the

following:	35637
(a) Is a resident of this state;	35638
(b) Has graduated from any Ohio secondary school for which the director of education and workforce prescribes minimum standards in accordance with section 3301.07 of the Revised Code;	35639 35640 35641 35642
(c) Is attending and in good standing, or has been accepted for attendance, at any eligible institution as a full- time student to pursue a bachelor's degree.	35643 35644 35645
(2) A graduate student who is a resident of this state, and is attending and in good standing, or has been accepted for attendance, at any eligible institution.	35646 35647 35648
(D) "Fellowship" or "fellowship program" means the Ohio priority needs fellowship created by sections 3333.37 to 3333.375 of the Revised Code.	35649 35650 35651
(E) "Full-time student" has the meaning as defined by rule of the chancellor of higher education.	35652 35653
(F) "Ohio outstanding scholar" means a student who is the recipient of a scholarship under sections 3333.37 to 3333.375 of the Revised Code.	35654 35655 35656
(G) "Policy guidelines" means the rules adopted by the chancellor pursuant to section 3333.374 of the Revised Code.	35657 35658
(H) "Priority needs fellow" means a student who is the recipient of a fellowship under sections 3333.37 to 3333.375 of the Revised Code.	35659 35660 35661
(I) (H) "Priority needs field of study" means those academic majors and disciplines as determined by the chancellor	35662 35663

that support the purposes and intent of sections 3333.37 to 35664
3333.375 of the Revised Code as described in section 3333.371 of 35665
the Revised Code. 35666

~~(J)~~(I) "Scholarship" or "scholarship program" means the 35667
Ohio outstanding scholarship created by sections 3333.37 to 35668
3333.375 of the Revised Code. 35669

Sec. 3333.391. (A) As used in this section and in section 35670
3333.392 of the Revised Code: 35671

(1) "Academic year" shall be as defined by the chancellor 35672
of higher education. 35673

(2) "Hard-to-staff school" and "hard-to-staff subject" 35674
shall be as defined by the department of education and 35675
workforce. 35676

(3) "Parent" means the parent, guardian, or custodian of a 35677
qualified student. 35678

(4) "Qualified service" means teaching at a qualifying 35679
school. 35680

(5) "Qualifying school" means a hard-to-staff school 35681
district building or a school district building that has a 35682
persistently low performance rating, as determined jointly by 35683
the chancellor and the department of education and workforce, 35684
under section 3302.03 of the Revised Code at the time the 35685
recipient becomes employed by the district. 35686

(B) If the chancellor of higher education determines that 35687
sufficient funds are available from general revenue fund 35688
appropriations made to the department of higher education or to 35689
the chancellor, the chancellor and the department of education 35690
and workforce jointly may develop and agree on a plan for the 35691

Ohio teaching fellows program to promote and encourage high 35692
school seniors to enter and remain in the teaching profession. 35693
Upon agreement of such a plan, the chancellor shall establish 35694
and administer the program in conjunction with the department of 35695
education and workforce and with the cooperation of teacher 35696
training institutions. Under the program, the chancellor 35697
annually shall provide scholarships to students who commit to 35698
teaching in a qualifying school for a minimum of four years upon 35699
graduation from a teacher training program at a state 35700
institution of higher education or an Ohio nonprofit institution 35701
of higher education that has a certificate of authorization 35702
under Chapter 1713. of the Revised Code. The scholarships shall 35703
be for up to four years at the undergraduate level at an amount 35704
determined by the chancellor based on state appropriations. 35705

(C) The chancellor shall adopt a competitive process for 35706
awarding scholarships under the teaching fellows program, which 35707
shall include minimum grade point average and scores on national 35708
standardized tests for college admission. The process shall also 35709
give additional consideration to all of the following: 35710

(1) A person who has participated in the program described 35711
in division (A) of section 3333.39 of the Revised Code; 35712

(2) A person who plans to specialize in teaching students 35713
with special needs; 35714

(3) A person who plans to teach in the disciplines of 35715
science, technology, engineering, or mathematics. 35716

The chancellor shall require that all applicants to the 35717
teaching fellows program shall file a statement of service 35718
status in compliance with section 3345.32 of the Revised Code, 35719
if applicable, and that all applicants have not been convicted 35720

of, plead guilty to, or adjudicated a delinquent child for any violation listed in section 3333.38 of the Revised Code. 35721
35722

(D) Teaching fellows shall complete the four-year teaching commitment within not more than seven years after graduating from the teacher training program. Failure to fulfill the commitment shall convert the scholarship into a loan to be repaid under section 3333.392 of the Revised Code. 35723
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~~(E) The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer this section and section 3333.392 of the Revised Code.~~ 35728
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Sec. 3333.61. The chancellor of higher education shall establish and administer the choose Ohio first scholarship program. Under the program, the chancellor, subject to approval by the controlling board, shall make awards to state universities or colleges for programs and initiatives that recruit students and provide work-based learning opportunities in the fields of science, including health professions, technology, engineering, and mathematics to state universities or colleges, in order to enhance regional educational and economic strengths and meet the needs of the state's regional economies. Awards may be granted for programs and initiatives to be implemented by a state university or college alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or other public or private Ohio entities. If the chancellor makes an award to a program or initiative that is intended to be implemented by a state university or college in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may provide that some portion of the award be received directly by the collaborating universities or 35731
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colleges consistent with all terms of the choose Ohio first scholarship program. 35751
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The choose Ohio first scholarship program shall assign a number of scholarships to state universities and colleges to recruit Ohio residents as undergraduate or graduate students in the fields of science, technology, engineering, and mathematics, or in science, technology, engineering, or mathematics, education. The chancellor also may assign a number of choose Ohio first scholarships to state universities and colleges to recruit Ohio residents to enroll in certificate programs in the fields of science, technology, engineering, and mathematics. Choose Ohio first scholarships shall be awarded to each participating eligible student as a grant to the state university or college the student is attending and shall be reflected on the student's tuition bill. Choose Ohio first scholarships are student-centered grants from the state to students to use to attend a university or college and are not grants from the state to universities or colleges. 35753
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Notwithstanding any other provision of this section or sections 3333.62 to 3333.69 of the Revised Code, a nonpublic four-year Ohio institution of higher education may submit a proposal for choose Ohio first scholarships. If the chancellor awards a nonpublic institution scholarships, the nonpublic institution shall comply with all requirements of this section, ~~and sections 3333.62 to 3333.69 of the Revised Code, and the rules adopted under this section that apply to state universities or colleges awarded choose Ohio first scholarships.~~ 35769
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~~The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the program.~~ 35778
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Sec. 3333.70. (A) The chancellor of higher education shall 35780

establish and administer the Ohio higher education innovation 35781
grant program to promote educational excellence and economic 35782
efficiency throughout the state in order to stabilize or reduce 35783
student tuition rates at institutions of higher education. Under 35784
the program, the chancellor shall award grants to state 35785
institutions of higher education, as defined in section 3345.011 35786
of the Revised Code, and private nonprofit institutions for 35787
innovative projects that incorporate academic achievement and 35788
economic efficiencies. State institutions of higher education 35789
and private nonprofit institutions may apply for grants and 35790
initiate collaboration with other institutions of higher 35791
education, either public or private, on such projects. 35792

(B) The chancellor shall adopt rules to ~~administer the~~ 35793
~~program including, but not limited to, requirements~~ require that 35794
each grant application provides for all of the following: 35795

(1) A system by which to measure academic achievement and 35796
reductions in expenditures, both in funding and administration; 35797

(2) Demonstration of how the project will be sustained 35798
beyond the grant period and continue to provide substantial 35799
value and lasting impact; 35800

(3) Proof of commitment from all parties responsible for 35801
the implementation of the project; 35802

(4) Implementation of an ongoing evaluation process and 35803
improvement plans, as necessary. 35804

(C) As used in this section, "private nonprofit 35805
institution" means a nonprofit institution in this state that 35806
has a certificate of authorization pursuant to Chapter 1713. of 35807
the Revised Code. 35808

Sec. 3333.72. The chancellor of higher education shall 35809

establish and administer the Ohio co-op/internship program to 35810
promote and encourage cooperative education programs or 35811
internship programs at Ohio institutions of higher education for 35812
the purpose of recruiting Ohio students to stay in the state, 35813
and recruiting Ohio residents who left Ohio to attend out-of- 35814
state institutions of higher education back to Ohio institutions 35815
of higher education, to participate in high quality academic 35816
programs that use cooperative education programs or significant 35817
internship programs, in order to support the growth of Ohio's 35818
businesses by providing businesses with Ohio's most talented 35819
students and providing Ohio graduates with job opportunities 35820
with Ohio's growing companies. 35821

The chancellor, subject to approval by the controlling 35822
board, shall make awards to state institutions of higher 35823
education for new or existing programs and initiatives meeting 35824
the goals of the Ohio co-op/internship program. Awards may be 35825
granted for programs and initiatives to be implemented by a 35826
state institution of higher education alone or in collaboration 35827
with other state institutions of higher education or nonpublic 35828
Ohio universities and colleges. If the chancellor makes an award 35829
to a program or initiative that is intended to be implemented by 35830
a state institution of higher education in collaboration with 35831
other state institutions of higher education or nonpublic Ohio 35832
universities or colleges, the chancellor may provide that some 35833
portion of the award be received directly by the collaborating 35834
universities or colleges consistent with all terms of the Ohio 35835
co-op/internship program. 35836

The Ohio co-op/internship program shall support the 35837
creation and maintenance of high quality academic programs that 35838
utilize an intensive cooperative education or internship program 35839
for students at state institutions of higher education, or 35840

assign a number of scholarships to institutions to recruit Ohio residents as students in a high quality academic program, or both. If scholarships are included in an award to an institution of higher education, the scholarships shall be awarded to each participating eligible student as a grant to the state institution of higher education the student is attending and shall be reflected on the student's tuition bill.

Notwithstanding any other provision of this section or sections 3333.73 to 3333.79 of the Revised Code, an Ohio four-year nonpublic university or college may submit a proposal as lead applicant or co-lead applicant for an award under the Ohio co-op/internship program if the proposal is to be implemented in collaboration with a state institution of higher education. If the chancellor grants a nonpublic university or college an award, the nonpublic university or college shall comply with all requirements of this section, and sections 3333.73 to 3333.79 of the Revised Code, ~~and the rules adopted under this section that apply to state institutions of higher education that receive awards under the program.~~

~~The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the Ohio co-op/internship program.~~

Sec. 3333.88. Nothing in sections 3333.81 to ~~3333.87~~ 3333.86 of the Revised Code, or in rules implementing those sections, shall prohibit a school district, community school, STEM school, or college or university from offering an interactive distance learning course or other distance learning course using a computer-based method through any means other than the clearinghouse established and maintained under those sections.

Sec. 3333.90. (A) The chancellor of higher education shall 35871
establish a course and program sharing network that enables 35872
members of the university system of Ohio and adult career 35873
centers to share curricula for existing courses and academic 35874
programs with one another. The purpose of the network shall be 35875
to increase course availability across the state and to avoid 35876
unnecessary course duplication through the sharing of existing 35877
curricula. 35878

~~(B) The chancellor shall adopt rules to administer the 35879
course and program sharing network established under this 35880
section. 35881~~

~~(C) As used in this section, "member of the university 35882
system of Ohio" has the same meaning as in section 3345.011 of 35883
the Revised Code. 35884~~

Sec. 3345.024. (A) Beginning in the academic year that 35885
~~follows the effective date of this section~~ July 21, 2022, each 35886
state institution of higher education, as defined in section 35887
3345.011 of the Revised Code, annually shall prepare and post on 35888
its publicly accessible web site a report that includes at least 35889
all of the following information, to the extent practicable: 35890

(1) An itemized list of the estimated or actual charges of 35891
the instructional fees, general fees, special purpose fees, 35892
service charges, fines, and other fees or surcharges applicable 35893
to enrolled students; 35894

(2) The estimated or actual average cost of attendance; 35895

(3) Student degree completion rates; 35896

(4) Post-graduation student debt rates; 35897

(5) Post-graduation student loan default rates; 35898

(6) Post-graduation employment rates of students.	35899
(B) Each state institution of higher education annually shall submit to the chancellor of higher education, in a form and manner prescribed by the chancellor, the report prescribed under division (A) of this section. The chancellor shall post each report on the chancellor's web site.	35900 35901 35902 35903 35904
(C) The chancellor may adopt rules to implement this section.	35905 35906
Sec. 3345.27. (A) Each state university or college shall permit any person who is sixty years of age or older and who has resided in the state for at least one year to attend its courses and classes without charging that person a tuition or matriculation fee, provided the attendance is on a noncredit basis, is in courses where classroom space is available, and is approved by the instructors of the courses involved. The university or college may require payment of special fees, including any laboratory fees, if the fees are required of all students taking a course. Each university or college shall issue rules for determining the availability of classroom space and may issue such other rules as it considers necessary to implement this section, including rules exempting from the requirements of this section courses or classes for which special course or training prerequisites apply, in which physical demands upon students are inappropriate for imposition upon persons sixty years of age or older, or in which the number of participating regular students is insufficient to cover the university's or college's course-related expenses. A university or college also may extend to persons attending its courses and classes under this section any other student rights or privileges it considers appropriate.	35907 35908 35909 35910 35911 35912 35913 35914 35915 35916 35917 35918 35919 35920 35921 35922 35923 35924 35925 35926 35927 35928

(B) A state university or college may permit a person to attend its courses and classes and to receive credit for a course taken under the conditions set forth in division (A) of this section if that person's family income is less than two hundred per cent of the federal poverty guideline, as revised annually by the United States secretary of health and human services in accordance with section 673 of the "Community Services Block Grant Act," 95 Stat. 511 (1981) 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined. However, a person receiving credit for attending courses or classes under this division may be charged a tuition or matriculation fee in an amount no greater than the amount of any part-time student instructional grant awarded to that person by the state university or college in its discretion.

(C) For the purposes of this section, "state university or college" means any of the following:

(1) State universities referred to in section 3345.011 of the Revised Code;

(2) Community colleges created pursuant to Chapter 3354. of the Revised Code;

(3) University branches created pursuant to Chapter 3355. of the Revised Code;

(4) Technical colleges created pursuant to Chapter 3357. of the Revised Code;

(5) State community colleges created pursuant to Chapter 3358. of the Revised Code;

(6) Municipal educational institutions serving as affiliated units pursuant to section 3349.31 of the Revised

Code. 35958

Sec. 3345.28. The board of trustees of any state 35959
university, medical university, technical college, state 35960
community college, community college, or the board of trustees 35961
or managing authority of any university branch may establish and 35962
administer a faculty improvement program, under which any full- 35963
time faculty member with at least seven academic years of 35964
teaching service at the college, university, or branch may be 35965
granted professional leave for a period not to exceed one 35966
academic year to engage in further education, research, or any 35967
other purpose approved by the board. A board of trustees or 35968
managing authority that establishes such a program shall, by 35969
rule, adopt a definition of "academic years of teaching service" 35970
and of "full-time faculty member." 35971

No such board or authority shall pay any faculty member 35972
for or during a period of professional leave any salary 35973
exceeding the amount that would have been paid to such faculty 35974
member for performing the faculty member's regular duties during 35975
the period of the leave. No faculty member shall, by virtue of 35976
being on professional leave, suffer a reduction or termination 35977
of the faculty member's regular employee retirement or insurance 35978
benefits or of any other benefit or privilege being received as 35979
a faculty member at the college, university, or branch where the 35980
faculty member is employed. Whenever such a benefit would be 35981
reduced because of a reduction in the faculty member's salary 35982
during the period of professional leave, the faculty member 35983
shall be given a chance to have the benefit increased to its 35984
normal level, in accordance with rules adopted by the board of 35985
trustees or the managing authority. A faculty member who has 35986
been granted professional leave shall complete another seven 35987
years of service at the college, university, or branch at which 35988

the faculty member is employed before becoming eligible for 35989
another grant of professional leave at that college, university, 35990
or branch. Professional leave taken as part of a faculty 35991
improvement program established under this section shall not be 35992
deemed to be in lieu of released time or assigned duty in 35993
connection with a specific research, scholarly, or creative 35994
program. 35995

Boards of trustees and managing authorities may accept 35996
moneys from any person, political subdivision, or the federal 35997
government to support a faculty improvement program, ~~and may~~ 35998
~~establish such additional rules as are necessary to establish~~ 35999
~~and administer it.~~ 36000

Each grant of professional leave shall be in accordance 36001
with a professional improvement policy for professional leaves 36002
that has been approved by the board of trustees or the managing 36003
authority. No professional leave shall be granted that requires 36004
a compensating addition to the permanent faculty or staff of the 36005
college, university, or branch. No professional leave shall be 36006
approved unless a specific plan for the professional improvement 36007
of the faculty member while on leave has been submitted to and 36008
accepted by the president of the university, college, or branch. 36009
At the completion of the leave, the faculty member shall submit 36010
to the president a report detailing the attainments of the 36011
faculty member under this professional improvement plan. 36012

Sec. 3345.31. The boards of trustees of a state 36013
university, the board of trustees of the northeast Ohio medical 36014
university, the board of trustees of a technical college or 36015
community college district, and the board of control of the Ohio 36016
agricultural research and development center may establish 36017
compensation plans, including schedules of hourly rates, for the 36018

compensation of all employees ~~and may establish rules or~~ 36019
~~policies for the administration of their respective compensation~~ 36020
~~plans.~~ 36021

The provisions of this section do not apply to employees 36022
for whom the state employment relations board establishes 36023
appropriate bargaining units pursuant to section 4117.06 of the 36024
Revised Code. 36025

Sec. 3345.351. (A) As used in this section, "state 36026
university" has the same meaning as in section 3345.011 of the 36027
Revised Code. 36028

(B) Beginning two years after the ~~effective date of this~~ 36029
~~section~~ March 2, 2021, and every two years thereafter, each state 36030
university shall review the university's student records to 36031
identify any student to whom all of the following apply: 36032

(1) The student disenrolled from the state university 36033
within the five years immediately prior to the first review 36034
under this section. For each subsequent review under this 36035
section, the student disenrolled within two years immediately 36036
prior to that review. 36037

(2) The student has been disenrolled for four or more 36038
semesters, including summer sessions. 36039

(3) The student did not complete a bachelor's degree. 36040

(4) The student has a grade point average of 2.0 or higher 36041
on a 4.0 scale. 36042

(5) The student completed at least forty-five credit 36043
hours. 36044

(C) Each state university shall determine if each student 36045
identified in the review is eligible or close to being eligible 36046

for an associate degree from that university. If a student 36047
identified in the review is determined to be eligible or close 36048
to being eligible for an associate degree, the state university 36049
shall inform the student of such potential eligibility using the 36050
most recent contact information the university has on file. 36051

(D) Each state university shall report the findings of 36052
each review conducted under this section to the chancellor of 36053
higher education. 36054

~~(E) The chancellor shall adopt rules as necessary to 36055
implement this section. 36056~~

Sec. 3345.481. (A) As used in this section: 36057

(1) "Eligible student" means an undergraduate student 36058
enrolled in a bachelor's degree program at a state institution 36059
of higher education. 36060

(2) "Final two academic years" means the last two academic 36061
years of full-time study that a bachelor's degree program is 36062
typically designed to require, as determined by the chancellor 36063
of higher education. 36064

(3) "Requisite course" means a course that is necessary to 36065
complete an eligible student's bachelor's degree program, but 36066
that is not a general elective. 36067

(4) "State institution of higher education" has the same 36068
meaning as in section 3345.011 of the Revised Code. 36069

(B) The board of trustees of a state institution of higher 36070
education shall provide an eligible student with an 36071
accommodation prescribed under division (C) of this section if 36072
that student was unable to register for a requisite course in 36073
one of the student's final two academic years and all of the 36074

following apply: 36075

(1) The eligible student has not completed the requisite 36076
course prior to that academic year. 36077

(2) The eligible student was enrolled full time, as 36078
defined by the chancellor, in that academic year. 36079

(3) The eligible student was unable to register for the 36080
requisite course in that academic year because of either of the 36081
following: 36082

(a) The course was not offered by the state institution of 36083
higher education. 36084

(b) Circumstances beyond the eligible student's control 36085
made registration for the course unfeasible, as determined by 36086
the chancellor. 36087

(4) The eligible student successfully paid all general and 36088
instructional fees and did not receive a refund for the courses 36089
for which the student registered in that academic year at the 36090
start of that year. 36091

(5) The eligible student did not enroll in the maximum 36092
amount of credit hours in that academic year, as determined by 36093
the state institution of higher education. 36094

(C) A board of trustees shall offer an eligible student 36095
described in division (B) of this section one of the following 36096
accommodations: 36097

(1) The board of trustees shall waive the eligible 36098
student's general and instructional fees for the requisite 36099
course if the student successfully registers for that course in 36100
the next academic year in which the course is offered. However, 36101
a waiver of fees shall not grant an eligible student guaranteed 36102

or priority registration for that course. 36103

(2) The board of trustees shall reimburse the eligible 36104
student for any general and instructional fees the student paid 36105
in order to register for a course equivalent to the requisite 36106
course that is offered by an institution of higher education 36107
with a similar accreditation. To qualify for a reimbursement, 36108
the student must have registered for the equivalent course in 36109
the academic year in which the student was unable to register 36110
for the requisite course. 36111

(3) The board of trustees shall permit the eligible 36112
student to complete an independent study that meets specified 36113
guidelines in lieu of the requisite course in order to meet the 36114
requirements of the student's bachelor's degree program. 36115

~~(D) The chancellor shall establish rules to implement this 36116
section. 36117~~

Sec. 3345.57. (A) As used in this section, "state 36118
institution of higher education" has the same meaning as in 36119
section 3345.011 of the Revised Code. 36120

(B) A state institution of higher education may establish 36121
a program under which an employee of the institution may donate 36122
that employee's accrued but unused paid leave to another 36123
employee of the institution who has no accrued but unused paid 36124
leave and who has a critical need for it because of 36125
circumstances such as a serious illness or the serious illness 36126
of a member of the employee's immediate family. If a state 36127
institution of higher education establishes a leave donation 36128
program under this section, the institution shall adopt rules in 36129
accordance with section 111.15 of the Revised Code to ~~provide 36130
for the administration of the program. These rules shall 36131~~

~~include, but not be limited to, provisions that identify the~~ 36132
~~circumstances under which leave may be donated and that specify~~ 36133
~~the amount, types, and value of leave that may be donated.~~ 36134

Sec. 3349.03. The board of directors of a municipal 36135
university, college, or other educational institution, as to all 36136
matters not otherwise provided by law, has all the authority, 36137
power, and control vested in or belonging to such municipal 36138
corporation as to the sale, lease, management, and control of 36139
the estate, property, and funds, given, transferred, covenanted, 36140
or pledged to such municipal corporation for the trusts and 36141
purposes relating thereto and the government, conduct, and 36142
control of such institution. The board may, unless prohibited by 36143
the terms of the trust under which such estate or property is 36144
held, sell, or lease perpetually or for any less period and with 36145
or without a privilege of purchase at a fixed price, any part or 36146
the whole of any such estate or property, and on sale, or on an 36147
election to purchase under a lease containing a privilege to 36148
purchase, may convey or transfer such estate or property. If any 36149
lease with a privilege of purchase at a fixed price has 36150
previously been executed and delivered by the board, or any 36151
board preceding it in office, for any part or the whole of any 36152
such estate or property, such board shall, on an election to 36153
purchase under the lease, convey such premises. 36154

All instruments affecting real estate shall be executed on 36155
behalf of the board by such of its officers as it designates by 36156
resolution, authorizing the execution of such instrument, and 36157
all deeds so executed shall convey all the title of the board 36158
and of such municipal corporation in and to the real estate so 36159
conveyed. 36160

The board may: 36161

(A) Appoint a clerk and all agents proper and necessary 36162
for the care and administration of the trust property and the 36163
collection of the income, rents, and profits thereof; 36164

(B) Appoint the president, secretaries, professors, 36165
tutors, instructors, agents, and servants, necessary and proper 36166
for such institution and fix their compensation; 36167

(C) Provide all the necessary buildings, books, apparatus, 36168
means, and appliances; 36169

(D) Pass such bylaws, ~~rules, and regulations~~ concerning 36170
the president, secretaries, professors, tutors, instructors, 36171
agents, and servants, and the admission, government, and tuition 36172
of students as are wise and proper; 36173

(E) Delegate and commit the admission, government, 36174
management, and control of the students, courses of studies, 36175
discipline, and other internal affairs of such institution, by 36176
suitable bylaws, to a faculty which the board appoints from 36177
among the professors. 36178

Sec. 3352.07. The board of trustees of Wright ~~State~~ 36179
Universitystate university, in cooperation with Central ~~State~~ 36180
Universitystate university, shall create, organize, and provide 36181
for and maintain a ~~Collegecollege~~ of ~~Professional~~ 36182
Psychologyprofessional psychology. The board, in cooperation 36183
with the board of trustees of Central ~~State Universitystate~~ 36184
university, may negotiate for and receive conveyances and 36185
transfers of real and personal property for use by the college 36186
and may make and enter into all contracts and agreements 36187
necessary or incidental to the college's operation. The board of 36188
trustees of Wright ~~State Universitystate university~~ may grant 36189
the degree of doctor of psychology after approval by the board 36190

of regents ~~processes, prescribe rules for the effective~~ 36191
~~operation of the program,~~ and exercise such other powers as are 36192
~~necessary~~necessary for the efficient ~~management~~management of the 36193
college. 36194

The general assembly shall support the ~~College~~college of 36195
~~Professional Psychology~~professional psychology of Wright State- 36196
~~University~~state university by such sums and in such manner as it 36197
may provide, but the college may accept funds from other 36198
sources. 36199

Sec. 3365.034. (A) Notwithstanding anything to the 36200
contrary in the Revised Code, a student who is eligible to 36201
participate in the college credit plus program under section 36202
3365.03 or 3365.033 of the Revised Code may participate in the 36203
program during the summer term of a public or participating 36204
private college or an eligible out-of-state college 36205
participating in the program. 36206

Unless otherwise specified, if a student participates in 36207
the college credit plus program under this section, all 36208
requirements of the program shall apply. 36209

(B) (1) In order for a public secondary school student to 36210
participate under this section, the student shall meet the 36211
criteria in division (A) (1) of section 3365.03 of the Revised 36212
Code, except that the student or the student's parent shall 36213
inform the principal, or equivalent, of the student's school by 36214
the date designated by rule of the chancellor of higher 36215
education, pursuant to division (E) of this section, of the 36216
student's intent to participate in the program during the summer 36217
term. 36218

(2) In order for a nonpublic secondary school student, a 36219

nonchartered nonpublic secondary school student, or a home- 36220
educated student to participate under this section, the student 36221
shall meet the applicable criteria in division (A) (2) of section 36222
3365.03 of the Revised Code, except that the parent or guardian 36223
of a nonchartered nonpublic secondary school student or a home- 36224
educated student shall notify the department of education and 36225
workforce by the date designated by rule of the chancellor of 36226
higher education, pursuant to division (E) of this section, of 36227
the student's intent to participate in the program during the 36228
summer term. 36229

(C) If a participant under this section elects to have the 36230
college reimbursed under section 3365.07 of the Revised Code for 36231
courses taken under the program, the department shall reimburse 36232
the college in the same manner as for students who participate 36233
during the school year in accordance with that section, except 36234
that the department shall make the applicable payments each 36235
September, or as soon as possible thereafter. 36236

(D) Notwithstanding section 3327.01 of the Revised Code, 36237
the participant or the participant's parent or guardian shall be 36238
responsible for any transportation related to participation in 36239
the program during the summer term. 36240

(E) The chancellor of higher education, in accordance with 36241
Chapter 119. of the Revised Code and in consultation with the 36242
department of education and workforce, shall adopt rules ~~for the~~ 36243
~~administration of this section. The rules shall include~~ 36244
prescribing the dates by which the student or student's parent 36245
must provide notification of the student's intent to participate 36246
in the program during the summer term. 36247

Sec. 3375.01. A state library board is hereby created to 36248
be composed of five members to be appointed by the director of 36249

education and workforce. One member shall be appointed each year 36250
for a term of five years. No one is eligible to membership on 36251
the state library board who is or has been for a year previous 36252
to appointment a member of the state board of education. A 36253
member of the state library board shall not during the member's 36254
term of office be a member of the board of library trustees for 36255
any library in any subdivision in the state. Before entering on 36256
official duties, each member shall subscribe to the official 36257
oath of office. All vacancies on the state library board shall 36258
be filled by the director by appointment for the unexpired term. 36259
The members shall receive no compensation, but shall be paid 36260
their actual and necessary expenses incurred in the performance 36261
of their duties or in the conduct of authorized board business, 36262
within or without the state. 36263

At its regular meeting next prior to the beginning of each 36264
fiscal biennium, the state library board shall elect a president 36265
and vice-president each of whom shall serve for two years or 36266
until a successor is elected and qualified. 36267

The state library board is responsible for the state 36268
library of Ohio and a statewide program of development and 36269
coordination of library services, and its powers include the 36270
following: 36271

(A) Maintain the state library, holding custody of books, 36272
periodicals, pamphlets, films, recordings, papers, and other 36273
materials and equipment. The board may purchase or procure from 36274
an insurance company licensed to do business in this state 36275
policies of insurance insuring the members of the board and the 36276
officers, employees, and agents of the state library against 36277
liability on account of damage or injury to persons or property 36278
resulting from any act or omission of the board members, 36279

officers, employees, and agents of the state library in their 36280
official capacity. 36281

(B) Accept, receive, administer, and expend, in accordance 36282
with the terms thereof, any moneys, materials, or other aid 36283
granted, appropriated, or made available to it for library 36284
purposes, by the United States, or any of its agencies, or by 36285
any other source, public or private; 36286

(C) Administer such funds as the general assembly may make 36287
available to it for the improvement of public library services, 36288
interlibrary cooperation, or for other library purposes; 36289

(D) Contract with other agencies, organizations, 36290
libraries, library schools, boards of education, universities, 36291
public and private, within or without the state, for library 36292
services, facilities, research, or any allied or related 36293
purpose; 36294

(E) In accordance with Chapter 119. of the Revised Code, 36295
approve, disapprove, or modify resolutions for establishment of 36296
county district libraries, and approve, disapprove, or modify 36297
resolutions to determine the boundaries of such districts, along 36298
county lines or otherwise, and approve, disapprove, or modify 36299
resolutions to redefine boundaries, along county lines or 36300
otherwise, where questions subsequently arise as a result of 36301
school district consolidations; 36302

(F) Upon consolidation of two or more school districts and 36303
in accordance with Chapter 119. of the Revised Code, define and 36304
adjust the boundaries of the new public library district 36305
resulting from such consolidation and resolve any disputes or 36306
questions pertaining to the boundaries, organization, and 36307
operation of the new library district; 36308

(G) Upon application of one or more boards of library trustees and in accordance with Chapter 119. of the Revised Code, define, amend, and adjust the boundaries of the library districts making such application and the boundaries of adjacent library districts;

(H) Upon application of one or more boards of library trustees, or upon the state library board's own initiative, and in accordance with Chapter 119. of the Revised Code, define, amend, and adjust the boundaries of overlapping library districts to eliminate areas of overlap;

(I) Upon application of any private corporation or library association maintaining a free public library prior to September 4, 1947, and in accordance with Chapter 119. of the Revised Code, define, amend, and adjust the boundaries of a library district for the private corporation or library association for the sole purpose of preventing or eliminating areas of overlap with other library districts in relation to tax levies described in sections 5705.19, 5705.191, and 5705.21 of the Revised Code that are or may be levied in support of the private corporation or library association;

(J) Certify its actions relating to boundaries authorized in this section, to boards of election, taxing authorities, the boards of trustees of libraries affected, and other appropriate bodies;

(K) Encourage and assist the efforts of libraries and local governments to develop mutual and cooperative solutions to library service problems;

(L) Recommend to the governor and to the general assembly such changes in the law as will strengthen and improve library

services and operations; 36338

~~(M) In accordance with Chapter 119. of the Revised Code,~~ 36339
~~adopt such rules as are necessary for the carrying out of any~~ 36340
~~function imposed on it by law, and provide such rules as are~~ 36341
~~necessary for its government and the government of its~~ 36342
~~employees. The board may delegate Delegate to the state~~ 36343
librarian the management and administration of any function 36344
imposed on it by law. 36345

Sec. 3375.04. The state library shall be under the control 36346
and management of the state library board. ~~The board shall make-~~ 36347
~~and publish such rules and regulations for the operation and-~~ 36348
~~management of the library and for the use and location of the-~~ 36349
~~books and other property thereof as it deems necessary. The~~ 36350
board may establish such divisions and departments within the 36351
library as it deems necessary, and shall determine the number of 36352
the employees therein. 36353

Sec. 3379.04. The Ohio arts council may: 36354

(A) Within the limits of available funds, employ and fix 36355
the compensation of a staff director and such other personnel as 36356
will facilitate the work of the council. The staff director 36357
shall serve at the pleasure of the council, and other employees 36358
shall serve at the pleasure of the director. 36359

(B) Establish and appoint members to advisory committees 36360
to advise and assist it in the performance of its functions, and 36361
it may, within the limits of available funds, contract with such 36362
consultants as may facilitate its work. 36363

~~(C) Adopt such rules as are necessary for administration-~~ 36364
~~of Chapter 3379. of the Revised Code.~~ 36365

~~(D) Award and administer grants to carry out the purposes~~ 36366

of this chapter. 36367

Sec. 3517.10. (A) Except as otherwise provided in this 36368
division, every campaign committee, political action committee, 36369
legislative campaign fund, political party, and political 36370
contributing entity that made or received a contribution or made 36371
an expenditure in connection with the nomination or election of 36372
any candidate or in connection with any ballot issue or question 36373
at any election held or to be held in this state shall file, on 36374
a form prescribed under this section or by electronic means of 36375
transmission as provided in this section and section 3517.106 of 36376
the Revised Code, a full, true, and itemized statement, made 36377
under penalty of election falsification, setting forth in detail 36378
the contributions and expenditures, not later than four p.m. of 36379
the following dates: 36380

(1) The twelfth day before the election to reflect 36381
contributions received and expenditures made from the close of 36382
business on the last day reflected in the last previously filed 36383
statement, if any, to the close of business on the twentieth day 36384
before the election; 36385

(2) The thirty-eighth day after the election to reflect 36386
the contributions received and expenditures made from the close 36387
of business on the last day reflected in the last previously 36388
filed statement, if any, to the close of business on the seventh 36389
day before the filing of the statement; 36390

(3) The last business day of January of every year to 36391
reflect the contributions received and expenditures made from 36392
the close of business on the last day reflected in the last 36393
previously filed statement, if any, to the close of business on 36394
the last day of December of the previous year; 36395

(4) The last business day of July of every year to reflect 36396
the contributions received and expenditures made from the close 36397
of business on the last day reflected in the last previously 36398
filed statement, if any, to the close of business on the last 36399
day of June of that year. 36400

A campaign committee shall only be required to file the 36401
statements prescribed under divisions (A) (1) and (2) of this 36402
section in connection with the nomination or election of the 36403
committee's candidate. 36404

The statement required under division (A) (1) of this 36405
section shall not be required of any campaign committee, 36406
political action committee, legislative campaign fund, political 36407
party, or political contributing entity that has received 36408
contributions of less than one thousand dollars and has made 36409
expenditures of less than one thousand dollars at the close of 36410
business on the twentieth day before the election. Those 36411
contributions and expenditures shall be reported in the 36412
statement required under division (A) (2) of this section. 36413

If an election to select candidates to appear on the 36414
general election ballot is held within sixty days before a 36415
general election, the campaign committee of a successful 36416
candidate in the earlier election may file the statement 36417
required by division (A) (1) of this section for the general 36418
election instead of the statement required by division (A) (2) of 36419
this section for the earlier election if the pregeneral election 36420
statement reflects the status of contributions and expenditures 36421
for the period twenty days before the earlier election to twenty 36422
days before the general election. 36423

If a person becomes a candidate less than twenty days 36424
before an election, the candidate's campaign committee is not 36425

required to file the statement required by division (A) (1) of 36426
this section. 36427

No statement under division (A) (3) of this section shall 36428
be required for any year in which a campaign committee, 36429
political action committee, legislative campaign fund, political 36430
party, or political contributing entity is required to file a 36431
postgeneral election statement under division (A) (2) of this 36432
section. However, a statement under division (A) (3) of this 36433
section may be filed, at the option of the campaign committee, 36434
political action committee, legislative campaign fund, political 36435
party, or political contributing entity. 36436

No campaign committee of a candidate for the office of 36437
chief justice or justice of the supreme court, and no campaign 36438
committee of a candidate for the office of judge of any court in 36439
this state, shall be required to file a statement under division 36440
(A) (4) of this section. 36441

Except as otherwise provided in this paragraph and in the 36442
next paragraph of this section, the only campaign committees 36443
required to file a statement under division (A) (4) of this 36444
section are the campaign committee of a statewide candidate and 36445
the campaign committee of a candidate for county office. The 36446
campaign committee of a candidate for any other nonjudicial 36447
office is required to file a statement under division (A) (4) of 36448
this section if that campaign committee receives, during that 36449
period, contributions exceeding ten thousand dollars. 36450

No statement under division (A) (4) of this section shall 36451
be required of a campaign committee, a political action 36452
committee, a legislative campaign fund, a political party, or a 36453
political contributing entity for any year in which the campaign 36454
committee, political action committee, legislative campaign 36455

fund, political party, or political contributing entity is 36456
required to file a postprimary election statement under division 36457
(A) (2) of this section. However, a statement under division (A) 36458
(4) of this section may be filed at the option of the campaign 36459
committee, political action committee, legislative campaign 36460
fund, political party, or political contributing entity. 36461

No statement under division (A) (3) or (4) of this section 36462
shall be required if the campaign committee, political action 36463
committee, legislative campaign fund, political party, or 36464
political contributing entity has no contributions that it has 36465
received and no expenditures that it has made since the last 36466
date reflected in its last previously filed statement. However, 36467
the campaign committee, political action committee, legislative 36468
campaign fund, political party, or political contributing entity 36469
shall file a statement to that effect, on a form prescribed 36470
under this section and made under penalty of election 36471
falsification, on the date required in division (A) (3) or (4) of 36472
this section, as applicable. 36473

The campaign committee of a statewide candidate shall file 36474
a monthly statement of contributions received during each of the 36475
months of July, August, and September in the year of the general 36476
election in which the candidate seeks office. The campaign 36477
committee of a statewide candidate shall file the monthly 36478
statement not later than three business days after the last day 36479
of the month covered by the statement. During the period 36480
beginning on the nineteenth day before the general election in 36481
which a statewide candidate seeks election to office and 36482
extending through the day of that general election, each time 36483
the campaign committee of the joint candidates for the offices 36484
of governor and lieutenant governor or of a candidate for the 36485
office of secretary of state, auditor of state, treasurer of 36486

state, or attorney general receives a contribution from a 36487
contributor that causes the aggregate amount of contributions 36488
received from that contributor during that period to equal or 36489
exceed ten thousand dollars and each time the campaign committee 36490
of a candidate for the office of chief justice or justice of the 36491
supreme court receives a contribution from a contributor that 36492
causes the aggregate amount of contributions received from that 36493
contributor during that period to exceed ten thousand dollars, 36494
the campaign committee shall file a two-business-day statement 36495
reflecting that contribution. Contributions reported on a two- 36496
business-day statement required to be filed by a campaign 36497
committee of a statewide candidate in a primary election shall 36498
also be included in the postprimary election statement required 36499
to be filed by that campaign committee under division (A) (2) of 36500
this section. A two-business-day statement required by this 36501
paragraph shall be filed not later than two business days after 36502
receipt of the contribution. The statements required by this 36503
paragraph shall be filed in addition to any other statements 36504
required by this section. 36505

Subject to the secretary of state having implemented, 36506
tested, and verified the successful operation of any system the 36507
secretary of state prescribes pursuant to divisions (C) (6) (b) 36508
and (D) (6) of this section and division (F) (1) of section 36509
3517.106 of the Revised Code for the filing of campaign finance 36510
statements by electronic means of transmission, a campaign 36511
committee of a statewide candidate shall file a two-business-day 36512
statement under the preceding paragraph by electronic means of 36513
transmission if the campaign committee is required to file a 36514
pre-election, postelection, or monthly statement of 36515
contributions and expenditures by electronic means of 36516
transmission under this section or section 3517.106 of the 36517

Revised Code. 36518

If a campaign committee or political action committee has 36519
no balance on hand and no outstanding obligations and desires to 36520
terminate itself, it shall file a statement to that effect, on a 36521
form prescribed under this section and made under penalty of 36522
election falsification, with the official with whom it files a 36523
statement under division (A) of this section after filing a 36524
final statement of contributions and a final statement of 36525
expenditures, if contributions have been received or 36526
expenditures made since the period reflected in its last 36527
previously filed statement. 36528

(B) Except as otherwise provided in division (C) (7) of 36529
this section, each statement required by division (A) of this 36530
section shall contain the following information: 36531

(1) The full name and address of each campaign committee, 36532
political action committee, legislative campaign fund, political 36533
party, or political contributing entity, including any treasurer 36534
of the committee, fund, party, or entity, filing a contribution 36535
and expenditure statement; 36536

(2) (a) In the case of a campaign committee, the 36537
candidate's full name and address; 36538

(b) In the case of a political action committee, the 36539
registration number assigned to the committee under division (D) 36540
(1) of this section. 36541

(3) The date of the election and whether it was or will be 36542
a general, primary, or special election; 36543

(4) A statement of contributions received, which shall 36544
include the following information: 36545

(a) The month, day, and year of the contribution; 36546

(b) (i) The full name and address of each person, political 36547
party, campaign committee, legislative campaign fund, political 36548
action committee, or political contributing entity from whom 36549
contributions are received and the registration number assigned 36550
to the political action committee under division (D) (1) of this 36551
section. The requirement of filing the full address does not 36552
apply to any statement filed by a state or local committee of a 36553
political party, to a finance committee of such committee, or to 36554
a committee recognized by a state or local committee as its 36555
fund-raising auxiliary. Notwithstanding division (F) of this 36556
section, the requirement of filing the full address shall be 36557
considered as being met if the address filed is the same address 36558
the contributor provided under division (E) (1) of this section. 36559

(ii) If a political action committee, political 36560
contributing entity, legislative campaign fund, or political 36561
party that is required to file campaign finance statements by 36562
electronic means of transmission under section 3517.106 of the 36563
Revised Code or a campaign committee of a statewide candidate or 36564
candidate for the office of member of the general assembly 36565
receives a contribution from an individual that exceeds one 36566
hundred dollars, the name of the individual's current employer, 36567
if any, or, if the individual is self-employed, the individual's 36568
occupation and the name of the individual's business, if any; 36569

(iii) If a campaign committee of a statewide candidate or 36570
candidate for the office of member of the general assembly 36571
receives a contribution transmitted pursuant to section 3599.031 36572
of the Revised Code from amounts deducted from the wages and 36573
salaries of two or more employees that exceeds in the aggregate 36574
one hundred dollars during any one filing period under division 36575

(A) (1), (2), (3), or (4) of this section, the full name of the employees' employer and the full name of the labor organization of which the employees are members, if any.

(c) A description of the contribution received, if other than money;

(d) The value in dollars and cents of the contribution;

(e) A separately itemized account of all contributions and expenditures regardless of the amount, except a receipt of a contribution from a person in the sum of twenty-five dollars or less at one social or fund-raising activity and a receipt of a contribution transmitted pursuant to section 3599.031 of the Revised Code from amounts deducted from the wages and salaries of employees if the contribution from the amount deducted from the wages and salary of any one employee is twenty-five dollars or less aggregated in a calendar year. An account of the total contributions from each social or fund-raising activity shall include a description of and the value of each in-kind contribution received at that activity from any person who made one or more such contributions whose aggregate value exceeded two hundred fifty dollars and shall be listed separately, together with the expenses incurred and paid in connection with that activity. A campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity shall keep records of contributions from each person in the amount of twenty-five dollars or less at one social or fund-raising activity and contributions from amounts deducted under section 3599.031 of the Revised Code from the wages and salary of each employee in the amount of twenty-five dollars or less aggregated in a calendar year. No continuing association that is recognized by a state or local committee of

a political party as an auxiliary of the party and that makes a contribution from funds derived solely from regular dues paid by members of the auxiliary shall be required to list the name or address of any members who paid those dues.

Contributions that are other income shall be itemized separately from all other contributions. The information required under division (B)(4) of this section shall be provided for all other income itemized. As used in this paragraph, "other income" means a loan, investment income, or interest income.

(f) In the case of a campaign committee of a state elected officer, if a person doing business with the state elected officer in the officer's official capacity makes a contribution to the campaign committee of that officer, the information required under division (B)(4) of this section in regard to that contribution, which shall be filed together with and considered a part of the committee's statement of contributions as required under division (A) of this section but shall be filed on a separate form provided by the secretary of state. As used in this division:

(i) "State elected officer" has the same meaning as in section 3517.092 of the Revised Code.

(ii) "Person doing business" means a person or an officer of an entity who enters into one or more contracts with a state elected officer or anyone authorized to enter into contracts on behalf of that officer to receive payments for goods or services, if the payments total, in the aggregate, more than five thousand dollars during a calendar year.

(5) A statement of expenditures which shall include the following information:

- (a) The month, day, and year of the expenditure; 36635
- (b) The full name and address of each person, political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity to whom the expenditure was made and the registration number assigned to the political action committee under division (D) (1) of this section; 36636
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- (c) The object or purpose for which the expenditure was made; 36642
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- (d) The amount of each expenditure. 36644
- (C) (1) The statement of contributions and expenditures shall be signed by the person completing the form. If a statement of contributions and expenditures is filed by electronic means of transmission pursuant to this section or section 3517.106 of the Revised Code, the electronic signature of the person who executes the statement and transmits the statement by electronic means of transmission, as provided in division (F) of section 3517.106 of the Revised Code, shall be attached to or associated with the statement and shall be binding on all persons and for all purposes under the campaign finance reporting law as if the signature had been handwritten in ink on a printed form. 36645
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- (2) The person filing the statement, under penalty of election falsification, shall include with it a list of each anonymous contribution, the circumstances under which it was received, and the reason it cannot be attributed to a specific donor. 36657
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- (3) Each statement of a campaign committee of a candidate who holds public office shall contain a designation of each 36662
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contributor who is an employee in any unit or department under 36664
the candidate's direct supervision and control. In a space 36665
provided in the statement, the person filing the statement shall 36666
affirm that each such contribution was voluntarily made. 36667

(4) A campaign committee that did not receive 36668
contributions or make expenditures in connection with the 36669
nomination or election of its candidate shall file a statement 36670
to that effect, on a form prescribed under this section and made 36671
under penalty of election falsification, on the date required in 36672
division (A) (2) of this section. 36673

(5) The campaign committee of any person who attempts to 36674
become a candidate and who, for any reason, does not become 36675
certified in accordance with Title XXXV of the Revised Code for 36676
placement on the official ballot of a primary, general, or 36677
special election to be held in this state, and who, at any time 36678
prior to or after an election, receives contributions or makes 36679
expenditures, or has given consent for another to receive 36680
contributions or make expenditures, for the purpose of bringing 36681
about the person's nomination or election to public office, 36682
shall file the statement or statements prescribed by this 36683
section and a termination statement, if applicable. Division (C) 36684
(5) of this section does not apply to any person with respect to 36685
an election to the offices of member of a county or state 36686
central committee, presidential elector, or delegate to a 36687
national convention or conference of a political party. 36688

(6) (a) The statements required to be filed under this 36689
section shall specify the balance in the hands of the campaign 36690
committee, political action committee, legislative campaign 36691
fund, political party, or political contributing entity and the 36692
disposition intended to be made of that balance. 36693

(b) The secretary of state shall prescribe the form for 36694
all statements required to be filed under this section and shall 36695
furnish the forms to the boards of elections in the several 36696
counties. The boards of elections shall supply printed copies of 36697
those forms without charge. The secretary of state shall 36698
prescribe the appropriate methodology, protocol, and data file 36699
structure for statements required or permitted to be filed by 36700
electronic means of transmission to the secretary of state or a 36701
board of elections under division (A) of this section, division 36702
(E) of section 3517.106, division (D) of section 3517.1011, 36703
division (B) of section 3517.1012, division (C) of section 36704
3517.1013, and divisions (D) and (I) of section 3517.1014 of the 36705
Revised Code. Subject to division (A) of this section, division 36706
(E) of section 3517.106, division (D) of section 3517.1011, 36707
division (B) of section 3517.1012, division (C) of section 36708
3517.1013, and divisions (D) and (I) of section 3517.1014 of the 36709
Revised Code, the statements required to be stored on computer 36710
by the secretary of state under division (B) of section 3517.106 36711
of the Revised Code shall be filed in whatever format the 36712
secretary of state considers necessary to enable the secretary 36713
of state to store the information contained in the statements on 36714
computer. Any such format shall be of a type and nature that is 36715
readily available to whoever is required to file the statements 36716
in that format. 36717

(c) The secretary of state shall assess the need for 36718
training regarding the filing of campaign finance statements by 36719
electronic means of transmission and regarding associated 36720
technologies for candidates, campaign committees, political 36721
action committees, legislative campaign funds, political 36722
parties, or political contributing entities, for individuals, 36723
partnerships, or other entities, for persons making 36724

disbursements to pay the direct costs of producing or airing 36725
electioneering communications, or for treasurers of transition 36726
funds, required or permitted to file statements by electronic 36727
means of transmission under this section or section 3517.105, 36728
3517.106, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the 36729
Revised Code. If, in the opinion of the secretary of state, 36730
training in these areas is necessary, the secretary of state 36731
shall arrange for the provision of voluntary training programs 36732
for candidates, campaign committees, political action 36733
committees, legislative campaign funds, political parties, or 36734
political contributing entities, for individuals, partnerships, 36735
and other entities, for persons making disbursements to pay the 36736
direct costs of producing or airing electioneering 36737
communications, or for treasurers of transition funds, as 36738
appropriate. 36739

(7) Each monthly statement and each two-business-day 36740
statement required by division (A) of this section shall contain 36741
the information required by divisions (B) (1) to (4), (C) (2), 36742
and, if appropriate, (C) (3) of this section. Each statement 36743
shall be signed as required by division (C) (1) of this section. 36744

(D) (1) (a) Prior to receiving a contribution or making an 36745
expenditure, every campaign committee, political action 36746
committee, legislative campaign fund, political party, or 36747
political contributing entity shall appoint a treasurer and 36748
shall file, on a form prescribed by the secretary of state, a 36749
designation of that appointment, including the full name and 36750
address of the treasurer and of the campaign committee, 36751
political action committee, legislative campaign fund, political 36752
party, or political contributing entity. That designation shall 36753
be filed with the official with whom the campaign committee, 36754
political action committee, legislative campaign fund, political 36755

party, or political contributing entity is required to file 36756
statements under section 3517.11 of the Revised Code. The name 36757
of a campaign committee shall include at least the last name of 36758
the campaign committee's candidate. If two or more candidates 36759
are the beneficiaries of a single campaign committee under 36760
division (B) of section 3517.081 of the Revised Code, the name 36761
of the campaign committee shall include at least the last name 36762
of each candidate who is a beneficiary of that campaign 36763
committee. The secretary of state shall assign a registration 36764
number to each political action committee that files a 36765
designation of the appointment of a treasurer under this 36766
division if the political action committee is required by 36767
division (A) (1) of section 3517.11 of the Revised Code to file 36768
the statements prescribed by this section with the secretary of 36769
state. 36770

(b) The secretary of state shall not accept for filing a 36771
designation of treasurer of a political action committee or 36772
political contributing entity if, in the opinion of the 36773
secretary of state, the name of the political action committee 36774
or political contributing entity would lead a reasonable person 36775
to believe that the political action committee or political 36776
contributing entity acts on behalf of or represents a county 36777
political party, unless the designation is accompanied by a 36778
written statement, signed by the chairperson of the county 36779
political party's executive committee, granting the political 36780
action committee or political contributing entity permission to 36781
act on behalf of or represent the county political party. 36782

(2) The treasurer appointed under division (D) (1) of this 36783
section shall keep a strict account of all contributions, from 36784
whom received and the purpose for which they were disbursed. 36785

(3) (a) Except as otherwise provided in section 3517.108 of 36786
the Revised Code, a campaign committee shall deposit all 36787
monetary contributions received by the committee into an account 36788
separate from a personal or business account of the candidate or 36789
campaign committee. 36790

(b) A political action committee shall deposit all 36791
monetary contributions received by the committee into an account 36792
separate from all other funds. 36793

(c) A state or county political party may establish a 36794
state candidate fund that is separate from all other funds. A 36795
state or county political party may deposit into its state 36796
candidate fund any amounts of monetary contributions that are 36797
made to or accepted by the political party subject to the 36798
applicable limitations, if any, prescribed in section 3517.102 36799
of the Revised Code. A state or county political party shall 36800
deposit all other monetary contributions received by the party 36801
into one or more accounts that are separate from its state 36802
candidate fund. 36803

(d) Each state political party shall have only one 36804
legislative campaign fund for each house of the general 36805
assembly. Each such fund shall be separate from any other funds 36806
or accounts of that state party. A legislative campaign fund is 36807
authorized to receive contributions and make expenditures for 36808
the primary purpose of furthering the election of candidates who 36809
are members of that political party to the house of the general 36810
assembly with which that legislative campaign fund is 36811
associated. Each legislative campaign fund shall be administered 36812
and controlled in a manner designated by the caucus. As used in 36813
this division, "caucus" has the same meaning as in section 36814
3517.01 of the Revised Code and includes, as an ex officio 36815

member, the chairperson of the state political party with which 36816
the caucus is associated or that chairperson's designee. 36817

(4) Every expenditure in excess of twenty-five dollars 36818
shall be vouched for by a receipted bill, stating the purpose of 36819
the expenditure, that shall be filed with the statement of 36820
expenditures. A canceled check with a notation of the purpose of 36821
the expenditure is a receipted bill for purposes of division (D) 36822
(4) of this section. 36823

(5) The secretary of state or the board of elections, as 36824
the case may be, shall issue a receipt for each statement filed 36825
under this section and shall preserve a copy of the receipt for 36826
a period of at least six years. All statements filed under this 36827
section shall be open to public inspection in the office where 36828
they are filed and shall be carefully preserved for a period of 36829
at least six years after the year in which they are filed. 36830

(6) The secretary of state, by rule adopted pursuant to 36831
~~section 3517.23~~ Chapter 119. of the Revised Code, shall 36832
prescribe both of the following: 36833

(a) The manner of immediately acknowledging, with date and 36834
time received, and preserving the receipt of statements that are 36835
transmitted by electronic means of transmission to the secretary 36836
of state or a board of elections pursuant to this section or 36837
section 3517.106, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 36838
of the Revised Code; 36839

(b) The manner of preserving the contribution and 36840
expenditure, contribution and disbursement, deposit and 36841
disbursement, gift and disbursement, or donation and 36842
disbursement information in the statements described in division 36843
(D) (6) (a) of this section. The secretary of state shall preserve 36844

the contribution and expenditure, contribution and disbursement, 36845
deposit and disbursement, gift and disbursement, or donation and 36846
disbursement information in those statements for at least ten 36847
years after the year in which they are filed by electronic means 36848
of transmission. 36849

(7) (a) The secretary of state, pursuant to division (G) of 36850
section 3517.106 of the Revised Code, shall make available 36851
online to the public through the internet the contribution and 36852
expenditure, contribution and disbursement, deposit and 36853
disbursement, gift and disbursement, or donation and 36854
disbursement information in all of the following documents: 36855

(i) All statements, all addenda, amendments, or other 36856
corrections to statements, and all amended statements filed with 36857
the secretary of state by electronic or other means of 36858
transmission under this section, division (B) (2) (b) or (C) (2) (b) 36859
of section 3517.105, or section 3517.106, 3517.1011, 3517.1012, 36860
3517.1013, 3517.1014, or 3517.11 of the Revised Code; 36861

(ii) All statements filed with a board of elections by 36862
electronic means of transmission, and all addenda, amendments, 36863
corrections, and amended versions of those statements, filed 36864
with the board under this section, division (B) (2) (b) or (C) (2) 36865
(b) of section 3517.105, or section 3517.106, 3517.1012, or 36866
3517.11 of the Revised Code. 36867

(b) The secretary of state may remove the information from 36868
the internet after a reasonable period of time. 36869

(E) (1) Any person, political party, campaign committee, 36870
legislative campaign fund, political action committee, or 36871
political contributing entity that makes a contribution in 36872
connection with the nomination or election of any candidate or 36873

in connection with any ballot issue or question at any election 36874
held or to be held in this state shall provide its full name and 36875
address to the recipient of the contribution at the time the 36876
contribution is made. The political action committee also shall 36877
provide the registration number assigned to the committee under 36878
division (D) (1) of this section to the recipient of the 36879
contribution at the time the contribution is made. 36880

(2) Any individual who makes a contribution that exceeds 36881
one hundred dollars to a political action committee, political 36882
contributing entity, legislative campaign fund, or political 36883
party or to a campaign committee of a statewide candidate or 36884
candidate for the office of member of the general assembly shall 36885
provide the name of the individual's current employer, if any, 36886
or, if the individual is self-employed, the individual's 36887
occupation and the name of the individual's business, if any, to 36888
the recipient of the contribution at the time the contribution 36889
is made. Sections 3599.39 and 3599.40 of the Revised Code do not 36890
apply to division (E) (2) of this section. 36891

(3) If a campaign committee shows that it has exercised 36892
its best efforts to obtain, maintain, and submit the information 36893
required under divisions (B) (4) (b) (ii) and (iii) of this 36894
section, that committee is considered to have met the 36895
requirements of those divisions. A campaign committee shall not 36896
be considered to have exercised its best efforts unless, in 36897
connection with written solicitations, it regularly includes a 36898
written request for the information required under division (B) 36899
(4) (b) (ii) of this section from the contributor or the 36900
information required under division (B) (4) (b) (iii) of this 36901
section from whoever transmits the contribution. 36902

(4) Any check that a political action committee uses to 36903

make a contribution or an expenditure shall contain the full 36904
name and address of the committee and the registration number 36905
assigned to the committee under division (D)(1) of this section. 36906

(F) As used in this section: 36907

(1)(a) Except as otherwise provided in division (F)(1) of 36908
this section, "address" means all of the following if they 36909
exist: apartment number, street, road, or highway name and 36910
number, rural delivery route number, city or village, state, and 36911
zip code as used in a person's post-office address, but not 36912
post-office box. 36913

(b) Except as otherwise provided in division (F)(1) of 36914
this section, if an address is required in this section, a post- 36915
office box and office, room, or suite number may be included in 36916
addition to, but not in lieu of, an apartment, street, road, or 36917
highway name and number. 36918

(c) If an address is required in this section, a campaign 36919
committee, political action committee, legislative campaign 36920
fund, political party, or political contributing entity may use 36921
the business or residence address of its treasurer or deputy 36922
treasurer. The post-office box number of the campaign committee, 36923
political action committee, legislative campaign fund, political 36924
party, or political contributing entity may be used in addition 36925
to that address. 36926

(d) For the sole purpose of a campaign committee's 36927
reporting of contributions on a statement of contributions 36928
received under division (B)(4) of this section, "address" has 36929
one of the following meanings at the option of the campaign 36930
committee: 36931

(i) The same meaning as in division (F)(1)(a) of this 36932

section; 36933

(ii) All of the following, if they exist: the 36934
contributor's post-office box number and city or village, state, 36935
and zip code as used in the contributor's post-office address. 36936

(e) As used with regard to the reporting under this 36937
section of any expenditure, "address" means all of the following 36938
if they exist: apartment number, street, road, or highway name 36939
and number, rural delivery route number, city or village, state, 36940
and zip code as used in a person's post-office address, or post- 36941
office box. If an address concerning any expenditure is required 36942
in this section, a campaign committee, political action 36943
committee, legislative campaign fund, political party, or 36944
political contributing entity may use the business or residence 36945
address of its treasurer or deputy treasurer or its post-office 36946
box number. 36947

(2) "Statewide candidate" means the joint candidates for 36948
the offices of governor and lieutenant governor or a candidate 36949
for the office of secretary of state, auditor of state, 36950
treasurer of state, attorney general, chief justice of the 36951
supreme court, or justice of the supreme court. 36952

(3) "Candidate for county office" means a candidate for 36953
the office of county auditor, county treasurer, clerk of the 36954
court of common pleas, judge of the court of common pleas, 36955
sheriff, county recorder, county engineer, county commissioner, 36956
prosecuting attorney, or coroner. 36957

(G) An independent expenditure shall be reported whenever 36958
and in the same manner that an expenditure is required to be 36959
reported under this section and shall be reported pursuant to 36960
division (B) (2) (a) or (C) (2) (a) of section 3517.105 of the 36961

Revised Code. 36962

(H) (1) Except as otherwise provided in division (H) (2) of 36963
this section, if, during the combined pre-election and 36964
postelection reporting periods for an election, a campaign 36965
committee has received contributions of five hundred dollars or 36966
less and has made expenditures in the total amount of five 36967
hundred dollars or less, it may file a statement to that effect, 36968
under penalty of election falsification, in lieu of the 36969
statement required by division (A) (2) of this section. The 36970
statement shall indicate the total amount of contributions 36971
received and the total amount of expenditures made during those 36972
combined reporting periods. 36973

(2) In the case of a successful candidate at a primary 36974
election, if either the total contributions received by or the 36975
total expenditures made by the candidate's campaign committee 36976
during the preprimary, postprimary, pregeneral, and postgeneral 36977
election periods combined equal more than five hundred dollars, 36978
the campaign committee may file the statement under division (H) 36979
(1) of this section only for the primary election. The first 36980
statement that the campaign committee files in regard to the 36981
general election shall reflect all contributions received and 36982
all expenditures made during the preprimary and postprimary 36983
election periods. 36984

(3) Divisions (H) (1) and (2) of this section do not apply 36985
if a campaign committee receives contributions or makes 36986
expenditures prior to the first day of January of the year of 36987
the election at which the candidate seeks nomination or election 36988
to office or if the campaign committee does not file a 36989
termination statement with its postprimary election statement in 36990
the case of an unsuccessful primary election candidate or with 36991

its postgeneral election statement in the case of other 36992
candidates. 36993

(I) In the case of a contribution made by a partner of a 36994
partnership or an owner or a member of another unincorporated 36995
business from any funds of the partnership or other 36996
unincorporated business, all of the following apply: 36997

(1) The recipient of the contribution shall report the 36998
contribution by listing both the partnership or other 36999
unincorporated business and the name of the partner, owner, or 37000
member making the contribution. 37001

(2) In reporting the contribution, the recipient of the 37002
contribution shall be entitled to conclusively rely upon the 37003
information provided by the partnership or other unincorporated 37004
business, provided that the information includes one of the 37005
following: 37006

(a) The name of each partner, owner, or member as of the 37007
date of the contribution or contributions, and a statement that 37008
the total contributions are to be allocated equally among all of 37009
the partners, owners, or members; or 37010

(b) The name of each partner, owner, or member as of the 37011
date of the contribution or contributions who is participating 37012
in the contribution or contributions, and a statement that the 37013
contribution or contributions are to be allocated to those 37014
individuals in accordance with the information provided by the 37015
partnership or other unincorporated business to the recipient of 37016
the contribution. 37017

(3) For purposes of section 3517.102 of the Revised Code, 37018
the contribution shall be considered to have been made by the 37019
partner, owner, or member reported under division (I) (1) of this 37020

section. 37021

(4) No contribution from a partner of a partnership or an owner or a member of another unincorporated business shall be accepted from any funds of the partnership or other unincorporated business unless the recipient reports the contribution under division (I)(1) of this section together with the information provided under division (I)(2) of this section. 37022
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(5) No partnership or other unincorporated business shall make a contribution or contributions solely in the name of the partnership or other unincorporated business. 37028
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(6) As used in division (I) of this section, "partnership or other unincorporated business" includes, but is not limited to, a cooperative, a sole proprietorship, a general partnership, a limited partnership, a limited partnership association, a limited liability partnership, and a limited liability company. 37031
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(J) A candidate shall have only one campaign committee at any given time for all of the offices for which the person is a candidate or holds office. 37036
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(K)(1) In addition to filing a designation of appointment of a treasurer under division (D)(1) of this section, the campaign committee of any candidate for an elected municipal office that pays an annual amount of compensation of five thousand dollars or less, the campaign committee of any candidate for member of a board of education or the campaign committee of any candidate for township trustee or township fiscal officer may sign, under penalty of election falsification, a certificate attesting that the committee will not accept contributions during an election period that exceed in the aggregate two thousand dollars from all contributors and 37039
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one hundred dollars from any one individual, and that the 37050
campaign committee will not make expenditures during an election 37051
period that exceed in the aggregate two thousand dollars. 37052

The certificate shall be on a form prescribed by the 37053
secretary of state and shall be filed not later than ten days 37054
after the candidate files a declaration of candidacy and 37055
petition, a nominating petition, or a declaration of intent to 37056
be a write-in candidate. 37057

(2) Except as otherwise provided in division (K) (3) of 37058
this section, a campaign committee that files a certificate 37059
under division (K) (1) of this section is not required to file 37060
the statements required by division (A) of this section. 37061

(3) If, after filing a certificate under division (K) (1) 37062
of this section, a campaign committee exceeds any of the 37063
limitations described in that division during an election 37064
period, the certificate is void and thereafter the campaign 37065
committee shall file the statements required by division (A) of 37066
this section. If the campaign committee has not previously filed 37067
a statement, then on the first statement the campaign committee 37068
is required to file under division (A) of this section after the 37069
committee's certificate is void, the committee shall report all 37070
contributions received and expenditures made from the time the 37071
candidate filed the candidate's declaration of candidacy and 37072
petition, nominating petition, or declaration of intent to be a 37073
write-in candidate. 37074

(4) As used in division (K) of this section, "election 37075
period" means the period of time beginning on the day a person 37076
files a declaration of candidacy and petition, nominating 37077
petition, or declaration of intent to be a write-in candidate 37078
through the day of the election at which the person seeks 37079

nomination to office if the person is not elected to office, or, 37080
if the candidate was nominated in a primary election, the day of 37081
the election at which the candidate seeks office. 37082

(L) A political contributing entity that receives 37083
contributions from the dues, membership fees, or other 37084
assessments of its members or from its officers, shareholders, 37085
and employees may report the aggregate amount of contributions 37086
received from those contributors and the number of individuals 37087
making those contributions, for each filing period under 37088
divisions (A) (1), (2), (3), and (4) of this section, rather than 37089
reporting information as required under division (B) (4) of this 37090
section, including, when applicable, the name of the current 37091
employer, if any, of a contributor whose contribution exceeds 37092
one hundred dollars or, if such a contributor is self-employed, 37093
the contributor's occupation and the name of the contributor's 37094
business, if any. Division (B) (4) of this section applies to a 37095
political contributing entity with regard to contributions it 37096
receives from all other contributors. 37097

Sec. 3517.106. (A) As used in this section: 37098

(1) "Statewide office" means any of the offices of 37099
governor, lieutenant governor, secretary of state, auditor of 37100
state, treasurer of state, attorney general, chief justice of 37101
the supreme court, and justice of the supreme court. 37102

(2) "Addendum to a statement" includes an amendment or 37103
other correction to that statement. 37104

(B) The secretary of state shall store all of the 37105
following information on computer: 37106

(1) The information contained in statements of 37107
contributions and expenditures and monthly statements required 37108

to be filed under section 3517.10 of the Revised Code and in 37109
statements of independent expenditures required to be filed 37110
under section 3517.105 of the Revised Code with the secretary of 37111
state and the information transmitted to the secretary of state 37112
by boards of elections under division (E) (2) of this section; 37113

(2) The information contained in disclosure of 37114
electioneering communications statements required to be filed 37115
under section 3517.1011 of the Revised Code; 37116

(3) The information contained in deposit and disbursement 37117
statements required to be filed with the office of the secretary 37118
of state under section 3517.1012 of the Revised Code; 37119

(4) The gift and disbursement information contained in 37120
statements required to be filed with the office of the secretary 37121
of state under section 3517.1013 of the Revised Code; 37122

(5) The information contained in donation and disbursement 37123
statements required to be filed with the office of the secretary 37124
of state under section 3517.1014 of the Revised Code. 37125

(C) (1) The secretary of state shall make available to the 37126
campaign committees, political action committees, political 37127
contributing entities, legislative campaign funds, political 37128
parties, individuals, partnerships, corporations, labor 37129
organizations, treasurers of transition funds, and other 37130
entities that are permitted or required to file statements by 37131
electronic means of transmission, and to members of the news 37132
media and other interested persons, for a reasonable fee, 37133
computer programs that are compatible with the secretary of 37134
state's method of storing the information contained in the 37135
statements. 37136

(2) The secretary of state shall make the information 37137

required to be stored under division (B) of this section 37138
available on computer at the secretary of state's office so 37139
that, to the maximum extent feasible, individuals may obtain at 37140
the secretary of state's office any part or all of that 37141
information for any given year, subject to the limitation 37142
expressed in division (D) of this section. 37143

(D) The secretary of state shall keep the information 37144
stored on computer under division (B) of this section for at 37145
least six years. 37146

(E) (1) Subject to division (J) of this section and subject 37147
to the secretary of state having implemented, tested, and 37148
verified the successful operation of any system the secretary of 37149
state prescribes pursuant to division (F) (1) of this section and 37150
divisions (C) (6) (b) and (D) (6) of section 3517.10 of the Revised 37151
Code for the filing of campaign finance statements by electronic 37152
means of transmission, each of the following entities shall be 37153
permitted or required to file statements by electronic means of 37154
transmission, as applicable: 37155

(a) The campaign committee of each candidate for statewide 37156
office may file the statements prescribed by section 3517.10 of 37157
the Revised Code by electronic means of transmission or, if the 37158
total amount of the contributions received or the total amount 37159
of the expenditures made by the campaign committee for the 37160
applicable reporting period as specified in division (A) of 37161
section 3517.10 of the Revised Code exceeds ten thousand 37162
dollars, shall file those statements by electronic means of 37163
transmission. 37164

(b) A campaign committee of a candidate for the office of 37165
member of the general assembly or a campaign committee of a 37166
candidate for the office of judge of a court of appeals may file 37167

the statements prescribed by section 3517.10 of the Revised Code 37168
in accordance with division (A) (2) of section 3517.11 of the 37169
Revised Code or by electronic means of transmission to the 37170
office of the secretary of state or, if the total amount of the 37171
contributions received by the campaign committee for the 37172
applicable reporting period as specified in division (A) of 37173
section 3517.10 of the Revised Code exceeds ten thousand 37174
dollars, shall file those statements by electronic means of 37175
transmission to the office of the secretary of state. 37176

(c) A campaign committee of a candidate for an office 37177
other than a statewide office, the office of member of the 37178
general assembly, or the office of judge of a court of appeals 37179
may file the statements prescribed by section 3517.10 of the 37180
Revised Code by electronic means of transmission to the 37181
secretary of state or the board of elections, as applicable. 37182

(d) A political action committee and a political 37183
contributing entity described in division (A) (1) of section 37184
3517.11 of the Revised Code, a legislative campaign fund, and a 37185
state political party may file the statements prescribed by 37186
section 3517.10 of the Revised Code by electronic means of 37187
transmission to the office of the secretary of state or, if the 37188
total amount of the contributions received or the total amount 37189
of the expenditures made by the political action committee, 37190
political contributing entity, legislative campaign fund, or 37191
state political party for the applicable reporting period as 37192
specified in division (A) of section 3517.10 of the Revised Code 37193
exceeds ten thousand dollars, shall file those statements by 37194
electronic means of transmission. 37195

(e) A county political party shall file the statements 37196
prescribed by section 3517.10 of the Revised Code with respect 37197

to its state candidate fund by electronic means of transmission 37198
to the office of the secretary of state. 37199

(f) A county political party may file all other statements 37200
prescribed by section 3517.10 of the Revised Code by electronic 37201
means of transmission to the board of elections. 37202

(g) A political action committee or political contributing 37203
entity described in division (A) (3) of section 3517.11 of the 37204
Revised Code may file the statements prescribed by section 37205
3517.10 of the Revised Code by electronic means of transmission 37206
to the board of elections. 37207

(h) Any individual, partnership, or other entity that 37208
makes independent expenditures in support of or opposition to a 37209
statewide candidate or a statewide ballot issue or question as 37210
provided in division (B) (2) (b) or (C) (2) (b) of section 3517.105 37211
of the Revised Code may file the statement specified in that 37212
division by electronic means of transmission to the office of 37213
the secretary of state or, if the total amount of independent 37214
expenditures made during the reporting period under that 37215
division exceeds ten thousand dollars, shall file the statement 37216
specified in that division by electronic means of transmission. 37217

(i) Any individual, partnership, or other entity that 37218
makes independent expenditures in support of or opposition to a 37219
candidate or ballot issue other than a statewide candidate or a 37220
statewide ballot issue as provided in division (B) (2) (b) or (C) 37221
(2) (b) of section 3517.105 of the Revised Code may file the 37222
statement specified in that division by electronic means of 37223
transmission to the board of elections. 37224

(2) A board of elections that receives a statement by 37225
electronic means of transmission shall transmit that statement 37226

to the secretary of state within five business days after 37227
receiving the statement. If the board receives an addendum or an 37228
amended statement from an entity that filed a statement with the 37229
board by electronic means of transmission, the board shall 37230
transmit the addendum or amended statement to the secretary of 37231
state not later than the close of business on the day the board 37232
received the addendum or amended statement. 37233

(3) (a) Except as otherwise provided in division (E) (3) (b) 37234
of this section, within five business days after a statement 37235
filed under division (E) (1) of this section is received by the 37236
secretary of state by electronic or other means of transmission, 37237
the secretary of state shall make available online to the public 37238
through the internet, as provided in division (G) of this 37239
section, the contribution and expenditure information in that 37240
statement. 37241

(b) The secretary of state shall not make available online 37242
to the public through the internet any contribution or 37243
expenditure information contained in a statement for any 37244
candidate until the secretary of state is able to make available 37245
online to the public through the internet the contribution and 37246
expenditure information for all candidates for a particular 37247
office, or until the applicable filing deadline for that 37248
statement has passed, whichever is sooner. As soon as the 37249
secretary of state has available all of the contribution and 37250
expenditure information for all candidates for a particular 37251
office, or as soon as the applicable filing deadline for a 37252
statement has passed, whichever is sooner, the secretary of 37253
state shall simultaneously make available online to the public 37254
through the internet the information for all candidates for that 37255
office. 37256

(4) (a) If a statement filed by electronic means of 37257
transmission is found to be incomplete or inaccurate after the 37258
examination of the statement for completeness and accuracy 37259
pursuant to division (B) (3) (a) of section 3517.11 of the Revised 37260
Code, the entity that filed the statement shall file by 37261
electronic means of transmission any addendum to the statement 37262
that provides the information necessary to complete or correct 37263
the statement or, if required under that division, an amended 37264
statement. 37265

(b) Within five business days after the secretary of state 37266
receives an addendum to the statement or an amended statement by 37267
electronic or other means of transmission, the secretary of 37268
state shall make the contribution and expenditure information in 37269
the addendum or amended statement available online to the public 37270
through the internet as provided in division (G) of this 37271
section. 37272

(5) If a campaign committee for the office of member of 37273
the general assembly or a campaign committee of a candidate for 37274
the office of judge of a court of appeals files a statement, 37275
addendum, or amended statement by printed version only with the 37276
appropriate board of elections, the campaign committee shall 37277
file two copies of the printed version of the statement, 37278
addendum, or amended statement with the board of elections. The 37279
board of elections shall send one of those copies by certified 37280
mail or an electronic copy to the secretary of state before the 37281
close of business on the day the board of elections receives the 37282
statement, addendum, or amended statement. 37283

(F) (1) The secretary of state, by rule adopted pursuant to 37284
~~section 3517.23~~ Chapter 119. of the Revised Code, shall 37285
prescribe one or more techniques by which a person who executes 37286

and transmits to the secretary of state or a board of elections 37287
by electronic means a statement of contributions and 37288
expenditures, a statement of independent expenditures, a 37289
disclosure of electioneering communications statement, a deposit 37290
and disbursement statement, a gift and disbursement statement, 37291
or a donation and disbursement statement, an addendum to any of 37292
those statements, an amended statement of contributions and 37293
expenditures, an amended statement of independent expenditures, 37294
an amended disclosure of electioneering communications 37295
statement, an amended deposit and disbursement statement, an 37296
amended gift and disbursement statement, or an amended donation 37297
and disbursement statement, under this section or section 37298
3517.10, 3517.105, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 37299
of the Revised Code shall electronically sign the statement, 37300
addendum, or amended statement. Any technique prescribed by the 37301
secretary of state pursuant to this division shall create an 37302
electronic signature that satisfies all of the following: 37303

(a) It is unique to the signer. 37304

(b) It objectively identifies the signer. 37305

(c) It involves the use of a signature device or other 37306
means or method that is under the sole control of the signer and 37307
that cannot be readily duplicated or compromised. 37308

(d) It is created and linked to the electronic record to 37309
which it relates in a manner that, if the record or signature is 37310
intentionally or unintentionally changed after signing, the 37311
electronic signature is invalidated. 37312

(2) An electronic signature prescribed by the secretary of 37313
state under division (F)(1) of this section shall be attached to 37314
or associated with the statement of contributions and 37315

expenditures, the statement of independent expenditures, the 37316
disclosure of electioneering communications statement, the 37317
deposit and disbursement statement, the gift and disbursement 37318
statement, or the donation and disbursement statement, the 37319
addendum to any of those statements, the amended statement of 37320
contributions and expenditures, the amended statement of 37321
independent expenditures, the amended disclosure of 37322
electioneering communications statement, the amended deposit and 37323
disbursement statement, the amended gift and disbursement 37324
statement, or the amended donation and disbursement statement 37325
that is executed and transmitted by electronic means by the 37326
person to whom the electronic signature is attributed. The 37327
electronic signature that is attached to or associated with the 37328
statement, addendum, or amended statement under this division 37329
shall be binding on all persons and for all purposes under the 37330
campaign finance reporting law as if the signature had been 37331
handwritten in ink on a printed form. 37332

(G) The secretary of state shall make all of the following 37333
information available online to the public by any means that are 37334
searchable, viewable, and accessible through the internet: 37335

(1) The contribution and expenditure, the contribution and 37336
disbursement, the deposit and disbursement, the gift and 37337
disbursement, or the donation and disbursement information in 37338
all statements, all addenda to the statements, and all amended 37339
statements that are filed with the secretary of state by 37340
electronic or other means of transmission under this section or 37341
section 3517.10, 3517.105, 3517.1011, 3517.1012, 3517.1013, 37342
3517.1014, or 3517.11 of the Revised Code; 37343

(2) The contribution and expenditure or the deposit and 37344
disbursement information in all statements that are filed with a 37345

board of elections by electronic means of transmission, and in 37346
all addenda to those statements and all amended versions of 37347
those statements, under this section or section 3517.10, 37348
3517.105, 3517.1012, or 3517.11 of the Revised Code. 37349

(H) (1) As used in this division, "library" means a library 37350
that is open to the public and that is one of the following: 37351

(a) A library that is maintained and regulated under 37352
section 715.13 of the Revised Code; 37353

(b) A library that is created, maintained, and regulated 37354
under Chapter 3375. of the Revised Code. 37355

(2) The secretary of state shall notify all libraries of 37356
the location on the internet at which the contribution and 37357
expenditure, contribution and disbursement, deposit and 37358
disbursement, gift and disbursement, or donation and 37359
disbursement information in campaign finance statements required 37360
to be made available online to the public through the internet 37361
pursuant to division (G) of this section may be accessed. 37362

If that location is part of the world wide web and if the 37363
secretary of state has notified a library of that world wide web 37364
location as required by this division, the library shall include 37365
a link to that world wide web location on each internet- 37366
connected computer it maintains that is accessible to the 37367
public. 37368

(3) If the system the secretary of state prescribes for 37369
the filing of campaign finance statements by electronic means of 37370
transmission pursuant to division (F) (1) of this section and 37371
divisions (C) (6) (b) and (D) (6) of section 3517.10 of the Revised 37372
Code includes filing those statements through the internet via 37373
the world wide web, the secretary of state shall notify all 37374

libraries of the world wide web location at which those 37375
statements may be filed. 37376

If those statements may be filed through the internet via 37377
the world wide web and if the secretary of state has notified a 37378
library of that world wide web location as required by this 37379
division, the library shall include a link to that world wide 37380
web location on each internet-connected computer it maintains 37381
that is accessible to the public. 37382

(I) It is an affirmative defense to a complaint or charge 37383
brought against any campaign committee, political action 37384
committee, political contributing entity, legislative campaign 37385
fund, or political party, any individual, partnership, or other 37386
entity, any person making disbursements to pay the direct costs 37387
of producing or airing electioneering communications, or any 37388
treasurer of a transition fund, for the failure to file by 37389
electronic means of transmission a campaign finance statement as 37390
required by this section or section 3517.10, 3517.105, 37391
3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the Revised 37392
Code that all of the following apply to the campaign committee, 37393
political action committee, political contributing entity, 37394
legislative campaign fund, or political party, the individual, 37395
partnership, or other entity, the person making disbursements to 37396
pay the direct costs of producing or airing electioneering 37397
communications, or the treasurer of a transition fund that 37398
failed to so file: 37399

(1) The campaign committee, political action committee, 37400
political contributing entity, legislative campaign fund, or 37401
political party, the individual, partnership, or other entity, 37402
the person making disbursements to pay the direct costs of 37403
producing or airing electioneering communications, or the 37404

treasurer of a transition fund attempted to file by electronic 37405
means of transmission the required statement prior to the 37406
deadline set forth in the applicable section. 37407

(2) The campaign committee, political action committee, 37408
political contributing entity, legislative campaign fund, or 37409
political party, the individual, partnership, or other entity, 37410
the person making disbursements to pay the direct costs of 37411
producing or airing electioneering communications, or the 37412
treasurer of a transition fund was unable to file by electronic 37413
means of transmission due to an expected or unexpected shutdown 37414
of the whole or part of the electronic campaign finance 37415
statement-filing system, such as for maintenance or because of 37416
hardware, software, or network connection failure. 37417

(3) The campaign committee, political action committee, 37418
political contributing entity, legislative campaign fund, or 37419
political party, the individual, partnership, or other entity, 37420
the person making disbursements to pay the direct costs of 37421
producing or airing electioneering communications, or the 37422
treasurer of a transition fund filed by electronic means of 37423
transmission the required statement within a reasonable period 37424
of time after being unable to so file it under the circumstance 37425
described in division (I) (2) of this section. 37426

(J) (1) The secretary of state shall adopt rules pursuant 37427
to Chapter 119. of the Revised Code to permit a campaign 37428
committee of a candidate for statewide office that makes 37429
expenditures of less than twenty-five thousand dollars during 37430
the filing period or a campaign committee for the office of 37431
member of the general assembly or the office of judge of a court 37432
of appeals that would otherwise be required to file campaign 37433
finance statements by electronic means of transmission under 37434

division (E) of this section to file those statements by paper 37435
with the office of the secretary of state. Those rules shall 37436
provide for all of the following: 37437

(a) An eligible campaign committee that wishes to file a 37438
campaign finance statement by paper instead of by electronic 37439
means of transmission shall file the statement on paper with the 37440
office of the secretary of state not sooner than twenty-four 37441
hours after the end of the filing period set forth in section 37442
3517.10 of the Revised Code that is covered by the applicable 37443
statement. 37444

(b) The statement shall be accompanied by a fee, the 37445
amount of which the secretary of state shall determine by rule. 37446
The amount of the fee established under this division shall not 37447
exceed the data entry and data verification costs the secretary 37448
of state will incur to convert the information on the statement 37449
to an electronic format as required under division (G) of this 37450
section. 37451

(c) The secretary of state shall arrange for the 37452
information in campaign finance statements filed pursuant to 37453
division (J) of this section to be made available online to the 37454
public through the internet in the same manner, and at the same 37455
times, as information is made available under divisions (E) and 37456
(G) of this section for candidates whose campaign committees 37457
file those statements by electronic means of transmission. 37458

(d) The candidate of an eligible campaign committee that 37459
intends to file a campaign finance statement pursuant to 37460
division (J) of this section shall file a notice indicating that 37461
the candidate's campaign committee intends to so file and 37462
stating that filing the statement by electronic means of 37463
transmission would constitute a hardship for the candidate or 37464

for the eligible campaign committee. 37465

(e) An eligible campaign committee that files a campaign 37466
finance statement on paper pursuant to division (J) of this 37467
section shall review the contribution and information made 37468
available online by the secretary of state with respect to that 37469
paper filing and shall notify the secretary of state of any 37470
errors with respect to that filing that appear in the data made 37471
available on that web site. 37472

(f) If an eligible campaign committee whose candidate has 37473
filed a notice in accordance with rules adopted under division 37474
(J) (1) (d) of this section subsequently fails to file that 37475
statement on paper by the applicable deadline established in 37476
rules adopted under division (J) (1) (a) of this section, 37477
penalties for the late filing of the campaign finance statement 37478
shall apply to that campaign committee for each day after that 37479
paper filing deadline, as if the campaign committee had filed 37480
the statement after the applicable deadline set forth in 37481
division (A) of section 3517.10 of the Revised Code. 37482

(2) The process for permitting campaign committees that 37483
would otherwise be required to file campaign finance statements 37484
by electronic means of transmission to file those statements on 37485
paper with the office of the secretary of state that is required 37486
to be developed under division (J) (1) of this section shall be 37487
in effect and available for use by eligible campaign committees 37488
for all campaign finance statements that are required to be 37489
filed on or after June 30, 2005. Notwithstanding any provision 37490
of the Revised Code to the contrary, if the process the 37491
secretary of state is required to develop under division (L) (1) 37492
of this section is not in effect and available for use on and 37493
after June 30, 2005, all penalties for the failure of campaign 37494

committees to file campaign finance statements by electronic 37495
means of transmission shall be suspended until such time as that 37496
process is in effect and available for use. 37497

(3) Notwithstanding any provision of the Revised Code to 37498
the contrary, any eligible campaign committee that files 37499
campaign finance statements on paper with the office of the 37500
secretary of state pursuant to division (J) (1) of this section 37501
shall be deemed to have filed those campaign finance statements 37502
by electronic means of transmission to the office of the 37503
secretary of state. 37504

Sec. 3517.23. The secretary of state ~~shall adopt rules in~~ 37505
~~accordance with Chapter 119. of the Revised Code that are~~ 37506
~~necessary for the administration and enforcement of sections~~ 37507
~~3517.08 to 3517.13, 3517.20 to 3517.22, 3599.03, and 3599.031 of~~ 37508
~~the Revised Code and shall provide each candidate, political~~ 37509
~~action committee, political contributing entity, legislative~~ 37510
~~campaign fund, political party, and person making disbursements~~ 37511
~~to pay the direct costs of producing or airing electioneering~~ 37512
~~communications with written instructions and explanations in~~ 37513
~~order to ensure compliance with sections 3517.08 to 3517.13,~~ 37514
~~3517.20 to 3517.22, 3599.03, and 3599.031 of the Revised Code.~~ 37515

Sec. 3701.021. (A) The director of health shall adopt, in 37516
accordance with Chapter 119. of the Revised Code, ~~such rules as~~ 37517
~~are necessary to carry out sections 3701.021 to 3701.0210 of the~~ 37518
~~Revised Code, including, but not limited to,~~ rules to establish 37519
the following: 37520

(1) Subject to division (D) of this section, medical and 37521
financial eligibility requirements for the program for children 37522
and youth with special health care needs; 37523

(2) Subject to division (C) of this section, eligibility requirements for providers who provide goods and services for the program for children and youth with special health care needs;	37524 37525 37526 37527
(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division (A) (2) of this section;	37528 37529 37530
(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section 3701.023 of the Revised Code and payment for those services under division (E) of that section;	37531 37532 37533 37534
(5) Standards for the provision of service coordination by the department of health and city and general health districts;	37535 37536
(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for children and youth with special health care needs and to allow counties to retain funds under divisions (A) (2) and (3) of section 3701.024 of the Revised Code;	37537 37538 37539 37540 37541
(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;	37542 37543 37544
(8) Criteria for payment of approved providers who provide goods and services for children and youth with special health care needs;	37545 37546 37547
(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for children and youth with special health care needs is cost-effective;	37548 37549 37550 37551

(10) Procedures for appeal of denials of applications 37552
under divisions (A) and (D) of section 3701.023 of the Revised 37553
Code, disqualification of providers, and amounts paid for 37554
services; 37555

(11) Terms of appointment for members of the children and 37556
youth with special health care needs medical advisory council 37557
created in section 3701.025 of the Revised Code; 37558

(12) Eligibility requirements for the hemophilia program, 37559
including income and hardship requirements; 37560

(13) If a manufacturer discount program is established 37561
under division (J) (1) of section 3701.023 of the Revised Code, 37562
procedures for administering the program, including criteria and 37563
other requirements for participation in the program by 37564
manufacturers of drugs and nutritional formulas. 37565

(B) The department of health shall develop a manual of 37566
operational procedures and guidelines for the program for 37567
children and youth with special health care needs to implement 37568
sections 3701.021 to 3701.0210 of the Revised Code. 37569

(C) A medicaid provider, as defined in section 5164.01 of 37570
the Revised Code, is eligible to be a provider of the same goods 37571
and services for the program for children and youth with special 37572
health care needs that the provider is approved to provide for 37573
the medicaid program and the director shall approve such a 37574
provider for participation in the program for children and youth 37575
with special health care needs. 37576

(D) In establishing medical and financial eligibility 37577
requirements for the program for children and youth with special 37578
health care needs, the director of health shall not specify an 37579
age restriction that excludes from eligibility an individual who 37580

is less than twenty-six years of age. 37581

Sec. 3701.132. (A) As used in this section, "WIC program" 37582
means the "special supplemental nutrition program for women, 37583
infants, and children" established under the "Child Nutrition 37584
Act of 1966," 80 Stat. 885, 42 U.S.C. 1786, as amended. 37585

(B) The department of health is hereby designated as the 37586
state agency to administer the WIC program. 37587

~~The director of health shall adopt rules pursuant to 37588
Chapter 119. of the Revised Code as necessary for administering 37589
the WIC program. The rules may include civil money penalties for 37590
violations of the rules. 37591~~

(C) In determining eligibility for services provided under 37592
the WIC program, the department may use the application form 37593
established under section 5163.40 of the Revised Code for the 37594
healthy start program. The department may require applicants to 37595
furnish their social security numbers. 37596

(D) If the department determines that a vendor has 37597
committed an act with respect to the WIC program that federal 37598
statutes or regulations or state statutes or rules prohibit, the 37599
department shall take action against the vendor in the manner 37600
required by 7 C.F.R. part 246, including imposition of a civil 37601
money penalty in accordance with 7 C.F.R. 246.12, or rules 37602
adopted under this section. 37603

Sec. 3701.136. (A) The director of health may establish a 37604
school-based fluoride mouth rinse program. If the director 37605
establishes the program, divisions (B) to (E) of this section 37606
are applicable. 37607

(B) The director shall conduct a program to educate 37608
employees of the department of health and dental hygienists 37609

licensed under Chapter 4715. of the Revised Code on how to train 37610
employees of, and volunteers for, public and nonpublic schools 37611
regarding the proper means of administering fluoride mouth rinse 37612
to students. 37613

(C) Schools that participate in the school-based fluoride 37614
mouth rinse program shall require that their employees and 37615
volunteers who intend to administer fluoride mouth rinse to 37616
students receive training, by either of the following, on the 37617
proper means of administering fluoride mouth rinse to students: 37618

(1) An employee of the department of health or a dental 37619
hygienist who has been trained through the program the director 37620
conducts pursuant to division (B) of this section; 37621

(2) A school employee or volunteer who has been trained by 37622
an individual described in division (C) (1) of this section. 37623

(D) (1) The director shall prescribe a form that the 37624
parent, guardian, or other person having care or charge of a 37625
student enrolled in a public or nonpublic school that 37626
participates in the school-based fluoride mouth rinse program 37627
may use to consent to the administration of fluoride mouth rinse 37628
to the student for the duration of the student's enrollment in 37629
that school. School employees or volunteers shall not administer 37630
fluoride mouth rinse to a student unless the consent form from 37631
the student's parent, guardian, or other person has been 37632
received. 37633

(2) The consent form shall include all of the following: 37634

(a) A space designated for the student's name and address; 37635

(b) A space designated for the name of the student's 37636
school; 37637

- (c) A space designated for the student's grade level and class; 37638
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- (d) A space designated for the signature of the parent, guardian, or other person who authorizes the administration of fluoride mouth rinse to the student; 37640
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- (e) Information on the name, dosage, and intervals at which the fluoride mouth rinse is scheduled to be administered during each school year; 37643
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- (f) The dates the administration of fluoride mouth rinse is to begin and cease, which may, respectively, be the first and last days of a school year; 37646
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- (g) Any other information or spaces the director considers necessary for the proper administration of the program. 37649
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- ~~(E) The director may adopt rules as necessary to implement and administer the school-based fluoride mouth rinse program. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~ 37651
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- Sec. 3701.144.** (A) As used in this section, "cost sharing" has the same meaning as in section 3923.85 of the Revised Code. 37655
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- (B) The department of health shall administer the state's participation in the national breast and cervical cancer early detection program (NBCCEDP), which shall be known as the Ohio breast and cervical cancer project. The project shall be administered in accordance with Title XV of the "Public Health Service Act," 42 U.S.C. 300k et seq., and the department's NBCCEDP grant agreement with the United States centers for disease control and prevention. 37657
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- (C) In administering the project, the department shall set 37665

eligibility requirements for services provided through the project as follows:

(1) The woman must have countable family income not exceeding three hundred per cent of the federal poverty line.

(2) One of the following must be the case:

(a) The woman is not covered by health insurance.

(b) The woman is covered by health insurance that does not include the screening or diagnostic services the woman seeks through the project.

(c) The woman is covered by health insurance that imposes cost sharing for the screening or diagnostic services the woman seeks through the project that exceeds the limit specified in rules adopted under division (D) of this section.

(3) In the case of a woman seeking cervical cancer screening and diagnostic services through the project, the woman must be at least twenty-one and less than sixty-five years of age.

(4) In the case of a woman seeking breast cancer screening and diagnostic services through the project, either of the following must be the case:

(a) The woman is at least forty years of age.

(b) The woman is at least twenty-one and less than forty years of age and has been determined by a physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner to need breast cancer screening and diagnostic services due to the results of a clinical breast examination, the woman's family history, or other factors.

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(D) The director of health shall adopt rules for purposes 37693
of division (C) (2) (c) of this section specifying the cost 37694
sharing limit for each screening and diagnostic service that may 37695
be obtained through the project. ~~The director may adopt other~~ 37696
~~rules as necessary to implement this section.~~ The rules shall be 37697
adopted in accordance with Chapter 119. of the Revised Code. 37698

Sec. 3701.145. ~~(A)~~ The director of health shall ensure 37699
that, as part of the Ohio breast and cervical cancer project 37700
administered under section 3701.144 of the Revised Code, a woman 37701
who meets all of the following conditions receives treatment for 37702
breast or cervical cancer: 37703

~~(1)~~ (A) The woman was screened for breast or cervical 37704
cancer by a provider who either does not participate in or was 37705
not paid for the screening by the Ohio breast and cervical 37706
cancer project. 37707

~~(2)~~ (B) The woman is in need of treatment for breast or 37708
cervical cancer. 37709

~~(3)~~ (C) The woman has a countable income not exceeding 37710
three hundred per cent of the federal poverty line. 37711

~~(4)~~ (D) The woman is not covered by health insurance. 37712

~~(5)~~ (E) The woman is less than sixty-five years of age. 37713

~~(B) The director of health may adopt rules as necessary to~~ 37714
~~implement this section. The rules shall be adopted in accordance~~ 37715
~~with Chapter 119. of the Revised Code.~~ 37716

Sec. 3701.241. (A) The director of health shall develop 37717
and administer the following: 37718

(1) A surveillance system to determine the number of cases 37719
of AIDS and the HIV infection rate in various population groups; 37720

- (2) Counseling and testing programs for groups determined by the director to be at risk of HIV infection, including procedures for both confidential and anonymous tests, counseling training programs for health care providers, and development of counseling guidelines; 37721
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- (3) A confidential partner notification system to alert and counsel sexual contacts of individuals with HIV infection; 37726
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- (4) Risk reduction and education programs for groups determined by the director to be at risk of HIV infection, and, in consultation with a wide range of community leaders, education programs for the public; 37728
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- (5) Pilot programs for the long-term care of individuals with AIDS or AIDS-related condition, including care in nursing homes and in alternative settings; 37732
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- (6) Programs to expand regional outpatient treatment of individuals with AIDS or AIDS-related condition; 37735
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- (7) A program to assist communities, including communities of less than one hundred thousand population, in establishing AIDS task forces and support groups for individuals with AIDS, AIDS-related condition, and HIV infection. The program may include the award of grants if they are matched by local funds. 37737
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- Information obtained or maintained under the partner notification system is not a public record under section 149.43 of the Revised Code and may be released only in accordance with division (C) of section 3701.243 of the Revised Code. 37742
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- (B) The director shall: 37746
- (1) Approve a test or tests to be used to determine whether an individual has HIV infection, define a confirmed 37747
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positive test result, and develop guidelines for interpreting test results; 37749
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(2) Establish sites for confidential and anonymous HIV tests, and prepare a list of sites where an individual may obtain an anonymous test; 37751
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(3) Prepare a list of counseling services; 37754

(4) Make available a copy of the list of anonymous testing sites or a copy of the list of counseling services to anyone who requests it. 37755
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(C) The director of health shall require the director or administrator of each site where anonymous or confidential HIV tests are given to submit a report every three months evaluating from an epidemiologic perspective the effectiveness of the HIV testing program at that site. Not later than January 31, 1991, and each year thereafter, the director of health shall make a report evaluating the anonymous and confidential testing programs throughout the state with regard to their effectiveness as epidemiologic programs. The report shall be submitted to the speaker of the house of representatives and the president of the senate and shall be made available to the public. 37758
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The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code for the implementation of the requirements of division (B) (1) of this section and division (D) of section 3701.24 of the Revised Code. 37769
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(D) The director of health shall administer funds received under Title XXVI of the "Public Health Services Act," 104 Stat. 576 (1990), 42 U.S.C.A. 2601, as amended, for programs to improve the quality and availability of care for individuals with AIDS, AIDS-related condition, and HIV infection. In 37773
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administering these funds, the director may enter into contracts 37778
with any person or entity for the purpose of administering the 37779
programs, including contracts with the department of job and 37780
family services for establishment of a program of reimbursement 37781
of drugs used for treatment and care of such individuals. The 37782
director of health may ~~adopt rules in accordance with Chapter~~ 37783
~~119. of the Revised Code and issue orders as necessary for~~ 37784
administration of the funds. ~~If the department of job and family~~ 37785
~~services enters into a contract under this division, the~~ 37786
~~director of job and family services may adopt rules in~~ 37787
~~accordance with Chapter 119. of the Revised Code as necessary~~ 37788
~~for carrying out the department's duties under the contract.~~ 37789

Sec. 3701.31. In formulating and administering the blood 37790
bank program, the department of health may establish necessary 37791
standards, ~~promulgate necessary rules and regulations,~~ utilize 37792
the facilities and services of other official agencies and of 37793
voluntary organizations which may be made available to the 37794
department, and co-operate, if requested, with agencies and 37795
organizations engaged in a similar program on a local or state 37796
basis. 37797

Sec. 3701.341. (A) The director of health, pursuant to 37798
Chapter 119. and consistent with Chapter 3726. and section 37799
2317.56 of the Revised Code, shall adopt rules relating to 37800
~~abortions and~~ the following subjects with respect to abortions: 37801

(1) Post-abortion procedures to protect the health of the 37802
pregnant woman; 37803

(2) Pathological reports; 37804

(3) Humane disposition of the product of human conception; 37805

(4) Counseling. 37806

(B) The director of health shall implement the rules and shall apply to the court of common pleas for temporary or permanent injunctions restraining a violation or threatened violation of the rules. This action is an additional remedy not dependent on the adequacy of the remedy at law.

Sec. 3701.508. (A) The director of health shall adopt rules ~~governing~~ that do all of the following with respect to the statewide hearing screening, tracking, and early intervention program established under section 3701.504 of the Revised Code, ~~including rules that do all of the following:~~

(1) Specify how hospitals and freestanding birthing centers are to comply with the requirements of section 3701.505 of the Revised Code, including methods to be used for hearing screening, except that with regard to the physiologic equipment to be used for hearing screening, the rules may require only that the equipment be capable of giving reliable results and may not specify particular equipment or a particular type of equipment;

(2) Provide that no newborn or infant shall be required to undergo a hearing screening if the parent, guardian, or custodian of the newborn or infant objects on the grounds that the screening conflicts with the parent's, guardian's, or custodian's religious tenets and practices;

(3) Provide for situations in which the parent, guardian, or custodian of a newborn or infant objects to a hearing screening for reasons other than religious tenets and practices;

(4) Specify how the department of health will determine whether a person is financially unable to pay for a hearing screening and define "third-party payer" for the purpose of

reimbursement of hearing screening by the department under	37836
section 3701.505 of the Revised Code;	37837
(5) Specify an inexpensive and efficient format and	37838
procedures for the submission of hearing screening information	37839
from hospitals and freestanding birthing centers to the	37840
department of health;	37841
(6) Specify a procedure whereby the department may conduct	37842
timely reviews of hearing screening information submissions for	37843
purposes of quality assurance, training, and disease prevention	37844
and control;	37845
(7) Specify any additional information that hospitals and	37846
freestanding birthing centers are to provide to the children and	37847
youth with special health care needs medical advisory council's	37848
infant hearing screening subcommittee under section 3701.509 of	37849
the Revised Code.	37850
(B) In addition to the rules adopted under division (A) of	37851
this section, the director shall adopt rules that specify the	37852
training that must be completed by persons who will conduct	37853
hearing screenings. In adopting these rules, the director shall	37854
consider incorporating cost-saving training methods, including	37855
computer-assisted learning and on-site training. Neither the	37856
rules nor the director of health may establish a minimum	37857
educational level for persons conducting hearing screenings.	37858
(C) All rules adopted under this section shall be adopted	37859
in accordance with Chapter 119. of the Revised Code and shall be	37860
adopted so as to take effect not later than six months after	37861
August 1, 2002.	37862
Sec. 3701.54. The department of health shall:	37863
(A) Enforce sections 3701.51 to 3701.55 of the Revised	37864

Code; 37865

~~(B) Promulgate rules as necessary for the purpose of these sections and as the director of health deems necessary for the further and proper guidance of health commissioners;~~ 37866
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~~(C)~~ Provide for the gratuitous distribution of a 37869
scientific prophylactic for inflammation of the eyes of the 37870
newborn, together with directions for its proper use and 37871
administration, to all physicians and certified nurse-midwives 37872
engaged in the practice of obstetrics or assisting at 37873
childbirth; 37874

~~(D)~~ (C) Publish and promulgate such further advice and 37875
information concerning the dangers of inflammation of the eyes 37876
of the newborn and of gonorrhoeal ophthalmia, and the necessity 37877
for prompt and effective treatment; 37878

~~(E)~~ (D) Furnish copies of sections 3701.51 to 3701.55 of 37879
the Revised Code to all physicians, certified nurse-midwives, 37880
and persons engaged in services relating to the public health; 37881

~~(F)~~ (E) Keep a proper record of all cases of inflammation 37882
of the eyes of the newborn and gonorrhoeal ophthalmia filed with 37883
the department pursuant to sections 3701.51 to 3701.55 of the 37884
Revised Code and as may come to its attention in any way; 37885

~~(G)~~ (F) Report all violations of sections 3701.51 to 37886
3701.55 of the Revised Code that come to its attention to the 37887
state medical board and also to the prosecuting attorney of the 37888
county wherein the violation was committed, and assist those 37889
officials in every way possible. 37890

Sec. 3701.615. (A) As used in this section: 37891

(1) "Certified nurse-midwife," "certified nurse 37892

practitioner," and "clinical nurse specialist" have the same 37893
meanings as in section 4723.01 of the Revised Code. 37894

(2) "Physician" means an individual authorized under 37895
Chapter 4731. of the Revised Code to practice medicine and 37896
surgery or osteopathic medicine and surgery. 37897

(3) "Physician assistant" means an individual authorized 37898
under Chapter 4730. of the Revised Code to practice as a 37899
physician assistant. 37900

(B) The department of health shall establish a grant 37901
program to address the provision of prenatal health care 37902
services to pregnant women on a group basis. The aim of the 37903
program is to increase the number of pregnant women who begin 37904
prenatal care early in their pregnancies and to reduce the 37905
number of infants born preterm. 37906

(C) (1) An entity seeking to participate in the grant 37907
program shall apply to the department of health in a manner 37908
prescribed by the department. Participating entities may include 37909
the following: 37910

(a) Medical practices, including those operated by or 37911
employing one or more physicians, physician assistants, 37912
certified nurse-midwives, certified nurse practitioners, or 37913
clinical nurse specialists; 37914

(b) Health care facilities. 37915

(2) To be eligible to participate in the grant program, an 37916
entity must demonstrate to the department that it can meet all 37917
of the following requirements: 37918

(a) Has space to host groups of at least twelve pregnant 37919
women; 37920

(b) Has adequate in-kind resources, including existing medical staff, to provide necessary prenatal health care services on both an individual and group basis;	37921 37922 37923
(c) Provides prenatal care based on either of the following:	37924 37925
(i) The centering pregnancy model of care developed by the centering healthcare institute;	37926 37927
(ii) Another model of care acceptable to the department.	37928
(d) Integrates health assessments, education, and support into a unified program in which pregnant women at similar stages of pregnancy meet, learn care skills, and participate in group discussions;	37929 37930 37931 37932
(e) Meets any other requirements established by the department.	37933 37934
(D) When distributing funds under the program, the department shall give priority to entities that are both of the following:	37935 37936 37937
(1) Operating in areas of the state with high preterm birth rates, including rural areas and Cuyahoga, Franklin, Hamilton, and Summit counties;	37938 37939 37940
(2) Providing care to medicaid recipients who are members of the group described in division (B) of section 5163.06 of the Revised Code.	37941 37942 37943
(E) A participating entity may employ or contract with licensed dental hygienists to educate pregnant women about the importance of prenatal and postnatal dental care.	37944 37945 37946
(F) The department may adopt rules as necessary to	37947

~~implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~ 37948
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Sec. 3701.84. (A) The department of health shall prepare a 37950
plan to reduce tobacco use by Ohioans, with emphasis on reducing 37951
the use of tobacco by youth, minority and regional populations, 37952
pregnant women, medicaid recipients, and others who may be 37953
disproportionately affected by the use of tobacco. The 37954
department shall make copies of the plan available to the 37955
public. 37956

(B) The plan shall do both of the following: 37957

(1) Take into account the increasing use of electronic 37958
health records by health care providers and expanded health 37959
insurance coverage for tobacco cessation products and services; 37960

(2) Require the department to collaborate with community 37961
organizations in the urban and rural communities specified in 37962
rules adopted under section 3701.142 of the Revised Code for the 37963
purpose of helping them succeed in securing grants from the moms 37964
quit for two grant program created under Section 289.33 of Am. 37965
Sub. H.B. 64 of the 131st general assembly and other tobacco 37966
cessation grant programs. 37967

(C) The plan may provide for periodic surveys to measure 37968
tobacco use and behavior toward tobacco use by Ohioans. 37969

(D) The plan may describe youth tobacco consumption 37970
prevention programs to be eligible for consideration for grants 37971
from the department and may set forth the criteria by which 37972
applications for grants for such programs will be considered by 37973
the department. Programs eligible for consideration may include: 37974

(1) Media campaigns directed to youth to prevent underage 37975
tobacco consumption; 37976

(2) School-based education programs to prevent youth tobacco consumption;	37977 37978
(3) Community-based youth programs involving youth tobacco consumption prevention through general youth development;	37979 37980
(4) Retailer education and compliance efforts to prevent youth tobacco consumption;	37981 37982
(5) Mentoring programs designed to prevent or reduce tobacco use by students.	37983 37984
(E) Pursuant to the plan, the department may carry out, or provide funding for private or public agencies to carry out, research and programs related to tobacco use prevention and cessation. If the department provides such funding, the department shall establish an objective process to determine which research and program proposals to fund. When appropriate, proposals for research shall be peer-reviewed. No program shall be carried out or funded by the department unless there is research that indicates that the program is likely to achieve the results desired. All research and programs funded by the department shall be goal-oriented and independently and objectively evaluated annually on whether it is meeting its goals. The department shall contract for such evaluations and shall adopt rules under Chapter 119. of the Revised Code regarding conflicts of interest in the research and programs it funds.	37985 37986 37987 37988 37989 37990 37991 37992 37993 37994 37995 37996 37997 37998 37999 38000
The department shall endeavor to coordinate its research and programs with the efforts of other agencies of this state to reduce tobacco use by Ohioans. Any state agency that conducts a survey that measures tobacco use or behavior toward tobacco use by Ohioans shall share the results of the survey with the	38001 38002 38003 38004 38005

department. 38006

~~(F) The department may adopt rules under Chapter 119. of
the Revised Code as necessary to implement this section.~~ 38007
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Sec. 3701.87. The governor may authorize the department of 38009
health to enter into an agreement on behalf of the state with 38010
the United States secretary of health and human services whereby 38011
the department may serve as the agency for review of proposed 38012
capital expenditures by health care facilities pursuant to 38013
section 1122 of the "Social Security Act" as amended by Public 38014
Law 92-603, 42 U.S.C. 1320a-1, and the regulations adopted 38015
thereunder. Such agreement shall be subject to and include the 38016
following terms and conditions: 38017

(A) All applications, notices, requests for information, 38018
and other official communications shall be on written forms 38019
prescribed by and approved by the director of health. 38020

(B) The director, ~~subject to Chapter 119. of the Revised
Code,~~ shall propose, modify, amend, and adopt ~~rules,~~ standards, 38021
guidelines, and official policies which are consistent with 38022
federal law, as it deems necessary to implement the capital 38023
expenditures review program. 38024
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(C) The director shall make all findings and 38026
recommendations required by federal law and shall give due 38027
consideration to the findings, reviews, and comments of areawide 38028
health planning agencies performing reviews pursuant to section 38029
314 (b) (2) of the "Public Health Service Act," 42 U.S.C. 246, or 38030
the appropriate health systems agency. 38031

(D) The findings and recommendations of the director shall 38032
be in writing and shall clearly specify the provisions of the 38033
state health facilities plan with which any application is found 38034

to be inconsistent. Any applicant adversely affected by the 38035
findings and recommendations of the director may request a 38036
hearing before the director pursuant to Chapter 119. of the 38037
Revised Code. The findings and recommendations of the director 38038
are an adjudication as defined in Chapter 119. of the Revised 38039
Code and may be appealed as provided in that chapter. 38040

Sec. 3701.922. (A) The director of health may do any of 38041
the following to implement and administer the patient centered 38042
medical home education program: 38043

(1) Develop and implement programs of education or 38044
training on the patient centered medical home model of care or 38045
other similar enhanced models of coordinated patient centered 38046
care that are intended to address the multifaceted needs of 38047
patients and provide whole person comprehensive and coordinated 38048
patient centered care; 38049

(2) Advise, consult, cooperate with, and assist, by 38050
contract or other arrangement, government agencies or 38051
institutions or private organizations, corporations, or 38052
associations in the development and promotion of programs 38053
pertaining to the evaluation and implementation of the patient 38054
centered medical home model of care or other similar enhanced 38055
models of coordinated patient centered care; 38056

(3) Establish projects that provide education or training 38057
on the patient centered medical home model of care or other 38058
similar enhanced models of coordinated patient centered care. 38059

(4) Seek and administer state funds or grants from other 38060
sources to carry out any functions of the patient centered 38061
medical home education program. 38062

Any funds or grants received by the director for purposes 38063

of the program shall be used for the program. 38064

(B) The director may adopt ~~rules as necessary to implement~~ 38065
~~and administer the patient centered medical home education~~ 38066
~~program, including~~ rules that define what constitutes a "patient 38067
centered medical home" for purposes of an entity authorized to 38068
provide care coordination services. The rules shall be adopted 38069
in accordance with Chapter 119. of the Revised Code. 38070

Sec. 3701.936. At the request of the director of health, 38071
every department, agency, and political subdivision of the state 38072
shall provide information, data, records, and otherwise assist 38073
in the execution of sections 3701.93 to ~~3701.9314~~ 3701.9312 of 38074
the Revised Code. 38075

Sec. 3701.937. At the request of the director of health, 38076
any individual or entity not specified in section 3701.936 of 38077
the Revised Code, at the individual's or entity's discretion, 38078
may provide information, data, records, and otherwise assist in 38079
the execution of sections 3701.93 to ~~3701.9314~~ 3701.9312 of the 38080
Revised Code. Any information, data, and records provided to the 38081
director by any other individual or entity shall contain only 38082
information, data, or records that are available or reasonably 38083
drawn from any information, data, and record developed and kept 38084
in the normal course of business. 38085

Sec. 3701.938. Notwithstanding any section of the Revised 38086
Code pertaining to confidentiality, any individual, public 38087
social service agency, or public agency that provides services 38088
to individuals or families, law enforcement agency, coroner, or 38089
public entity that provided services to an individual whose 38090
death is the type of death specified by the director of health 38091
under section 3701.934 of the Revised Code shall provide 38092
information, data, records, and otherwise assist in the 38093

execution of sections 3701.93 to ~~3701.9314~~3701.9312 of the Revised Code. 38094
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Sec. 3702.301. (A) Except as provided in division (C) of this section, a freestanding birthing center is not required to obtain a license under section 3702.30 of the Revised Code if all of the following are the case: 38096
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(1) A religious denomination, sect, or group owns and operates the center. 38100
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(2) Requiring that the center be licensed significantly abridges or infringes on the religious practices or beliefs of that religious denomination, sect, or group. 38102
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(3) The center provides care only during low-risk pregnancy, delivery, and the immediate postpartum period exclusively to women who 38105
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are members of that religious denomination, sect, or group. 38108
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(4) The center monitors and evaluates the care provided to its patients in accordance with at least the minimum patient safety monitoring and evaluation requirements established in rules adopted under division (D) of this section. 38110
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(5) The center meets the quality assessment and improvement standards established in rules adopted under division (D) of this section. 38114
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(B) If the director determines that a freestanding birthing center is no longer exempt from the requirement to obtain a license under section 3702.30 of the Revised Code because the center ceases to comply with division (A) (4) or (5) of this section, the director may order the center to come into 38117
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compliance. In the order, the director may do all of the 38122
following: 38123

(1) Identify what the center is not in compliance with and 38124
what the center needs to do to come into compliance; 38125

(2) Require that the center come into compliance within a 38126
period of time specified in the order; 38127

(3) Require that the center provide the director a written 38128
notice within a period of time specified in the order that 38129
contains all of the following: 38130

(a) Certification that the center has come into 38131
compliance; 38132

(b) The signature of the center's administrator or medical 38133
director and certification that the administrator or medical 38134
director, whichever signs the notice, is the center's authorized 38135
representative; 38136

(c) Certification that the information contained in the 38137
notice and in any accompanying documentation is true and 38138
accurate; 38139

(d) Any other information or documentation that the 38140
director may require to verify that the center has come into 38141
compliance. 38142

(C) If the director issues an order to a freestanding 38143
birthing center under division (B) of this section and the 38144
center fails to comply with the order within the time specified 38145
in the order, the director may issue a second order that 38146
requires the center to cease operations until the center obtains 38147
a license under section 3702.30 of the Revised Code. 38148

(D) The director of health shall adopt rules in accordance 38149

with Chapter 119. of the Revised Code ~~as necessary to implement~~ 38150
~~this section. The rules shall~~ that establish all of the 38151
following: 38152

(1) Minimum patient safety monitoring and evaluation 38153
requirements; 38154

(2) Quality assessment and improvement standards; 38155

(3) Procedures for determining whether freestanding 38156
birthing centers are in compliance with the rules. 38157

Sec. 3702.3012. (A) As used in this section, "surgical 38158
smoke" and "surgical smoke evacuation system" have the same 38159
meanings as in section 3727.25 of the Revised Code. 38160

(B) Not later than one year after ~~the effective date of~~ 38161
~~this section~~ October 3, 2024, each ambulatory surgical facility 38162
shall adopt and implement a policy designed to prevent human 38163
exposure to surgical smoke during any planned surgical procedure 38164
that is likely to generate surgical smoke. The policy shall 38165
include the use of a surgical smoke evacuation system. 38166

~~(C) The director of health may adopt any rules the~~ 38167
~~director considers necessary to implement this section. The~~ 38168
~~rules shall be adopted in accordance with Chapter 119. of the~~ 38169
~~Revised Code.~~ 38170

Sec. 3702.57. (A) The director of health shall adopt rules 38171
establishing procedures and criteria for reviews of applications 38172
for certificates of need and issuance, denial, or withdrawal of 38173
certificates. 38174

(1) In adopting rules that establish criteria for reviews 38175
of applications of certificates of need, the director shall 38176
consider the availability of and need for long-term care beds to 38177

provide care and treatment to persons diagnosed as having 38178
traumatic brain injuries and shall prescribe criteria for 38179
reviewing applications that propose to add long-term care beds 38180
to provide care and treatment to persons diagnosed as having 38181
traumatic brain injuries. 38182

(2) The criteria for reviews of applications for 38183
certificates of need shall relate to the need for the reviewable 38184
activity and shall pertain to all of the following matters: 38185

(a) The impact of the reviewable activity on the cost and 38186
quality of long-term care services in the relevant service area, 38187
including, but not limited, to the historical and projected 38188
utilization of the services to which the application pertains 38189
and the effect of the reviewable activity on utilization of 38190
other providers of similar services; 38191

(b) The quality of the services to be provided as the 38192
result of the activity, as evidenced by the historical 38193
performance of the persons that will be involved in providing 38194
the services and by the provisions that are proposed in the 38195
application to ensure quality, including but not limited to 38196
adequate available personnel, available ancillary and support 38197
services, available equipment, size and configuration of 38198
physical plant, and relations with other providers; 38199

(c) The impact of the reviewable activity on the 38200
availability and accessibility of the type of services proposed 38201
in the application to the population of the relevant service 38202
area, and the level of access to the services proposed in the 38203
application that will be provided to medically underserved 38204
individuals such as recipients of public assistance and 38205
individuals who have no health insurance or whose health 38206
insurance is insufficient; 38207

- (d) The activity's short- and long-term financial feasibility and cost-effectiveness, the impact of the activity on the applicant's costs and charges, and a comparison of the applicant's costs and charges with those of providers of similar services in the applicant's proposed service area; 38208
38209
38210
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- (e) The advantages, disadvantages, and costs of alternatives to the reviewable activity; 38213
38214
- (f) The impact of the activity on all other providers of similar services in the relevant service area, including the impact on their utilization, market share, and financial status; 38215
38216
38217
- (g) The historical performance of the applicant and related or affiliated parties in complying with previously granted certificates of need and any applicable certification, accreditation, or licensure requirements; 38218
38219
38220
38221
- (h) The historical performance of the applicant and related or affiliated parties in providing cost-effective long-term care services; 38222
38223
38224
- (i) The special needs and circumstances of the applicant or population proposed to be served by the proposed project, including research activities, prevalence of particular diseases, unusual demographic characteristics, cost-effective contractual affiliations, and other special circumstances; 38225
38226
38227
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38229
- (j) The appropriateness of the zoning status of the proposed site of the activity; 38230
38231
- (k) The participation by the applicant in research conducted by the United States food and drug administration or clinical trials sponsored by the national institutes of health. 38232
38233
38234
- (3) The criteria for reviews of applications shall include 38235

a formula for determining each county's long-term care bed need 38236
for purposes of section 3702.593 of the Revised Code and may 38237
include other formulas for determining need for beds. 38238

Any rules prescribing criteria that establish ratios of 38239
beds to population shall specify the bases for establishing the 38240
ratios or mitigating factors or exceptions to the ratios. 38241

(B) The director shall adopt rules specifying all of the 38242
following: 38243

(1) Information that must be provided in applications for 38244
certificates of need; 38245

(2) Procedures for reviewing applications for completeness 38246
of information; 38247

(3) Criteria for determining that the application is 38248
complete; 38249

(4) Procedures for making a final determination regarding 38250
an application's completeness and issuing a notice of the 38251
determination within the one-hundred-eighty-day time frame 38252
specified in division (B) (3) of section 3702.52 of the Revised 38253
Code. 38254

(C) The director shall adopt rules specifying requirements 38255
that holders of certificates of need must meet in order for the 38256
certificates to remain valid and establishing definitions and 38257
requirements for obligation of capital expenditures and 38258
implementation of projects authorized by certificates of need. 38259

The rules shall not specify a maximum capital expenditure 38260
that a certificate holder may obligate under a certificate of 38261
need. 38262

(D) The director shall adopt rules establishing criteria 38263

and procedures under which the director of health may withdraw a certificate of need if the holder fails to meet requirements for continued validity of the certificate. 38264
38265
38266

(E) The director shall adopt rules establishing procedures 38267
under which the department of health shall monitor project 38268
implementation activities of holders of certificates of need. 38269
The rules adopted under this division also may establish 38270
procedures for monitoring implementation activities of persons 38271
that have received nonreviewability rulings. 38272

(F) The director shall adopt rules establishing 38273
certificate of need application fees sufficient to pay the costs 38274
incurred by the department for administering sections 3702.51 to 38275
3702.62 of the Revised Code. Unless rules are adopted under this 38276
division establishing different application fees, the 38277
application fee for a project not involving a capital 38278
expenditure shall be three thousand dollars and the application 38279
fee for a project involving a capital expenditure shall be nine- 38280
tenths of one per cent of the capital expenditure proposed 38281
subject to a minimum of three thousand dollars and a maximum of 38282
twenty thousand dollars. 38283

(G) The director shall adopt rules specifying information 38284
that is necessary to conduct reviews of certificate of need 38285
applications and to develop criteria for reviews that long-term 38286
care facilities are to submit to the director under division (H) 38287
of section 3702.52 of the Revised Code. 38288

(H) The director shall adopt rules defining "affiliated 38289
person," "related person," and "ultimate controlling interest" 38290
for purposes of section 3702.523 of the Revised Code. 38291

(I) The director shall adopt rules prescribing 38292

requirements for holders of certificates of need to demonstrate 38293
to the director under section 3702.525 of the Revised Code that 38294
reasonable progress is being made toward completion of the 38295
reviewable activity and establishing standards by which the 38296
director shall determine whether reasonable progress is being 38297
made. 38298

(J) The director shall adopt all rules under divisions (A) 38299
to (I) of this section in accordance with Chapter 119. of the 38300
Revised Code. ~~The director may adopt other rules as necessary to~~ 38301
~~carry out the purposes of sections 3702.51 to 3702.62 of the~~ 38302
~~Revised Code.~~ 38303

Sec. 3702.71. As used in sections 3702.71 to ~~3702.79~~ 38304
3702.78 of the Revised Code: 38305

(A) "Full-time practice" means working a minimum of forty 38306
hours per week for a minimum of forty-five weeks each service 38307
year. 38308

(B) "Part-time practice" means working a minimum of twenty 38309
and a maximum of thirty-nine hours per week for a minimum of 38310
forty-five weeks per service year. 38311

(C) "Primary care physician" means an individual who is 38312
authorized under Chapter 4731. of the Revised Code to practice 38313
medicine and surgery or osteopathic medicine and surgery and is 38314
board certified or board eligible in a primary care specialty. 38315

(D) "Primary care service" means professional 38316
comprehensive personal health services, which may include health 38317
education and disease prevention, treatment of uncomplicated 38318
health problems, diagnosis of chronic health problems, overall 38319
management of health care services for an individual or a 38320
family, and the services of a psychiatrist. "Primary care 38321

service" also includes providing the initial contact for health 38322
care services, making referrals for secondary and tertiary care 38323
and for continuity of health care services, and teaching 38324
activities to the extent specified in a contract entered into 38325
pursuant to section 3702.74 of the Revised Code. 38326

(E) "Primary care specialty" means general internal 38327
medicine, pediatrics, adolescent medicine, obstetrics and 38328
gynecology, psychiatry, child and adolescent psychiatry, 38329
geriatric psychiatry, combined internal medicine and pediatrics, 38330
geriatrics, or family practice. 38331

(F) "Teaching activities" means providing clinical 38332
education to students and residents regarding the primary care 38333
physician's normal course of practice and expertise at the 38334
service site specified in the contract described in section 38335
3702.74 of the Revised Code. 38336

Sec. 3702.74. (A) A primary care physician who has signed 38337
a letter of intent under section 3702.73 of the Revised Code and 38338
the director of health may enter into a contract for the 38339
physician's participation in the physician loan repayment 38340
program. The physician's employer or other funding source may 38341
also be a party to the contract. 38342

(B) The contract shall include all of the following 38343
obligations: 38344

(1) The primary care physician agrees to provide primary 38345
care services in the health resource shortage area identified in 38346
the letter of intent for the number of hours and duration 38347
specified in the contract; 38348

(2) When providing primary care services in the health 38349
resource shortage area, the primary care physician agrees to do 38350

all of the following: 38351

(a) Provide primary care services in an outpatient or 38352
ambulatory setting approved by the department of health; 38353

(b) Provide primary care services without regard to a 38354
patient's ability to pay; 38355

(c) Meet the requirements for a medicaid provider 38356
agreement and enter into the agreement with the department of 38357
medicaid to provide primary care services to medicaid 38358
recipients. 38359

(3) The department of health agrees, as provided in 38360
section 3702.75 of the Revised Code, to repay, so long as the 38361
primary care physician performs the service obligation agreed to 38362
under division (B)(1) of this section, all or part of the 38363
principal and interest of a government or other educational loan 38364
taken by the primary care physician for expenses described in 38365
section 3702.75 of the Revised Code; 38366

(4) The primary care physician agrees to pay the 38367
department of health an amount ~~established~~the director 38368
establishes by rules adopted under ~~section 3702.79~~ Chapter 119. 38369
of the Revised Code if the physician fails to complete the 38370
service obligation agreed to under division (B)(1) of this 38371
section. 38372

(C) The contract shall include the following terms as 38373
agreed upon by the parties: 38374

(1) The primary care physician's required length of 38375
service in the health resource shortage area, which must be at 38376
least two years; 38377

(2) The number of weekly hours the primary care physician 38378

will be engaged in full-time practice or part-time practice in 38379
the health resource shortage area; 38380

(3) The maximum amount that the department will repay on 38381
behalf of the primary care physician; 38382

(4) The extent to which the primary care physician's 38383
teaching activities will be counted toward the physician's full- 38384
time practice or part-time practice hours under the contract. 38385

(D) If the amount specified in division (C) (3) of this 38386
section includes federal funds, the amount of state funds repaid 38387
on the individual's behalf shall be the same as the amount of 38388
those federal funds. 38389

Sec. 3702.91. (A) As used in this section: 38390

(1) "Full-time practice" and "part-time practice" have the 38391
same meanings as in section 3702.71 of the Revised Code; 38392

(2) "Teaching activities" means providing clinical 38393
education to dental students and residents and dental health 38394
profession students at the service site specified in the 38395
contract described in division (B) of this section. 38396

(B) An individual who has signed a letter of intent may 38397
enter into a contract with the director of health for 38398
participation in the dentist loan repayment program. The 38399
dentist's employer or other funding source may also be a party 38400
to the contract. 38401

(C) The contract shall include all of the following 38402
obligations: 38403

(1) The individual agrees to provide dental services in 38404
the dental health resource shortage area identified in the 38405
letter of intent for the number of hours and duration specified 38406

in the contract. 38407

(2) When providing dental services in the dental health 38408
resource shortage area, the individual agrees to do all of the 38409
following: 38410

(a) Provide dental services in a service site approved by 38411
the department of health; 38412

(b) Provide dental services without regard to a patient's 38413
ability to pay; 38414

(c) Meet the requirements for a medicaid provider 38415
agreement and enter into the agreement with the department of 38416
medicaid to provide dental services to medicaid recipients. 38417

(3) The department of health agrees, as provided in 38418
section 3702.85 of the Revised Code, to repay, so long as the 38419
individual performs the service obligation agreed to under 38420
division (C)(1) of this section, all or part of the principal 38421
and interest of a government or other educational loan taken by 38422
the individual for expenses described in section 3702.85 of the 38423
Revised Code. 38424

(4) The individual agrees to pay the department of health 38425
an amount established by the director by rules adopted under 38426
~~section 3702.86~~ Chapter 119. of the Revised Code, if the 38427
individual fails to complete the service obligation agreed to 38428
under division (C)(1) of this section. 38429

(D) The contract shall include the following terms as 38430
agreed upon by the parties: 38431

(1) The individual's required length of service in the 38432
dental health resource shortage area, which must be at least two 38433
years; 38434

(2) The number of weekly hours the individual will be engaged in full-time practice or part-time practice;	38435 38436
(3) The maximum amount that the department will repay on behalf of the individual;	38437 38438
(4) The extent to which the individual's teaching activities will be counted toward the individual's full-time practice or part-time practice hours under the contract.	38439 38440 38441
(E) If the amount specified in division (D) (3) of this section includes federal funds, the amount of state funds repaid on the individual's behalf shall be the same as the amount of those federal funds.	38442 38443 38444 38445
Sec. 3702.965. (A) As used in this section:	38446
(1) "Full-time practice" and "part-time practice" have the same meanings as in section 3702.71 of the Revised Code;	38447 38448
(2) "Teaching activities" means supervising dental hygiene students at the service site specified in the contract described in division (B) of this section.	38449 38450 38451
(B) An individual who has been approved for participation under section 3702.964 of the Revised Code may enter into a contract with the director of health for participation in the dental hygienist loan repayment program. The dental hygienist's employer or other funding source may also be a party to the contract.	38452 38453 38454 38455 38456 38457
(C) The contract shall include all of the following obligations:	38458 38459
(1) The individual agrees to provide dental hygiene services in the dental health resource shortage area for the number of hours and duration specified in the contract.	38460 38461 38462

(2) The department of health agrees, as provided in 38463
section 3702.96 of the Revised Code, to repay, so long as the 38464
individual performs the service obligation agreed to under 38465
division (C)(1) of this section, all or part of the principal 38466
and interest of a government or other educational loan taken by 38467
the individual for expenses described in section 3702.96 of the 38468
Revised Code. 38469

(3) The individual agrees to pay the department of health 38470
an amount established by the director by rules adopted under 38471
~~section 3702.961~~ Chapter 119. of the Revised Code, if the 38472
individual fails to complete the service obligation agreed to 38473
under division (C)(1) of this section. 38474

(D) The contract shall include the following terms as 38475
agreed upon by the parties: 38476

(1) The particular site within a dental health resource 38477
shortage area where the dental hygiene services are to be 38478
performed; 38479

(2) The individual's required length of service in the 38480
dental health resource shortage area, which must be at least two 38481
years; 38482

(3) The number of weekly hours the individual will be 38483
engaged in full-time practice or part-time practice; 38484

(4) The maximum amount that the department will repay on 38485
behalf of the individual; 38486

(5) The extent to which the individual's teaching 38487
activities will be counted toward the individual's full-time 38488
practice or part-time practice hours under the contract. 38489

(E) Before agreeing to the amount specified in division 38490

(D) (4) of this section, the department of health shall consult 38491
with the Ohio dental hygienists' association regarding the 38492
amount. If this amount includes funds from the bureau of 38493
clinician recruitment and service in the United States 38494
department of health and human services, the amount of state 38495
funds repaid on the individual's behalf shall be the same as the 38496
amount of those funds. 38497

Sec. 3703.21. (A) Within ninety days after September 16, 38498
2004, the superintendent of industrial compliance shall appoint 38499
a backflow advisory board consisting of not more than ten 38500
members, who shall serve at the pleasure of the superintendent. 38501
The superintendent shall appoint a representative from the 38502
plumbing section of the division of industrial compliance, three 38503
representatives recommended by the plumbing administrator of the 38504
division of industrial compliance, a representative of the 38505
drinking water program of the Ohio environmental protection 38506
agency, three representatives recommended by the director of 38507
environmental protection, and not more than two members who are 38508
not employed by the plumbing or water industry. 38509

The board shall advise the superintendent on matters 38510
pertaining to the training and certification of backflow 38511
technicians. 38512

(B) (1) The superintendent shall adopt rules in accordance 38513
with Chapter 119. of the Revised Code to ~~provide for the~~ 38514
~~certification of backflow technicians. The rules shall establish~~ 38515
all of the following requirements, specifications, and 38516
procedures for the certification of backflow technicians: 38517

(a) Requirements and procedures for the initial 38518
certification of backflow technicians, including eligibility 38519
criteria and application requirements and fees; 38520

(b) Specifications concerning and procedures for taking examinations required for certification as a backflow technician, including eligibility criteria to take the examination and application requirements and fees for taking the examination;	38521 38522 38523 38524 38525
(c) Subject to division (B)(2) of this section, specifications concerning and procedures for renewing a certification as a backflow technician, including eligibility criteria, application requirements, and fees for renewal;	38526 38527 38528 38529
(d) Specifications concerning and procedures for both of the following:	38530 38531
(i) Approval of training agencies authorized to teach required courses to candidates for certification as backflow technicians or continuing education courses to certified backflow technicians;	38532 38533 38534 38535
(ii) Renewal of the approval described in division (B)(1)(d)(i) of this section.	38536 38537
(e) Education requirements that candidates for initial certification as backflow technicians must satisfy and continuing education requirements that certified backflow technicians must satisfy;	38538 38539 38540 38541
(f) Grounds and procedures for denying, suspending, or revoking certification, or denying the renewal of certification, as a backflow technician;	38542 38543 38544
(g) Procedures for issuing administrative orders for the remedy of any violation of this section or any rule adopted pursuant to division (B)(1) of this section, including, but not limited to, procedures for assessing a civil penalty authorized under division (E) of this section.	38545 38546 38547 38548 38549

~~(h) Any provision the superintendent determines is necessary to administer or enforce this section.~~ 38550
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(2) In the rules the superintendent adopts under division (B) (1) (c) of this section, the superintendent shall do both of the following: 38552
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38554

(a) Specify that a certification be renewed every five years; 38555
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(b) Establish a certification renewal fee of seventy-five dollars. 38557
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(C) The superintendent shall certify a backflow technician in accordance with Chapter 4796. of the Revised Code if either of the following applies: 38559
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(1) The individual holds a license or certification in another state. 38562
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(2) The individual has satisfactory work experience, a government certification, or a private certification as described in that chapter as a backflow technician in a state that does not issue that certification. 38564
38565
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(D) No individual shall engage in the installation, testing, or repair of any isolation backflow prevention device unless that individual possesses a valid certification as a backflow technician. This division does not apply with respect to the installation, testing, or repair of any containment backflow prevention device. 38568
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(E) Whoever violates division (D) of this section or any rule adopted pursuant to division (B) (1) of this section shall pay a civil penalty of not more than five thousand dollars for each day that the violation continues. The superintendent may, 38574
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by order, assess a civil penalty under this division, or may 38578
request the attorney general to bring a civil action to impose 38579
the civil penalty in the court of common pleas of the county in 38580
which the violation occurred or where the violator resides. 38581

(F) Any action taken under a rule adopted pursuant to 38582
division (B) (1) (f) of this section is subject to the appeal 38583
process of Chapter 119. of the Revised Code. An administrative 38584
order issued pursuant to rules adopted under division (B) (1) (g) 38585
of this section and an appeal to that type of administrative 38586
order shall be executed in accordance with Chapter 119. of the 38587
Revised Code. 38588

(G) As used in this section: 38589

(1) "Isolation backflow prevention device" means a device 38590
for the prevention of the backflow of liquids, solids, or gases 38591
that is regulated by the building code adopted pursuant to 38592
section 3781.10 of the Revised Code and rules adopted pursuant 38593
to this section. 38594

(2) "Containment backflow prevention device" means a 38595
device for the prevention of the backflow of liquids, solids, or 38596
gases that is installed by the supplier of, or as a requirement 38597
of, any public water system as defined in division (A) of 38598
section 6109.01 of the Revised Code. 38599

Sec. 3704.03. The director of environmental protection may 38600
do any of the following: 38601

(A) Develop programs for the prevention, control, and 38602
abatement of air pollution; 38603

(B) Advise, consult, contract, and cooperate with any 38604
governmental or private agency in the furtherance of the 38605
purposes of this chapter; 38606

(C) Encourage, participate in, or conduct studies, 38607
investigations, and research relating to air pollution, collect 38608
and disseminate information, and conduct education and training 38609
programs relating to the causes, prevention, control, and 38610
abatement of air pollution; 38611

~~(D) Adopt, modify, and rescind rules prescribing ambient 38612
air quality standards for the state as a whole or for various 38613
areas of the state that are consistent with and no more 38614
stringent than the national ambient air quality standards in 38615
effect under the federal Clean Air Act; 38616~~

~~(E) Adopt, modify, suspend, and rescind rules for the 38617
prevention, control, and abatement of air pollution, including 38618
rules prescribing for the state as a whole or for various areas 38619
of the state emission standards for air contaminants, and other 38620
necessary rules for the purpose of achieving and maintaining 38621
compliance with ambient air quality standards in all areas 38622
within the state as expeditiously as practicable, but not later 38623
than any deadlines applicable under the federal Clean Air Act; 38624
rules for the prevention or control of the emission of hazardous 38625
or toxic air contaminants; rules prescribing fugitive dust 38626
limitations and standards that are related, on an areawide 38627
basis, to attainment and maintenance of ambient air quality 38628
standards; rules prescribing shade, density, or opacity 38629
limitations and standards for emissions, provided that with 38630
regard to air contaminant sources for which there are 38631
particulate matter emission standards in addition to a shade, 38632
density, or opacity rule, upon demonstration by such a source of 38633
compliance with those other standards, the shade, density, or 38634
opacity rule shall provide for establishment of a shade, 38635
density, or opacity limitation for that source that does not 38636
require the source to reduce emissions below the level specified 38637~~

by those other standards; rules for the prevention or control of odors and air pollution nuisances; ~~rules that prevent significant deterioration of air quality to the extent required by the federal Clean Air Act; rules for the protection of visibility as required by the federal Clean Air Act;~~ and rules prescribing open burning limitations and standards. In adopting, modifying, suspending, or rescinding any such rules, the director, to the extent consistent with the federal Clean Air Act, shall hear and give consideration to evidence relating to all of the following:

(1) Conditions calculated to result from compliance with the rules, the overall cost within this state of compliance with the rules, and their relation to benefits to the people of the state to be derived from that compliance;

(2) The quantity and characteristics of air contaminants, the frequency and duration of their presence in the ambient air, and the dispersion and dilution of those contaminants;

(3) Topography, prevailing wind directions and velocities, physical conditions, and other factors that may or may combine to affect air pollution.

Consistent with division (K) of section 3704.036 of the Revised Code, the director shall consider alternative emission limits proposed by the owner or operator of an air contaminant source that is subject to an emission limit established in rules adopted under this division and shall accept those alternative emission limits that the director determines to be equivalent to emission limits established in rules adopted under this division.

~~(F)(1)~~ (E)(1) Adopt, modify, suspend, and rescind rules

consistent with the purposes of this chapter prohibiting the 38667
location, installation, construction, or modification of any air 38668
contaminant source or any machine, equipment, device, apparatus, 38669
or physical facility intended primarily to prevent or control 38670
the emission of air contaminants unless an installation permit 38671
therefor has been obtained from the director or the director's 38672
authorized representative. 38673

(2) (a) Applications for installation permits shall be 38674
accompanied by plans, specifications, construction schedules, 38675
and such other pertinent information and data, including data on 38676
ambient air quality impact and a demonstration of best available 38677
technology, as the director may require. Installation permits 38678
shall be issued for a period specified by the director and are 38679
transferable. The director shall specify in each permit the 38680
applicable emission standards and that the permit is conditioned 38681
upon payment of the applicable fees as required by section 38682
3745.11 of the Revised Code and upon the right of the director's 38683
authorized representatives to enter upon the premises of the 38684
person to whom the permit has been issued, at any reasonable 38685
time and subject to safety requirements of the person in control 38686
of the premises, for the purpose of determining compliance with 38687
such standards, this chapter, the rules adopted thereunder, and 38688
the conditions of any permit, variance, or order issued 38689
thereunder. Each proposed new or modified air contaminant source 38690
shall provide such notice of its proposed installation or 38691
modification to other states as is required under the federal 38692
Clean Air Act. Installation permits shall include the 38693
authorization to operate sources installed and operated in 38694
accordance with terms and conditions of the installation permits 38695
for a period not to exceed one year from commencement of 38696
operation, which authorization shall constitute an operating 38697

permit under division ~~(G)~~(F) of this section and rules adopted 38698
under it. 38699

No installation permit shall be required for activities 38700
that are subject to and in compliance with a plant-wide 38701
applicability limit issued by the director in accordance with 38702
rules adopted under this section. 38703

No installation permit shall be issued except in 38704
accordance with all requirements of this chapter and rules 38705
adopted thereunder. No application shall be denied or permit 38706
revoked or modified without a written order stating the findings 38707
upon which denial, revocation, or modification is based. A copy 38708
of the order shall be sent to the applicant or permit holder by 38709
certified mail. 38710

(b) An air contaminant source that is the subject of an 38711
installation permit shall be installed or modified in accordance 38712
with the permit not later than eighteen months after the 38713
permit's effective date at which point the permit shall 38714
terminate unless one of the following applies: 38715

(i) The owner or operator has undertaken a continuing 38716
program of installation or modification during the eighteen- 38717
month period. 38718

(ii) The owner or operator has entered into a binding 38719
contractual obligation to undertake and complete within a 38720
reasonable period of time a continuing program of installation 38721
or modification of the air contaminant source during the 38722
eighteen-month period. 38723

(iii) The director has extended the date by which the air 38724
contaminant source that is the subject of the installation 38725
permit must be installed or modified. 38726

(iv) The installation permit is the subject of an appeal 38727
by a party other than the owner or operator of the air 38728
contaminant source that is the subject of the installation 38729
permit, in which case the date of termination of the permit is 38730
not later than eighteen months after the effective date of the 38731
permit plus the number of days between the date in which the 38732
permit was appealed and the date on which all appeals concerning 38733
the permit have been resolved. 38734

(v) The installation permit has been superseded by a 38735
subsequent installation permit, in which case the original 38736
installation permit terminates on the effective date of the 38737
superseding installation permit. 38738

Division ~~(F) (2) (b)~~ (E) (2) (b) of this section applies to an 38739
installation permit that has not terminated as of October 16, 38740
2009. 38741

~~The director may adopt rules in accordance with Chapter~~ 38742
~~119. of the Revised Code for the purpose of establishing~~ 38743
~~additional requirements that are necessary for the~~ 38744
~~implementation of division (F) (2) (b) of this section.~~ 38745

(3) Not later than two years after August 3, 2006, the 38746
director shall adopt a rule in accordance with Chapter 119. of 38747
the Revised Code specifying that a permit to install is required 38748
only for new or modified air contaminant sources that emit any 38749
of the following air contaminants: 38750

(a) An air contaminant or precursor of an air contaminant 38751
for which a national ambient air quality standard has been 38752
adopted under the federal Clean Air Act; 38753

(b) An air contaminant for which the air contaminant 38754
source is regulated under the federal Clean Air Act; 38755

(c) An air contaminant that presents, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects, including, but not limited to, substances that are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, or neurotoxic, that cause reproductive dysfunction, or that are acutely or chronically toxic, or a threat of adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise, and that is identified in the rule by chemical name and chemical abstract service number.

The director may modify the rule adopted under division ~~(F) (3) (e)~~ (E) (3) (c) of this section for the purpose of adding or deleting air contaminants. For each air contaminant that is contained in or deleted from the rule adopted under division ~~(F) (3) (e)~~ (E) (3) (c) of this section, the director shall include in a notice accompanying any proposed or final rule an explanation of the director's determination that the air contaminant meets the criteria established in that division and should be added to, or no longer meets the criteria and should be deleted from, the list of air contaminants. The explanation shall include an identification of the scientific evidence on which the director relied in making the determination. Until adoption of the rule under division ~~(F) (3) (e)~~ (E) (3) (c) of this section, nothing shall affect the director's authority to issue, deny, modify, or revoke permits to install under this chapter and rules adopted under it.

(4) (a) Applications for permits to install new or modified air contaminant sources shall contain sufficient information regarding air contaminants for which the director may require a permit to install to determine conformity with the environmental

protection agency's document entitled "Review of New Sources of 38787
Air Toxics Emissions, Option A," dated May 1986, which the 38788
director shall use to evaluate toxic emissions from new or 38789
modified air contaminant sources. The director shall make copies 38790
of the document available to the public upon request at no cost 38791
and post the document on the environmental protection agency's 38792
web site. Any inconsistency between the document and division 38793
~~(F)~~~~(4)~~(E) (4) of this section shall be resolved in favor of 38794
division ~~(F)~~~~(4)~~(E) (4) of this section. 38795

(b) The maximum acceptable ground level concentration of 38796
an air contaminant shall be calculated in accordance with the 38797
document entitled "Review of New Sources of Air Toxics 38798
Emissions, Option A." Modeling shall be conducted to determine 38799
the increase in the ground level concentration of an air 38800
contaminant beyond the facility's boundary caused by the 38801
emissions from a new or modified source that is the subject of 38802
an application for a permit to install. Modeling shall be based 38803
on the maximum hourly rate of emissions from the source using 38804
information including, but not limited to, any emission control 38805
devices or methods, operational restrictions, stack parameters, 38806
and emission dispersion devices or methods that may affect 38807
ground level concentrations, either individually or in 38808
combination. The director shall determine whether the activities 38809
for which a permit to install is sought will cause an increase 38810
in the ground level concentration of one or more relevant air 38811
contaminants beyond the facility's boundary by an amount in 38812
excess of the maximum acceptable ground level concentration. In 38813
making the determination as to whether the maximum acceptable 38814
ground level concentration will be exceeded, the director shall 38815
give consideration to the modeling conducted under division ~~(F)~~ 38816
~~(4)~~~~(b)~~(E) (4) (b) of this section and other relevant information 38817

submitted by the applicant. 38818

(c) If the modeling conducted under division ~~(F) (4) (b)~~ (E) (4) (b) of this section with respect to an application for a permit to install demonstrates that the maximum ground level concentration from a new or modified source will be greater than or equal to eighty per cent, but less than one hundred per cent of the maximum acceptable ground level concentration for an air contaminant, the director may establish terms and conditions in the permit to install for the air contaminant source that will require the owner or operator of the air contaminant source to maintain emissions of that air contaminant commensurate with the modeled level, which shall be expressed as allowable emissions per day. In order to calculate the allowable emissions per day, the director shall multiply the hourly emission rate modeled under division ~~(F) (4) (b)~~ (E) (4) (b) of this section to determine the ground level concentration by the operating schedule that has been identified in the permit to install application. Terms and conditions imposed under division ~~(F) (4) (c)~~ (E) (4) (c) of this section are not federally enforceable requirements and, if included in a Title V permit, shall be placed in the portion of the permit that is only enforceable by the state. 38819
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(d) If the modeling conducted under division ~~(F) (4) (b)~~ (E) (4) (b) of this section with respect to an application for a permit to install demonstrates that the maximum ground level concentration from a new or modified source will be less than eighty per cent of the maximum acceptable ground level concentration, the owner or operator of the source annually shall report to the director, on a form prescribed by the director, whether operations of the source are consistent with the information regarding the operations that was used to conduct the modeling with regard to the permit to install 38839
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application. The annual report to the director shall be in lieu 38849
of an emission limit or other permit terms and conditions 38850
imposed pursuant to division ~~(F)(4)~~(E)(4) of this section. The 38851
director may consider any significant departure from the 38852
operations of the source described in the permit to install 38853
application that results in greater emissions than the emissions 38854
rate modeled to determine the ground level concentration as a 38855
modification and require the owner or operator to submit a 38856
permit to install application for the increased emissions. The 38857
requirements established in division ~~(F)(4)(d)~~(E)(4)(d) of this 38858
section are not federally enforceable requirements and, if 38859
included in a Title V permit, shall be placed in the portion of 38860
the permit that is only enforceable by the state. 38861

(e) Division ~~(F)(4)~~(E)(4) of this section and the document 38862
entitled "Review of New Sources of Air Toxics Emissions, Option 38863
A" shall not be included in the state implementation plan under 38864
section 110 of the federal Clean Air Act and do not apply to an 38865
air contaminant source that is subject to a maximum achievable 38866
control technology standard or residual risk standard under 38867
section 112 of the federal Clean Air Act, to a particular air 38868
contaminant identified under 40 C.F.R. 51.166, division (b)(23), 38869
for which the director has determined that the owner or operator 38870
of the source is required to install best available control 38871
technology for that particular air contaminant, or to a 38872
particular air contaminant for which the director has determined 38873
that the source is required to meet the lowest achievable 38874
emission rate, as defined in 40 C.F.R. part 51, Appendix S, for 38875
that particular air contaminant. 38876

(f)(i) Division ~~(F)(4)~~(E)(4) of this section and the 38877
document entitled "Review of New Sources of Air Toxics 38878
Emissions, Option A" do not apply to parking lots, storage 38879

piles, storage tanks, transfer operations, grain silos, grain 38880
dryers, emergency generators, gasoline dispensing operations, 38881
air contaminant sources that emit air contaminants solely from 38882
the combustion of fossil fuels, or the emission of wood dust, 38883
sand, glass dust, coal dust, silica, and grain dust. 38884

(ii) Notwithstanding division ~~(F) (4) (f) (i)~~ (E) (4) (f) (i) of 38885
this section, the director may require an individual air 38886
contaminant source that is within one of the source categories 38887
identified in division ~~(F) (4) (f) (i)~~ (E) (4) (f) (i) of this section 38888
to submit information in an application for a permit to install 38889
a new or modified source in order to determine the source's 38890
conformity to the document if the director has information to 38891
conclude that the particular new or modified source will 38892
potentially cause an increase in ground level concentration 38893
beyond the facility's boundary that exceeds the maximum 38894
acceptable ground level concentration as set forth in the 38895
document. 38896

~~(iii) The director may adopt rules in accordance with 38897
Chapter 119. of the Revised Code that are consistent with the 38898
purposes of this chapter and that add to or delete from the 38899
source category exemptions established in division (F) (4) (f) (i) 38900
of this section. 38901~~

(5) Not later than one year after August 3, 2006, the 38902
director shall adopt rules in accordance with Chapter 119. of 38903
the Revised Code specifying activities that do not, by 38904
themselves, constitute beginning actual construction activities 38905
related to the installation or modification of an air 38906
contaminant source for which a permit to install is required 38907
such as the grading and clearing of land, on-site storage of 38908
portable parts and equipment, and the construction of 38909

foundations or buildings that do not themselves emit air 38910
contaminants. The rules also shall allow specified initial 38911
activities that are part of the installation or modification of 38912
an air contaminant source, such as the installation of 38913
electrical and other utilities for the source, prior to issuance 38914
of a permit to install, provided that the owner or operator of 38915
the source has filed a complete application for a permit to 38916
install, the director or the director's designee has determined 38917
that the application is complete, and the owner or operator of 38918
the source has notified the director that this activity will be 38919
undertaken prior to the issuance of a permit to install. Any 38920
activity that is undertaken by the source under those rules 38921
shall be at the risk of the owner or operator. The rules shall 38922
not apply to activities that are precluded prior to permit 38923
issuance under section 111, section 112, Part C of Title I, and 38924
Part D of Title I of the federal Clean Air Act. 38925

~~(G)~~ (F) Adopt, modify, suspend, and rescind rules 38926
prohibiting the operation or other use of any new, modified, or 38927
existing air contaminant source unless an operating permit has 38928
been obtained from the director or the director's authorized 38929
representative, ~~or the air contaminant source is being operated~~ 38930
~~in compliance with the conditions of a variance issued pursuant~~ 38931
~~to division (H) of this section.~~ Applications for operating 38932
permits shall be accompanied by such plans, specifications, and 38933
other pertinent information as the director may require. 38934
Operating permits may be issued for a period determined by the 38935
director not to exceed ten years, are renewable, and are 38936
transferable. The director shall specify in each operating 38937
permit that the permit is conditioned upon payment of the 38938
applicable fees as required by section 3745.11 of the Revised 38939
Code and upon the right of the director's authorized 38940

representatives to enter upon the premises of the person to whom 38941
the permit has been issued, at any reasonable time and subject 38942
to safety requirements of the person in control of the premises, 38943
for the purpose of determining compliance with this chapter, the 38944
rules adopted thereunder, and the conditions of any permit, 38945
variance, or order issued thereunder. Operating permits may be 38946
denied or revoked for failure to comply with this chapter or the 38947
rules adopted thereunder. An operating permit shall be issued 38948
only upon a showing satisfactory to the director or the 38949
director's representative that the air contaminant source is 38950
being operated in compliance with applicable emission standards 38951
and other rules or upon submission of a schedule of compliance 38952
satisfactory to the director for a source that is not in 38953
compliance with all applicable requirements at the time of 38954
permit issuance, provided that the compliance schedule shall be 38955
consistent with and at least as stringent as that contained in 38956
any judicial consent decree or administrative order to which the 38957
air contaminant source is subject. The rules shall provide for 38958
the issuance of conditional operating permits for such 38959
reasonable periods as the director may determine to allow the 38960
holder of an installation permit, who has constructed, 38961
installed, located, or modified a new air contaminant source in 38962
accordance with the provisions of an installation permit, to 38963
make adjustments or modifications necessary to enable the new 38964
air contaminant source to comply with applicable emission 38965
standards and other rules. Terms and conditions of operating 38966
permits issued pursuant to this division shall be federally 38967
enforceable for the purpose of establishing the potential to 38968
emit of a stationary source and shall be expressly designated as 38969
federally enforceable. Any such federally enforceable 38970
restrictions on a source's potential to emit shall include both 38971
an annual limit and a short-term limit of not more than thirty 38972

days for each pollutant to be restricted together with adequate 38973
methods for establishing compliance with the restrictions. In 38974
other respects, operating permits issued pursuant to this 38975
division are enforceable as state law only. No application shall 38976
be denied or permit revoked or modified without a written order 38977
stating the findings upon which denial, revocation, or 38978
modification is based. A copy of the order shall be sent to the 38979
applicant or permit holder by certified mail. 38980

~~(H) Adopt, modify, and rescind rules governing the 38981
issuance, revocation, modification, or denial of variances that 38982
authorize emissions in excess of the applicable emission 38983
standards. 38984~~

(G) No variance shall be issued except pursuant to ~~those 38985
rules~~rule. The rules shall ~~prescribe conditions and criteria in 38986
furtherance of the purposes of this chapter and consistent with 38987
the federal Clean Air Act governing eligibility for issuance of 38988
variances, which shall include~~ establish all of the following: 38989

(1) Provisions requiring consistency of emissions 38990
authorized by a variance with timely attainment and maintenance 38991
of ambient air quality standards; 38992

(2) Provisions prescribing the classes and categories of 38993
air contaminants and air contaminant sources for which variances 38994
may be issued; 38995

(3) Provisions defining the circumstances under which an 38996
applicant shall demonstrate that compliance with applicable 38997
emission standards is technically infeasible, economically 38998
unreasonable, or impossible because of conditions beyond the 38999
control of the applicant;— 39000

~~(4) Other provisions prescribed in furtherance of the 39001~~

~~goals of this chapter.~~ 39002

The rules shall prohibit the issuance of variances from 39003
any emission limitation that was applicable to a source pursuant 39004
to an installation permit and shall prohibit issuance of 39005
variances that conflict with the federal Clean Air Act. 39006

Applications for variances shall be accompanied by such 39007
information as the director may require. In issuing variances, 39008
the director may order the person to whom a variance is issued 39009
to furnish plans and specifications and such other information 39010
and data, including interim reports, as the director may require 39011
and to proceed to take such action within such time as the 39012
director may determine to be appropriate and reasonable to 39013
prevent, control, or abate the person's existing emissions of 39014
air contaminants. The director shall specify in each variance 39015
that the variance is conditioned upon payment of the applicable 39016
fees as required by section 3745.11 of the Revised Code and upon 39017
the right of the director's authorized representatives to enter 39018
upon the premises of the person to whom the variance has been 39019
issued, at any reasonable time and subject to safety 39020
requirements of the person in control of the premises, for the 39021
purpose of determining compliance with this chapter, the rules 39022
adopted thereunder, and the conditions of any permit, variance, 39023
or order issued thereunder. 39024

The director may hold a public hearing on an application 39025
for a variance or renewal thereof at a location in the county 39026
where the variance is sought. The director shall give not less 39027
than twenty days' notice of the hearing to the applicant by 39028
certified mail or another type of mail accompanied by a receipt. 39029
The director also shall cause at least one publication of notice 39030
in a newspaper with general circulation in the county where the 39031

variance is sought or may instead provide public notice by 39032
publication on the environmental protection agency's web site. 39033
The director shall keep available for public inspection at the 39034
principal office of the environmental protection agency a 39035
current schedule of pending applications for variances and a 39036
current schedule of pending variance hearings. The director 39037
shall make a complete stenographic record or electronic record 39038
of testimony and other evidence submitted at the hearing. The 39039
director shall make a written determination to issue, renew, or 39040
deny the variance and shall enter the determination and the 39041
basis therefor into the record of the hearing. The director 39042
shall issue, renew, or deny an application for a variance or 39043
renewal thereof, or issue a proposed action upon the application 39044
pursuant to section 3745.07 of the Revised Code, within six 39045
months of the date upon which the director receives a complete 39046
application with all pertinent information and data required by 39047
the director. 39048

Any variance granted pursuant to rules adopted under this 39049
division shall be for a period specified by the director, not to 39050
exceed three years, and may be renewed from time to time on such 39051
terms and for such periods, not to exceed three years each, as 39052
the director determines to be appropriate. A variance may be 39053
revoked, or renewal denied, for failure to comply with 39054
conditions specified in the variance. No variance shall be 39055
issued, denied, revoked, or modified without a written order 39056
stating the findings upon which the issuance, denial, 39057
revocation, or modification is based. A copy of the order shall 39058
be sent to the applicant or variance holder by certified mail. 39059

~~(I)~~(H) Require the owner or operator of an air contaminant 39060
source to install, employ, maintain, and operate such emissions, 39061
ambient air quality, meteorological, or other monitoring devices 39062

or methods as the director shall prescribe; to sample those 39063
emissions at such locations, at such intervals, and in such 39064
manner as the director prescribes; to maintain records and file 39065
periodic reports with the director containing information as to 39066
location, size, and height of emission outlets, rate, duration, 39067
and composition of emissions, and any other pertinent 39068
information the director prescribes; and to provide such written 39069
notice to other states as the director shall prescribe. In 39070
requiring monitoring devices, records, and reports, the 39071
director, to the extent consistent with the federal Clean Air 39072
Act, shall give consideration to technical feasibility and 39073
economic reasonableness and allow reasonable time for 39074
compliance. For sources where a specific monitoring, record- 39075
keeping, or reporting requirement is specified for a particular 39076
air contaminant from a particular air contaminant source in an 39077
applicable regulation adopted by the United States environmental 39078
protection agency under the federal Clean Air Act or in an 39079
applicable rule adopted by the director, the director shall not 39080
impose an additional requirement in a permit that is a different 39081
monitoring, record-keeping, or reporting requirement other than 39082
the requirement specified in the applicable regulation or rule 39083
for that air contaminant except as otherwise agreed to by the 39084
owner or operator of the air contaminant source and the 39085
director. For sources where no specific monitoring requirement 39086
is specified for a particular air contaminant from a particular 39087
air contaminant source in an applicable regulation adopted by 39088
the United States environmental protection agency under the 39089
federal Clean Air Act or in an applicable rule adopted by the 39090
director, the director shall not impose a monitoring requirement 39091
in a permit that requires community air monitoring, except as 39092
otherwise agreed to by the owner or air operator of the air 39093
contaminant source and the director. If two or more regulations 39094

or rules impose different monitoring, record-keeping, or 39095
reporting requirements for the same air contaminant from the 39096
same air contaminant source, the director may impose permit 39097
terms and conditions that consolidate or streamline the 39098
monitoring, record-keeping, or reporting requirements in a 39099
manner that conforms with each applicable requirement. To the 39100
extent consistent with the federal Clean Air Act and except as 39101
otherwise agreed to by the owner or operator of an air 39102
contaminant source and the director, the director shall not 39103
require an operating restriction that has the practical effect 39104
of increasing the stringency of an existing applicable emission 39105
limitation or standard. 39106

~~(J)~~(I) Establish, operate, and maintain monitoring 39107
stations and other devices designed to measure air pollution and 39108
enter into contracts with any public or private agency for the 39109
establishment, operation, or maintenance of such stations and 39110
devices, except that the director shall not enter into contracts 39111
with any private agency for the establishment, operation, or 39112
maintenance of community air monitoring where the intended use 39113
of the data produced by such monitoring stations and other 39114
devices would violate ~~divisions~~division (B) or (C) of section 39115
3704.09 of the Revised Code; 39116

~~(K)~~(J) By rule adopt procedures for giving reasonable 39117
public notice and conducting public hearings on any plans for 39118
the prevention, control, and abatement of air pollution that the 39119
director is required to submit to the federal government; 39120

~~(L)~~(K) Through any employee, agent, or authorized 39121
representative of the director or the environmental protection 39122
agency, enter upon private or public property, including 39123
improvements thereon, at any reasonable time, to make 39124

inspections, take samples, conduct tests, and examine records or reports pertaining to any emission of air contaminants and any monitoring equipment or methods and to determine if there are any actual or potential emissions from such premises and, if so, to determine the sources, amounts, contents, and extent of those emissions, or to ascertain whether there is compliance with this chapter, any orders issued or rules adopted thereunder, or any other determination of the director. The director, at reasonable times, may have access to and copy any such records. If entry or inspection authorized by this division is refused, hindered, or thwarted, the director or the director's authorized representative may by affidavit apply for, and any judge of a court of record may issue, an appropriate inspection warrant necessary to achieve the purposes of this chapter within the court's territorial jurisdiction.

~~(M)~~ (L) Accept and administer gifts or grants from the federal government and from any other source, public or private, for carrying out any of the functions under this chapter;

~~(N)~~ (M) Obtain necessary scientific, technical, and laboratory services;

~~(O)~~ (N) Establish advisory boards in accordance with section 121.13 of the Revised Code;

~~(P)~~ (O) Delegate to any city or general health district or political subdivision of the state any of the director's enforcement and monitoring powers and duties, other than rule-making powers, as the director elects to delegate, and in addition employ, compensate, and prescribe the powers and duties of such officers, employees, and consultants as are necessary to enable the director to exercise the authority and perform duties imposed upon the director by law. Technical and other services

shall be performed, insofar as practical, by personnel of the 39155
environmental protection agency. 39156

~~(Q)~~(P) Certify to the government of the United States or 39157
any agency thereof that an industrial air pollution facility is 39158
in conformity with the state program or requirements for control 39159
of air pollution whenever such certificate is required for a 39160
taxpayer pursuant to any federal law or requirements; 39161

~~(R)~~(Q) Issue, modify, or revoke orders requiring abatement 39162
of or prohibiting emissions that violate applicable emission 39163
standards or other requirements of this chapter and rules 39164
adopted thereunder, or requiring emission control devices or 39165
measures in order to comply with applicable emission standards 39166
or other requirements of this chapter and rules adopted 39167
thereunder. Any such order shall require compliance with 39168
applicable emission standards by a specified date and shall not 39169
conflict with any requirement of the federal Clean Air Act. In 39170
the making of such orders, the director, to the extent 39171
consistent with the federal Clean Air Act, shall give 39172
consideration to, and base the determination on, evidence 39173
relating to the technical feasibility and economic 39174
reasonableness of compliance with such orders and their relation 39175
to benefits to the people of the state to be derived from such 39176
compliance. If, under the federal Clean Air Act, any such order 39177
shall provide for the posting of a bond or surety to secure 39178
compliance with the order as a condition of issuance of the 39179
order, the order shall so provide, but only to the extent 39180
required by the federal Clean Air Act. 39181

~~(S)~~(R) To the extent provided by the federal Clean Air 39182
Act, adopt, modify, and rescind rules providing for the 39183
administrative assessment and collection of monetary penalties, 39184

not in excess of those required pursuant to the federal Clean 39185
Air Act, for failure to comply with any emission limitation or 39186
standard, compliance schedule, or other requirement of any rule, 39187
order, permit, or variance issued or adopted under this chapter 39188
or required under the applicable implementation plan whether or 39189
not the source is subject to a federal or state consent decree. 39190
The director may require the submission of compliance schedules, 39191
calculations of penalties for noncompliance, and related 39192
information. Any orders, payments, sanctions, or other 39193
requirements imposed pursuant to rules adopted under this 39194
division shall be in addition to any other permits, orders, 39195
payments, sanctions, or other requirements established under 39196
this chapter and shall not affect any civil or criminal 39197
enforcement proceedings brought under any provision of this 39198
chapter or any other provision of state or local law. This 39199
division does not apply to any requirement of this chapter 39200
regarding the prevention or abatement of odors. 39201

~~(T)~~(S) Require new or modified air contaminant sources to 39202
install best available technology, but only in accordance with 39203
this division. With respect to permits issued pursuant to 39204
division ~~(F)~~(E) of this section beginning three years after 39205
August 3, 2006, best available technology for air contaminant 39206
sources and air contaminants emitted by those sources that are 39207
subject to standards adopted under section 112, Part C of Title 39208
I, and Part D of Title I of the federal Clean Air Act shall be 39209
equivalent to and no more stringent than those standards. For an 39210
air contaminant or precursor of an air contaminant for which a 39211
national ambient air quality standard has been adopted under the 39212
federal Clean Air Act, best available technology only shall be 39213
required to the extent required by rules adopted under Chapter 39214
119. of the Revised Code for permit to install applications 39215

filed three or more years after August 3, 2006. 39216

Best available technology requirements established in 39217
rules adopted under this division shall be expressed only in one 39218
of the following ways that is most appropriate for the 39219
applicable source or source categories: 39220

(1) Work practices; 39221

(2) Source design characteristics or design efficiency of 39222
applicable air contaminant control devices; 39223

(3) Raw material specifications or throughput limitations 39224
averaged over a twelve-month rolling period; 39225

(4) Monthly allowable emissions averaged over a twelve- 39226
month rolling period. 39227

Best available technology requirements shall not apply to 39228
an air contaminant source that has the potential to emit, taking 39229
into account air pollution controls installed on the source, 39230
less than ten tons per year of emissions of an air contaminant 39231
or precursor of an air contaminant for which a national ambient 39232
air quality standard has been adopted under the federal Clean 39233
Air Act. In addition, best available technology requirements 39234
established in rules adopted under this division shall not apply 39235
to any existing, new, or modified air contaminant source that is 39236
subject to a plant-wide applicability limit that has been 39237
approved by the director. Further, best available technology 39238
requirements established in rules adopted under this division 39239
shall not apply to general permits issued prior to January 1, 39240
2006, under rules adopted under this chapter. 39241

For permits to install issued three or more years after 39242
August 3, 2006, any new or modified air contaminant source that 39243
has the potential to emit, taking into account air pollution 39244

controls installed on the source, ten or more tons per year of 39245
volatile organic compounds or nitrogen oxides shall meet, at a 39246
minimum, the requirements of any applicable reasonably available 39247
control technology rule in effect as of January 1, 2006, 39248
regardless of the location of the source. 39249

~~(U) Consistent with section 507 of the federal Clean Air 39250
Act, adopt, modify, suspend, and rescind rules for the 39251
establishment of a small business stationary source technical- 39252
and environmental compliance assistance program as provided in- 39253
section 3704.18 of the Revised Code;~~ 39254

~~(V)~~ (T) Provide for emissions trading, marketable permits, 39255
auctions of emission rights, and economic incentives that would 39256
reduce the cost or increase the efficiency of achieving a 39257
specified level of environmental protection; 39258

~~(W)~~ (U) Provide for the construction of an air contaminant 39259
source prior to obtaining a permit to install pursuant to 39260
division ~~(F)~~ (E) of this section if the applicant demonstrates 39261
that the source will be installed to comply with all applicable 39262
emission limits and will not adversely affect public health or 39263
safety or the environment and if the director determines that 39264
such an action will avoid an unreasonable hardship on the owner 39265
or operator of the source. Any such determination shall be 39266
consistent with the federal Clean Air Act. 39267

~~(X) Exercise all incidental powers, including adoption of- 39268
rules, required to carry out this chapter.- 39269~~

The environmental protection agency shall develop a plan 39270
to control air pollution resulting from state-operated 39271
facilities and property. 39272

Sec. 3704.031. (A) Except as provided in division (B) of 39273

this section, prior to issuance or renewal of a permit or a 39274
variance under division ~~(F)~~, ~~(G)~~, (E) or ~~(H)~~ (F) of section 39275
3704.03 of the Revised Code, the director of environmental 39276
protection may require the applicant to install such equipment 39277
and conduct such tests and analyses as the director finds 39278
reasonable and necessary to determine adequately the amount and 39279
content of any emissions from such sources, the ambient air 39280
quality at the proposed site and in areas that may be affected 39281
by emissions from such sources, and any violation or potential 39282
violation of Chapter 3704. of the Revised Code, or the 39283
regulations or orders promulgated thereunder. 39284

(B) Prior to the issuance or renewal of a permit or a 39285
variance under division ~~(F)~~, ~~(G)~~, (E) or ~~(H)~~ (F) of section 39286
3704.03 of the Revised Code, the director shall not require an 39287
applicant to conduct community air monitoring. 39288

Sec. 3704.034. (A) Within sixty days after the director of 39289
environmental protection or the director's agent or authorized 39290
representative receives an application for the issuance of an 39291
initial permit to operate, or for the modification or renewal of 39292
such a permit, pursuant to rules adopted under division ~~(G)~~ (F) 39293
of section 3704.03 of the Revised Code, the director shall 39294
determine whether the application is substantially complete or 39295
materially deficient and, in writing, shall notify the applicant 39296
of the director's determination. If the director fails to make 39297
such a completeness determination and provide written notice of 39298
the determination to the applicant within sixty days after the 39299
application was submitted, the applicant may submit a written 39300
request to the director for the making of such a completeness 39301
determination. 39302

(B) Within thirty days after receiving a written request 39303

for the making of a completeness determination on an application 39304
under division (A) of this section, the director shall determine 39305
whether the application is substantially complete or materially 39306
deficient and, in writing, notify the applicant of the 39307
determination. If the director fails to make a completeness 39308
determination and provide written notice of the director's 39309
determination to the applicant within thirty days after 39310
receiving the applicant's written request for the making of the 39311
determination, the application shall be deemed to have been 39312
complete in all material respects at the time that it was 39313
submitted to the director or the director's agent or authorized 39314
representative. 39315

(C) If, within the time prescribed in division (A) and, if 39316
applicable, division (B) of this section, the director 39317
determines that an application is materially deficient, the 39318
director shall return the application to the applicant together 39319
with the written notice of material deficiency. The running of 39320
the time prescribed under division (A) and, if applicable, 39321
division (B) of this section ceases at the time that the 39322
determination is made. If the applicant subsequently resubmits 39323
the application to the director, the time prescribed in division 39324
(A) of this section and, if applicable, division (B) of this 39325
section shall resume running at the time that the application is 39326
resubmitted. The resubmission of the application constitutes a 39327
request for the making of a completeness determination on the 39328
application. The director shall do one of the following within 39329
the time remaining pursuant to division (A) and, if applicable, 39330
division (B) of this section at the time that the application is 39331
resubmitted: 39332

(1) Make a completeness determination on the application 39333
and, in writing, notify the applicant of the determination; 39334

(2) Issue or deny or propose to issue or deny the permit, 39335
modification, or renewal. 39336

(D) The director shall include in each written notice of 39337
the completeness of an application provided under division (A), 39338
(B), or (C) (1) of this section the date on which the application 39339
was determined to be complete. 39340

(E) The director shall issue or deny or propose to issue 39341
or deny an initial permit to operate, or a modification or 39342
renewal of such a permit, pursuant to rules adopted under 39343
division ~~(G)~~(F) of section 3704.03 of the Revised Code within 39344
one hundred eighty days after the date that the application for 39345
the permit, modification, or renewal was determined to be 39346
complete as that date is set forth in the written notice of the 39347
determination of the completeness of the application provided 39348
under division (A), (B), or (C) (1) of this section or within one 39349
hundred eighty days after the application is deemed to be 39350
complete under division (B) of this section, as appropriate. If 39351
the director fails to issue or deny or propose to issue or deny 39352
the permit, modification, or renewal within the appropriate one- 39353
hundred-eighty-day period, the applicant may bring a mandamus 39354
action to obtain a judgment that orders the director to take a 39355
final action on the application. 39356

(F) The director, upon the director's own motion or upon 39357
the written request of the applicant and in writing, may extend 39358
the time provided under division (E) of this section for issuing 39359
or denying or proposing to issue or deny the permit, 39360
modification, or renewal for an additional sixty days if a 39361
public informational meeting or public hearing was held on the 39362
application for the permit, modification, or renewal. 39363

(G) Upon the written request of the applicant, the 39364

director, in writing, may extend the time provided under 39365
division (E) of this section for issuing or denying or proposing 39366
to issue or deny the permit, modification, or renewal for the 39367
additional time specified in the applicant's request for the 39368
extension. 39369

(H) Upon the written request of the person responsible for 39370
a facility, the director may consolidate or group applications 39371
for the issuance of permits pursuant to rules adopted under 39372
division ~~(G)~~(F) of section 3704.03 of the Revised Code, or 39373
modifications or renewals of those permits, for individual air 39374
contaminant sources located at the facility in order to reduce 39375
the unnecessary paperwork and administrative burden to the 39376
applicant and the director in connection with the issuance of 39377
those permits, modifications, and renewals. Fees payable to the 39378
director under section 3745.11 of the Revised Code shall not be 39379
reduced by reason of any such consolidation or grouping of 39380
applications for permits, modifications, or renewals. 39381

Sec. 3704.035. (A) There is hereby created in the state 39382
treasury the Title V clean air fund. Except as otherwise 39383
provided in division (K) of section 3745.11 of the Revised Code, 39384
all moneys collected under division (B) of that section, and any 39385
gifts, grants, or contributions received by the director of 39386
environmental protection for the purposes of the fund, shall be 39387
credited to the fund. 39388

The director shall expend all moneys credited to the fund 39389
solely to administer and enforce the Title V program pursuant to 39390
the federal Clean Air Act, this chapter, and rules adopted under 39391
it, except as costs relating to enforcement are limited by the 39392
federal Clean Air Act. The director shall establish separate and 39393
distinct accounting for all such moneys. 39394

(B) There is hereby created in the state treasury the non- 39395
Title V clean air fund. All money collected under section 39396
3710.15 and divisions (D), (F), (G), (H), (I), and (J) of 39397
section 3745.11 of the Revised Code shall be credited to the 39398
fund. In addition, any gifts, grants, or contributions received 39399
by the director for the purposes of the fund shall be credited 39400
to the fund. 39401

The director shall expend money in the fund exclusively to 39402
pay the cost of administering and enforcing the laws of this 39403
state pertaining to the prevention, control, and abatement of 39404
air pollution, the prevention, control, and abatement of 39405
asbestos, rules adopted under those laws, and terms and 39406
conditions of permits, variances, and orders issued under those 39407
laws, and asbestos abatement licensure and certification issued 39408
under those laws. However, the director shall not expend money 39409
credited to the fund for the administration and enforcement of 39410
the Title V permit program established under this chapter and 39411
rules adopted under it or motor vehicle inspection and 39412
maintenance programs established under sections 3704.14, 39413
~~3704.141~~, 3704.16, 3704.161, and 3704.162 of the Revised Code. 39414

(C) The director shall report biennially to the general 39415
assembly the amounts of fees and other moneys credited to the 39416
funds under this section and the amounts expended from them for 39417
each of the various air pollution control programs. 39418

Sec. 3704.036. (A) The director of environmental 39419
protection shall develop and administer a federally approvable 39420
Title V permit program and shall take all necessary and 39421
appropriate action to implement, through the issuance of Title V 39422
permits, applicable requirements of the federal Clean Air Act. 39423
Title V permits shall be required only for major sources and 39424

affected sources, as defined in 40 C.F.R. 70.2, and solid waste 39425
incineration units required to obtain a permit under section 129 39426
(e) of the federal Clean Air Act unless the administrator 39427
extends the obligation to obtain a Title V permit to other 39428
sources. 39429

The Title V permit program does not apply to research and 39430
development sources whose emissions do not exceed the 39431
requirements of 40 C.F.R. 70.3 (a) (1) or any facility or air 39432
contaminant source authorized by 40 C.F.R. 70.3 (b) to be exempt 39433
from the obligation to obtain a Title V permit. A source that 39434
obtains a Title V permit shall not be required to obtain any 39435
other operating permit under this chapter and rules adopted 39436
under it. 39437

Federally enforceable requirements shall be identified 39438
separately in Title V permits. The director may include in those 39439
permits reasonable and lawful terms and conditions necessary to 39440
ensure compliance with this chapter and rules adopted under it 39441
that are not federally enforceable requirements, provided that 39442
those terms and conditions are clearly separated from federally 39443
enforceable requirements and the Title V permits state that 39444
those terms and conditions are not federally enforceable. 39445

(B) The director shall adopt, and may amend, suspend, and 39446
rescind, the rules to facilitate the implementation, 39447
supervision, administration, and operation of described under 39448
this division for the Title V permit program that are. The 39449
rules shall be consistent with, and no more stringent than, the 39450
requirements of Title V of the federal Clean Air Act and 40 39451
C.F.R. part 70. The rules shall establish ~~at least~~ all of the 39452
following: 39453

(1) Definitions of the following terms, which shall be 39454

consistent with and no more stringent than the definitions in 40 39455
C.F.R. part 70: "administrative permit amendment," "affected 39456
source," "applicable requirement," "emergency," "emissions 39457
unit," "fugitive emissions," "major source," "major stationary 39458
source," "potential to emit," "regulated air pollutant," and 39459
"stationary source;" 39460

(2) Provisions for minor modifications and operational 39461
flexibility that minimize administrative burdens on a source and 39462
ensure maximum operational flexibility consistent with the 39463
federal Clean Air Act and regulations adopted under it; 39464

(3) Provisions for administrative Title V permit 39465
amendments. The rules shall require the director to approve or 39466
disapprove an administrative permit amendment in accordance with 39467
all of the following: 39468

(a) The director shall take not more than sixty days from 39469
receipt of a request for an administrative permit amendment to 39470
issue a final action on the request in accordance with the 39471
procedures specified in 40 C.F.R. 70.7 (d). 39472

(b) Chapter 119. and sections 3704.04 and 3745.07 of the 39473
Revised Code do not apply to administrative permit amendments 39474
under division (B) (3) of this section. 39475

(c) The director's determination under division (B) (3) of 39476
this section is a final action appealable to the environmental 39477
review appeals commission under section 3745.04 of the Revised 39478
Code. 39479

(4) Provisions for exemption of insignificant air 39480
contaminant sources from inclusion in the Title V permit 39481
program. To the extent consistent with the federal Clean Air 39482
Act, the exemptions shall include, at a minimum, all source 39483

categories that are excluded from the requirements to obtain 39484
installation permits and operating permits pursuant to divisions 39485
~~(F)~~ (E) and ~~(G)~~ (F) of section 3704.03 of the Revised Code and any 39486
source categories specifically exempted under 40 C.F.R. part 70 39487
and also shall include, to the extent consistent with the 39488
federal Clean Air Act, any air contaminant sources with the 39489
potential to emit not more than five tons per year of a 39490
federally regulated air pollutant other than hazardous air 39491
pollutants and not more than twenty per cent of an applicable 39492
major source threshold under the federal Clean Air Act. 39493

(5) Provisions to implement the permit shield permitted by 39494
the Federal Clean Air Act to the extent consistent with that act 39495
and regulations adopted under it, including at least provisions 39496
by which a Title V permit applicant may request the director to 39497
make a determination whether a provision or class of 39498
requirements of that act is applicable to the applicant's air 39499
contaminant source. Any such determination made by the director 39500
shall be specified in the applicant's Title V permit. 39501

~~The director may adopt, amend, suspend, and rescind such-~~ 39502
~~other rules as are necessary for a federally approvable Title V-~~ 39503
~~permit program, which shall be consistent with, and no more-~~ 39504
~~stringent than, the requirements of Title V of the federal Clean~~ 39505
~~Air Act and 40 C.F.R. part 70.~~ 39506

(C) Applications for initial Title V permits shall be 39507
submitted not less than one year after the director adopts rules 39508
under division (B) of this section for the implementation of the 39509
Title V permit program. New facilities that are required to 39510
obtain a Title V permit shall submit a complete Title V permit 39511
application not later than one year after the date of 39512
commencement of operation. 39513

Title V permits shall not become effective prior to 39514
approval of the Title V permit program by the administrator 39515
pursuant to section 502 of the federal Clean Air Act. 39516

Title V permits, except for permits that contain acid rain 39517
provisions pursuant to Title IV of the federal Clean Air Act and 39518
permits issued for solid waste incineration units combusting 39519
municipal waste that are subject to section 129 (e) of the 39520
federal Clean Air Act, may be issued for a period determined by 39521
the director not to exceed five years, are renewable, and are 39522
transferable. Title V permits that contain acid rain provisions 39523
pursuant to Title IV of the federal Clean Air Act shall be 39524
issued for a fixed term of five years. Title V permits for solid 39525
waste incineration units combusting municipal waste that are 39526
subject to section 129 (e) of the federal Clean Air Act may be 39527
issued for a period to be determined by the director not to 39528
exceed twelve years and are renewable. If such permits are 39529
issued for a period longer than five years, they shall be 39530
reviewed by the director at least once every five years to 39531
determine compliance with the permit requirements and to 39532
incorporate any new requirements established during the previous 39533
five years. 39534

(D) A complete Title V permit application is one that 39535
contains all the information, consistent with 40 C.F.R. 70.5 39536
(c), needed to begin processing the application and a 39537
certification by a responsible official of the truth, accuracy, 39538
and completeness of the information in the application, based 39539
upon information and belief formed after reasonable inquiry by 39540
the responsible official. Unless the director determines within 39541
sixty days after receipt of the application that the application 39542
is not complete, the application shall be deemed to be complete. 39543

If, during the processing of an application before or after it has been determined or deemed to be complete, the director determines that additional information is necessary in order to evaluate or take final action on the application, the director may request that information in writing from the applicant. Any such request by the director shall identify the information requested with reasonable specificity and shall provide a reasonable time, not less than fifteen days, for the applicant's submission of the requested information.

If an applicant fails to make a good faith and timely response to a request for additional information under this division with regard to an application that the director believes to be incomplete, the director shall offer to meet with the applicant within seven days after issuance of a letter for failure to submit the requested information. If the meeting or meeting offer fails to obtain a complete application from the applicant, the director, without prior hearing, shall make a final determination that the application is not complete. Any such determination shall not become effective until twenty days after notice of the determination is sent to the applicant by certified mail. An incompleteness determination by the director may be appealed in accordance with section 3745.04 of the Revised Code, except that if the notice of appeal is timely filed and is accompanied by an application for stay, the stay shall become effective upon filing and shall continue until such time as the environmental review appeals commission rules on the merits of the stay. The commission shall conduct an immediate hearing and determination on the application for stay without interruption by continuances, other than for unavoidable circumstances. If the commission grants the stay, it immediately shall conduct the hearing on the merits and determine the appeal

without interruption by continuances, other than for unavoidable
circumstances. 39575
39576

(E) The director expressly shall include permit shield 39577
provisions for each Title V permit in accordance with the 39578
following requirements: 39579

(1) Except as provided in this section, the director shall 39580
expressly include in a Title V permit a provision stating that 39581
compliance with the conditions of the permit shall be deemed to 39582
be compliance with any applicable requirements as of the date of 39583
permit issuance, provided that either: 39584

(a) The applicable requirements are included and are 39585
specifically identified in the permit; 39586

(b) The director, in acting on the permit application or 39587
revision, determines in writing that other requirements 39588
specifically identified are not applicable to the facility, and 39589
the permit includes the determination or a concise summary of 39590
it. 39591

(2) Nothing in division (E) of this section or in any 39592
Title V permit shall alter or affect any of the following: 39593

(a) The provisions of section 303 of the federal Clean Air 39594
Act, including the authority of the administrator under that 39595
section; 39596

(b) The liability of an owner or operator of a facility 39597
for any violation of applicable requirements prior to or at the 39598
time of permit issuance; 39599

(c) The applicable requirements of the acid rain program, 39600
consistent with section 408 (a) of the federal Clean Air Act; 39601

(d) The ability of the administrator to obtain information 39602

from a facility pursuant to section 114 of the federal Clean Air Act. 39603
39604

(F) (1) Title V permit applications shall be acted upon by 39605
the director in accordance with Chapters 119. and 3745. of the 39606
Revised Code and with 40 C.F.R. 70.8. If a Title V permit 39607
expires after a complete and timely renewal application has been 39608
filed with the director, all provisions and authorizations of 39609
the expired permit shall remain in effect until the director's 39610
final action on the pending renewal application. The director's 39611
failure to take action on a Title V permit application or permit 39612
renewal or modification application within the deadlines 39613
specified in the federal Clean Air Act or in 40 C.F.R. part 70 39614
shall be a final action appealable to the environmental review 39615
appeals commission under section 3745.04 of the Revised Code. 39616

(2) The director shall not issue a Title V permit if the 39617
administrator timely objects to its issuance under 40 C.F.R. 39618
70.8 (c) or (d). 39619

(3) The director may modify, revoke, or revoke and reissue 39620
a Title V permit for cause. The director shall modify, revoke, 39621
or revoke and reissue a Title V permit if requested to do so by 39622
the administrator under 40 C.F.R. 70.8 (d). 39623

(G) A Title V permit applicant may request a single permit 39624
for a stationary source with multiple Title V emissions units or 39625
may request separate permits for any one or more emissions units 39626
at the same stationary source required to have a Title V permit. 39627
The director shall honor all such requests. 39628

Upon written request of a Title V permit applicant, the 39629
director shall make a determination of the applicability or 39630
inapplicability of any provision or class of requirements under 39631

the federal Clean Air Act to an emissions unit or stationary 39632
source and shall include that determination or a concise summary 39633
of it in the applicant's Title V permit. 39634

(H) A Title V permit applicant may request a permit that 39635
accommodates multiple operating scenarios and anticipated 39636
changes in emissions during the term of a permit at a specified 39637
facility. The director shall include in a Title V permit all 39638
operating scenarios and anticipated changes in emissions for 39639
which an application has been made unless the operating 39640
scenarios or emissions are prohibited by federally enforceable 39641
requirements. The director may include in a Title V permit such 39642
monitoring and recordkeeping requirements as may be reasonably 39643
necessary to verify that any authorized operating scenario 39644
complies with federally enforceable requirements. In imposing 39645
any such requirements, the director shall consider and minimize, 39646
to the extent practicable, the administrative burdens that the 39647
monitoring will impose on the source. 39648

(I) The director, by rule or order on a class of similar 39649
permit applications, may issue a general permit covering 39650
numerous similar facilities or air contaminant sources. Any such 39651
general permit shall comply with all substantive requirements 39652
applicable to conventional Title V permits. A general permit 39653
shall apply to the owner or operator of a facility or air 39654
contaminant source only upon application of the owner or 39655
operator to the director. 39656

(J) The director may issue a single Title V permit 39657
authorizing emissions from similar operations at multiple 39658
temporary locations within the state, provided that the permit 39659
ensures compliance with all federally enforceable requirements 39660
and with 40 C.F.R. 70.6 (e) at all authorized locations. Any 39661

such permit shall require the owner or operator to notify the 39662
director in advance of each change in location. 39663

(K) A Title V permit shall address all existing federally 39664
enforceable requirements applicable to the permitted facility 39665
and shall not impose new substantive requirements beyond the 39666
federally enforceable requirements except for terms and 39667
conditions that are identified as not federally enforceable as 39668
provided in division (A) of this section. A Title V permit shall 39669
specify the regulatory citation for federal requirements 39670
addressed in the permit and shall identify any difference in 39671
form as compared to the federally enforceable requirement on 39672
which it is based. 39673

If the applicant for a Title V permit proposes an 39674
alternative emission limit as provided under division ~~(E)~~(D) of 39675
section 3704.03 of the Revised Code, and if the director 39676
determines that the alternative emission limit is equivalent to 39677
an emission limit adopted under that division, the alternative 39678
emission limit shall be included in the Title V permit together 39679
with provisions to ensure that any resulting emission limit has 39680
been demonstrated to be quantifiable, accountable, enforceable, 39681
and based on replicable procedures. Any such alternative 39682
emission limit shall not take effect if the administrator timely 39683
objects to it in accordance with division (F) (2) of this 39684
section. 39685

(L) The director shall take all necessary and appropriate 39686
action to do both of the following: 39687

(1) Issue Title V permits for affected sources consistent 39688
with the requirements of Title IV of the federal Clean Air Act; 39689

(2) Implement, through Title V permits, applicable 39690

requirements of section 112 of the federal Clean Air Act. 39691

(M) The director shall develop procedures for the Title V 39692
permit program such that the program shall minimize procedural 39693
burdens and maximize source operational flexibility to the 39694
extent consistent with the federal Clean Air Act. 39695

(N) A Title V permit shall not apply to a physical, 39696
operational, or other change that is not a change within a 39697
permitted facility. A Title V permittee shall provide 39698
simultaneous written notice to the director and the 39699
administrator of each such off-permit change that is not 39700
addressed or prohibited by the federally enforceable portion of 39701
the Title V permit, except that no notice is required for off- 39702
permit changes that qualify as insignificant under rules adopted 39703
under division (B) (4) of this section. 39704

(O) The director shall adopt rules doing both of the 39705
following: 39706

(1) Establishing procedures under which any air 39707
contaminant source may assume federally enforceable restrictions 39708
on its emissions rates, operating rates, hours of operation, or 39709
other parameters that are more stringent than those limitations 39710
that ordinarily would apply to the source in order to limit the 39711
potential of the source to emit; 39712

(2) To the maximum extent possible consistent with federal 39713
law, allowing such a source to impose the limitations described 39714
in division (O) (1) of this section on its operations 39715
unilaterally without further action by the director or approval 39716
from the United States environmental protection agency and 39717
otherwise minimizing the time required to effectuate such 39718
federally enforceable limits. 39719

Until the director adopts rules under division (O) of this section, the owner or operator of an air contaminant source or sources may submit an application for a permit or permit modification pursuant to division ~~(G)~~(F) of section 3704.03 of the Revised Code with federally enforceable terms and conditions to limit the potential to emit of the source or sources to less than the major source emission thresholds defined in 40 C.F.R. 70.2. The application shall identify both an annual limit and a short-term limit of not more than thirty days for each pollutant to be restricted together with adequate methods for establishing compliance with the limits. Upon submission of the application, the limits shall be federally enforceable against the applicant. The application shall be signed by a responsible official and submitted simultaneously to the director and the administrator. The director shall act on the application in accordance with Chapters 119. and 3745. of the Revised Code.

Sec. 3704.037. (A) The director of environmental protection shall formulate and implement a tiered permitting system for air contaminant sources that categorizes, prioritizes, and expedites review of, and final action on, applications for installation permits and operating permits issued pursuant to divisions ~~(F)~~(E) and ~~(G)~~(F) of section 3704.03 of the Revised Code, respectively. The tiered permitting system shall include at least exemptions, registration status, permits-by-rule, and general permits. The director may issue general permits to install and permits to operate, and permits-by-rule, containing terms and conditions that apply to types of air contaminant sources specified by the director that have sufficiently similar characteristics to warrant substantially identical installation permits and operating permits.

(B) Any person may petition the director to exempt a

certain source category from obtaining an installation permit or 39751
operating permit pursuant to division ~~(F)~~(E) or ~~(G)~~(F) of 39752
section 3704.03 of the Revised Code, respectively, or both. The 39753
petition shall contain all of the technical support necessary to 39754
justify the exemption, including the estimated emissions levels, 39755
the impact on air quality including the impact of any hazardous 39756
or toxic emission, and the effect that granting the exemption 39757
would have on ambient air quality standards. Sources regulated 39758
by the United States environmental protection agency under the 39759
new source performance standards or the hazardous air pollutant 39760
standards established pursuant to the federal Clean Air Act are 39761
not eligible for exemption through petition. 39762

Not later than one hundred eighty days after receiving a 39763
petition, the director shall notify the petitioner in writing if 39764
the petition has been accepted or rejected and, if rejected, the 39765
basis of the rejection. At least once every two years, the 39766
director shall propose rules containing the exemptions that have 39767
been accepted through the petition process. 39768

Sec. 3704.038. (A) The director of environmental 39769
protection shall maintain and make readily available to the 39770
public a best available technology information clearinghouse. 39771

(B) The director shall make readily available to the 39772
public interpretive guidelines and technical guidance in order 39773
to effect technically sound, consistent, and efficient permit 39774
processing under this chapter and rules adopted under it. 39775

(C) The director shall develop a training course on the 39776
requirements for the completion of applications for installation 39777
permits and the determination of best available technology 39778
pursuant to division ~~(F)~~(E) of section 3704.03 of the Revised 39779
Code. The training course shall be available to employees of the 39780

environmental protection agency, personnel from local air 39781
pollution control agencies, regulated industry, small 39782
businesses, environmental advocacy organizations, and other 39783
interested persons. The director may charge a fee for the 39784
training course in an amount necessary to cover only the actual 39785
cost of the training. 39786

Sec. 3704.039. Not later than the first day of March each 39787
year, the director of environmental protection shall prepare and 39788
submit to the governor and the general assembly a report on the 39789
timeliness of the issuance of installation permits pursuant to 39790
division ~~(F)~~(E) of section 3704.03 of the Revised Code for the 39791
immediately preceding year. The report shall include indicators 39792
to monitor the processing of installation permits by the 39793
environmental protection agency and a comparison of the 39794
performance of the two previous years. The report also shall 39795
identify the measures that have been taken during the 39796
immediately preceding year to improve the efficiency and 39797
timeliness of the issuance of installation permits and what 39798
~~activities~~activities are planned in the year in which the 39799
report is issued to improve that issuance. 39800

Sec. 3704.04. The adoption, modification, and repeal of 39801
rules and the issuance, revocation, modification, and denial of 39802
permits and variances under this chapter shall be in accordance 39803
with Chapter 119.7 and Chapter 3745.7 ~~and division (H) of~~ 39804
~~section 3704.03~~ of the Revised Code. 39805

Sec. 3704.05. (A) No person shall cause, permit, or allow 39806
emission of an air contaminant in violation of any rule adopted 39807
by the director of environmental protection under division ~~(E)~~ 39808
(D) of section 3704.03 of the Revised Code unless the person is 39809
the holder of a variance that is ~~issued under division (H) of~~ 39810

~~that section and~~ consistent with the federal Clean Air Act 39811
permitting the emission of the contaminant in excess of that 39812
permitted by the rule or the person is the holder of an 39813
operating permit that includes a compliance schedule issued 39814
pursuant to rules adopted under division ~~(G)~~(F) of section 39815
3704.03 of the Revised Code. 39816

(B) No person who is the holder of a variance ~~issued under~~ 39817
~~division (H) of section 3704.03 of the Revised Code~~ shall cause, 39818
permit, or allow emission of an air contaminant or contaminants 39819
listed therein in violation of the conditions of the variance or 39820
fail to obey an order of the director issued under authority of 39821
that division. 39822

(C) No person who is the holder of a permit issued under 39823
division ~~(F)~~(E) or ~~(G)~~(F) of section 3704.03 of the Revised Code 39824
shall violate any of its terms or conditions. 39825

(D) No person shall fail to install and maintain 39826
monitoring devices or to submit reports or other information as 39827
may be required under division ~~(I)~~(H) of section 3704.03 of the 39828
Revised Code. 39829

(E) No person to whom a permit or variance has been issued 39830
shall refuse entry to an authorized representative of the 39831
director or the environmental protection agency as provided in 39832
division ~~(L)~~(K) of section 3704.03 of the Revised Code or hinder 39833
or thwart the person in making an investigation. 39834

(F) No person shall fail to submit plans and 39835
specifications as required by section 3704.03 of the Revised 39836
Code. 39837

(G) No person shall violate any order, rule, or 39838
determination of the director issued, adopted, or made under 39839

this chapter. 39840

(H) No person shall do any of the following: 39841

(1) Falsify any plans, specifications, data, reports, 39842
records, or other information required to be kept or submitted 39843
to the director by this chapter or rules adopted under it; 39844

(2) Make any false material statement, representation, or 39845
certification in any form, notice, or report required by the 39846
Title V permit program; 39847

(3) Render inaccurate any monitoring device required by a 39848
Title V permit. 39849

Violation of division (H) (1), (2), or (3) of this section 39850
is not also falsification under section 2921.13 of the Revised 39851
Code. 39852

(I) No person shall knowingly falsify an inspection 39853
certificate submitted to another under section 3704.14 or 39854
Chapter 4503. of Revised Code. Violation of this division is not 39855
also falsification under section 2921.13 of the Revised Code. 39856

(J) No person shall do either of the following: 39857

(1) With regard to the Title V permit program, fail to pay 39858
any administrative penalty assessed in accordance with rules 39859
adopted under division ~~(S)~~(R) of section 3704.03 of the Revised 39860
Code or any fee assessed under section 3745.11 of the Revised 39861
Code; 39862

(2) Violate any applicable requirement of a Title V permit 39863
or any permit condition, except for an emergency as defined in 39864
40 C.F.R. 70.6 (g), or filing requirement of the Title V permit 39865
program, any duty to allow or carry out inspection, entry, or 39866
monitoring activities, or any rule adopted or order issued by 39867

the director pursuant to the Title V permit program. 39868

(K) On and after the three hundred sixty-sixth day 39869
following the administrator's final approval of the Title V 39870
permit program, or on and after the three hundred sixty-sixth 39871
day following the commencement of operation of a new major 39872
source required to comply with section 112(g) or part C or D of 39873
Title I of the federal Clean Air Act, whichever is later, no 39874
person shall operate any such source that is required to obtain 39875
a Title V permit under section 3704.036 of the Revised Code or 39876
rules adopted under it unless such a permit has been issued 39877
authorizing operation of the source or unless a complete and 39878
timely application for the issuance, renewal, or modification of 39879
a Title V permit for the source has been submitted to the 39880
director under that section. 39881

Sec. 3704.11. (A) Sections 3704.01 to 3704.11 of the 39882
Revised Code do not limit the authority a political subdivision 39883
of the state has to adopt and enforce ordinances or regulations 39884
relative to the prevention, control, and abatement of air 39885
pollution, except that every such local ordinance or regulation 39886
shall be consistent with Chapter 3704. of the Revised Code, and 39887
shall include emission standards and other regulations which are 39888
not less stringent than the emission standards and other 39889
regulations adopted pursuant to division ~~(E)~~(D) of section 39890
3704.03 of the Revised Code. Nothing in this section shall 39891
prohibit any such local law from controlling any air contaminant 39892
or source of air contamination which is not subject to control 39893
under regulations of the director of environmental protection. 39894

(B) No local air pollution control authority shall issue 39895
any enforcement order, grant any permit or variance, or 39896
institute any system or program that conflicts with, or is in 39897

any way inconsistent with any general plan, orders, or 39898
regulations of the director. 39899

(C) (1) Notwithstanding any other provision of Chapter 39900
3704. of the Revised Code or any rule adopted pursuant thereto, 39901
any municipal corporation or township may issue permits to 39902
contractors engaged in the construction of buildings for the 39903
open burning of construction debris only on the construction 39904
site, lot, or recorded plat referred to in the permit 39905
application, if such burning is supervised by an employee at all 39906
times. Construction debris which may be burned under this 39907
section shall be limited to natural wood, lumber, paper, 39908
cardboard, and wooden boxes but not including any product having 39909
a rubber or petroleum base. A municipal corporation or township 39910
may make rules applicable to issuance and use of permits as are 39911
reasonably necessary to guarantee the public health and safety 39912
and necessary to ensure the efficient operation of the permit 39913
system, and such rules may contain a schedule of fees for the 39914
permits. A municipal corporation or township may revoke a permit 39915
for violation of any provision of this section or any rule 39916
adopted by the municipal corporation or township pursuant 39917
thereto. Annually, in accordance with a schedule specified by 39918
the director of environmental protection, all municipal 39919
corporations and townships shall report to the director the 39920
number of permits issued, renewed, and revoked for the preceding 39921
calendar year. 39922

(2) No contractor shall burn construction debris under a 39923
permit issued pursuant to division (C) (1) of this section during 39924
an air pollution alert, warning, or emergency for the area of 39925
the construction site. 39926

Sec. 3704.13. The governor may do all things necessary on 39927

behalf of the state, except the adoption of rules, to secure the 39928
full benefits available to the state under the federal Clean Air 39929
Act. The governor may, in accordance with the federal Clean Air 39930
Act, exercise all powers permitted by the federal Clean Air Act 39931
to be exercised by a governor, including, but not limited to, 39932
powers pertaining to the issuance of orders; ~~adoption of rules;~~ 39933
designation of officials; emergency suspension of any part of an 39934
implementation plan adopted by the state; and redesignation of 39935
air quality control regions. 39936

Sec. 3704.14. (A) (1) If the director of environmental 39937
protection determines that implementation of a motor vehicle 39938
inspection and maintenance program is necessary for the state to 39939
effectively comply with the federal Clean Air Act after June 30, 39940
2025, the director may provide for the implementation of the 39941
program in those counties in this state in which such a program 39942
is federally mandated. Upon making such a determination, the 39943
director of environmental protection may request the director of 39944
administrative services to extend the terms of the contract that 39945
was entered into under the authority of H.B. 33 of the 135th 39946
general assembly. Upon receiving the request, the director of 39947
administrative services shall extend the contract, beginning on 39948
July 1, 2025, in accordance with this section. The contract 39949
shall be extended for a period of up to twenty-four months with 39950
the contractor who conducted the motor vehicle inspection and 39951
maintenance program under that contract. 39952

(2) Prior to the expiration of the contract extension that 39953
was authorized by division (A) (1) of this section under the 39954
authority of H.B. 33 of the 135th general assembly, the director 39955
of environmental protection shall request the director of 39956
administrative services to enter into a contract with a vendor 39957
to operate a decentralized motor vehicle inspection and 39958

maintenance program in each county in this state in which such a program is federally mandated through June 30, 2027. The contract shall ensure that the decentralized motor vehicle inspection and maintenance program achieves an equivalent amount of emission reductions as achieved by the program operated under the authority of the contract that was extended under division (A) (1) of this section under the authority of H.B. 33 of the 135th general assembly. The director of administrative services shall select a vendor through a competitive selection process in compliance with Chapter 125. of the Revised Code.

(3) Notwithstanding any law to the contrary, the director of administrative services shall ensure that a competitive selection process regarding a contract to operate a decentralized motor vehicle inspection and maintenance program in this state incorporates the following, which shall be included in the contract:

(a) For purposes of expanding the number of testing locations for consumer convenience, a requirement that the vendor utilize established local businesses, auto repair facilities, or leased properties to operate state-approved inspection and maintenance testing facilities;

(b) A requirement that the vendor selected to operate the program provide notification of the program's requirements to each owner of a motor vehicle that is required to be inspected under the program. The contract shall require the notification to be provided not later than sixty days prior to the date by which the owner of the motor vehicle is required to have the motor vehicle inspected. The director of environmental protection and the vendor shall jointly agree on the content of the notice. However, the notice shall include at a minimum the

locations of all inspection facilities within a specified 39989
distance of the address that is listed on the owner's motor 39990
vehicle registration. 39991

(c) A requirement that the vendor comply with testing 39992
methodology and supply the required equipment approved by the 39993
director of environmental protection as specified in the 39994
competitive selection process in compliance with Chapter 125. of 39995
the Revised Code. 39996

(4) A decentralized motor vehicle inspection and 39997
maintenance program operated under this section shall comply 39998
with division (B) of this section. The director of environmental 39999
protection shall administer the decentralized motor vehicle 40000
inspection and maintenance program operated under this section. 40001

(B) The director shall establish a decentralized motor 40002
vehicle inspection and maintenance program as authorized by this 40003
section and, at a minimum, the director shall ensure that the 40004
program does all of the following: 40005

(1) Complies with the federal Clean Air Act; 40006

(2) Provides for the issuance of inspection certificates 40007
and alternative emissions certificates as specified in rules 40008
adopted under division ~~(C)~~ (2) (C) of this section; 40009

(3) Provides for a new car exemption for motor vehicles 40010
six years old or newer and provides that a new motor vehicle is 40011
exempt for six years regardless of whether legal title to the 40012
motor vehicle is transferred during that period; 40013

(4) Provides for an exemption for battery electric motor 40014
vehicles; 40015

(5) Provides for an exemption for hybrid motor vehicles 40016

seven years old or newer and provides that a hybrid motor 40017
vehicle is exempt for seven years regardless of whether legal 40018
title to the motor vehicle is transferred during that period. 40019

~~(C)(1)~~ (C) The director of environmental protection shall 40020
adopt rules in accordance with Chapter 119. of the Revised Code 40021
that ~~the director determines are necessary to implement this~~ 40022
~~section. The director may continue to implement and enforce~~ 40023
~~rules pertaining to the motor vehicle inspection and maintenance~~ 40024
~~program previously implemented under former section 3704.14 of~~ 40025
~~the Revised Code as that section existed prior to its repeal and~~ 40026
~~reenactment by Am. Sub. H.B. 66 of the 126th general assembly,~~ 40027
~~provided that the rules do not conflict with this section.~~ 40028

~~(2)~~ The rules adopted under division ~~(C)(1)~~ of this 40029
section shall provide for the issuance of inspections 40030
certificates and alternative emissions certificates. Under the 40031
rules, an inspection certificate shall be issued to the owner or 40032
lessee of a motor vehicle when the motor vehicle passes an 40033
emissions inspection conducted in accordance with the motor 40034
vehicle inspection and maintenance program established under 40035
this section. ~~In lieu of obtaining an inspection certificate,~~ 40036
~~the rules shall establish a system by which the owner or lessee~~ 40037
~~of a motor vehicle may request an alternative emissions~~ 40038
~~certificate from the director.~~ 40039

~~(a)(1)~~ (1) The rules providing for the issuance of alternative 40040
emissions certificates shall require an owner or lessee of a 40041
motor vehicle to do the following in order to receive the 40042
certificate: 40043

~~(i)~~ (a) Complete and submit an attestation form created by 40044
the director that includes a statement that reads substantially 40045
as follows: 40046

"I, _____, attest that, to the best of my knowledge, the motor vehicle concerning which I am the owner or lessee complies with all laws of Ohio and the United States governing motor vehicle emissions. I, _____, am aware that a false statement on this form is not permitted."

~~(ii)~~(b) Sign and date the form either manually or electronically;

~~(iii)~~(c) Submit the form to the director either by regular mail, certified mail, or electronically.

~~(b)~~(2) The rules shall require the director to include both of the following additional information on the attestation form:

~~(i)~~(a) A provision that allows the owner or lessee of a motor vehicle to specify one of the following methods by which the owner or lessee may request delivery of the alternative emissions certificate: certified mail, noncertified mail, or electronically;

~~(ii)~~(b) A provision that allows the owner or lessee of a motor vehicle to specify the vehicle identification number, make, model, and year of the relevant motor vehicle and the date the attestation form is submitted to the director.

~~(e)~~(3) Subject to division ~~(C)~~(2) ~~(d)~~(C) (4) of this section, the rules shall require the director to deliver an alternative emission certificate to the owner or lessee of a motor vehicle who complies with rules adopted under division ~~(C)~~(2) ~~(a)~~(C) (1) of this section. The director shall deliver the certificate within thirty business days after the director's receipt of the attestation form or, if the owner or lessee submits the form electronically, within five business days after

receipt of the form. The director shall confirm the receipt of 40076
the attestation form if the director receives it by electronic 40077
means. 40078

~~(d)~~ (4) The rules shall require the director to reject an 40079
attestation form for any of the following reasons: 40080

~~(i)~~ (a) The motor vehicle that is the subject of the 40081
attestation form was in an accident or collision within the two 40082
years prior to the date of submission of the form, and the 40083
accident or collision caused substantial damage to the internal 40084
structure of the motor vehicle. 40085

~~(ii)~~ (b) The owner or lessee of the motor vehicle that is 40086
the subject of the attestation form has received a ticket, 40087
citation, or summons with regard to that motor vehicle within 40088
the two years prior to the date of submission of the form for a 40089
violation of section 4513.22 of the Revised Code or 40090
substantially equivalent municipal ordinance. 40091

~~(iii)~~ (c) The information in the attestation form is 40092
determined by the director to be false. 40093

If the director rejects an attestation form under division 40094
~~(C) (2) (d) (iii)~~ (C) (4) (c) of this section, the director shall 40095
provide notice to the owner or lessee that the attestation form 40096
was determined to be false. The notice shall inform the owner or 40097
lessee that the owner or lessee may submit a corrected form to 40098
the director within thirty days of the receipt of the notice. If 40099
the owner or lessee submits a corrected attestation form that 40100
complies with rules adopted under division ~~(C) (2) (C)~~ of this 40101
section within that thirty-day period, the director shall issue 40102
an alternative emissions certificate to the owner or lessee. If 40103
the owner or lessee fails to correct the attestation form, the 40104

director shall require the owner or lessee to complete an 40105
emissions inspection and obtain an inspection certificate in 40106
accordance with rules adopted under this section. 40107

If the director rejects an attestation form under division 40108
~~(C) (2) (d) (i)~~ (C) (4) (a) or ~~(ii) (b)~~ of this section, the director 40109
shall require the owner or lessee to complete an emissions 40110
inspection and obtain an inspection certificate in accordance 40111
with rules adopted under this section. 40112

~~(e) (5)~~ In adopting rules under division ~~(C) (2) (C)~~ of this 40113
section, the director shall ensure that the owner or lessee of a 40114
motor vehicle who falsifies an attestation form receives a 40115
notice that includes a statement that reads substantially as 40116
follows: "You have falsified an attestation form for your 40117
vehicle under the E-Check/motor vehicle emissions testing 40118
program. Your vehicle is registered in one of [insert the number 40119
of counties] counties in this state that has federal emission 40120
mandates imposed on it that the State of Ohio is required, under 40121
threat of penalty, to enforce. This letter serves as Ohio's only 40122
penalty for falsification of an attestation form. You have 40123
thirty days from the date of this notice to amend your 40124
attestation form and submit the amended form to the 40125
Environmental Protection Agency. However, if you choose not to 40126
submit an amended attestation form, you must have a motor 40127
vehicle emissions inspection conducted for your vehicle in 40128
accordance with section 3704.14 of the Revised Code and rules 40129
adopted under it." 40130

~~(f) (6)~~ No penalties apply to a person who the director has 40131
determined to have falsified an attestation form, other than the 40132
issuance of the notice required under division ~~(C) (2) (e)~~ (C) (5) 40133
of this section. 40134

(D) There is hereby created in the state treasury the auto emissions test fund, which shall consist of money received by the director from any cash transfers, state and local grants, and other contributions that are received for the purpose of funding the program established under this section. The director of environmental protection shall use money in the fund solely for the implementation, supervision, administration, operation, and enforcement of the motor vehicle inspection and maintenance program established under this section. Money in the fund shall not be used for either of the following:

(1) To pay for the inspection costs incurred by a motor vehicle dealer so that the dealer may provide inspection certificates to an individual purchasing a motor vehicle from the dealer when that individual resides in a county that is subject to the motor vehicle inspection and maintenance program;

(2) To provide payment for more than one free passing emissions inspection or a total of three emissions inspections for a motor vehicle in any three-hundred-sixty-five-day period. The owner or lessee of a motor vehicle is responsible for inspection fees that are related to emissions inspections beyond one free passing emissions inspection or three total emissions inspections in any three-hundred-sixty-five-day period. Inspection fees that are charged by a contractor conducting emissions inspections under a motor vehicle inspection and maintenance program shall be approved by the director of environmental protection.

(E) The motor vehicle inspection and maintenance program established under this section expires upon the termination of all contracts entered into under this section and shall not be implemented beyond the final date on which termination occurs.

(F) As used in this section "battery electric motor vehicle" and "hybrid motor vehicle" have the same meanings as in section 4501.01 of the Revised Code. 40165
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(G) On June 30, 2025, the director shall immediately begin procedures to submit to the United States environmental protection agency the alternative emissions certification program for approval as part of the Ohio state implementation plan. If the United States environmental protection agency approves the modification of the decentralized motor vehicle inspection and maintenance program as providing sufficient air pollution reductions to meet the federal Clean Air Act requirements for a vehicle inspection and maintenance program and modifies the Ohio state implementation plan, the director shall immediately begin to modify the Ohio environmental protection agency rules to implement the alternative emissions certification program. Nothing in this division requires the Ohio environmental protection agency to take action to implement the alternative emissions certification program until the United States environmental protection agency approves the alternative program as part of the Ohio state implementation plan. 40168
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(H) If the United States environmental protection agency determines that the motor vehicle inspection and maintenance program implemented in accordance with this section is not necessary for the state or any area of the state to comply with the federal Clean Air Act, the director shall immediately discontinue the program and take any actions necessary to effectuate the termination of the program. 40185
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Sec. 3704.161. (A) The director of environmental protection shall enforce sections 3704.16 to 3704.162 of the Revised Code and the rules adopted under them. In doing so, the 40192
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director or the director's authorized representative may do 40195
either or both of the following: 40196

(1) Inspect, during normal business hours, any motor 40197
vehicle or documents located at premises owned, operated, 40198
rented, leased, or otherwise used by any owner or operator of a 40199
motor vehicle if that motor vehicle is operated for commercial 40200
purposes, or by any person engaged in the sale, lease, or rental 40201
of motor vehicles or motor vehicle parts, in order to determine 40202
compliance with sections 3704.16 to 3704.162 of the Revised Code 40203
and the rules adopted under them; 40204

(2) Issue a notice of violation to any person who violates 40205
any provision of sections 3704.16 to 3704.162 of the Revised 40206
Code or the rules adopted under them and who the director or the 40207
director's authorized representative finds has committed such a 40208
violation. The notice of violation shall set forth the specific 40209
violation allegedly committed by the person and be accompanied 40210
by an order requiring the person to comply with the relevant 40211
provision. The person may appeal the order to the environmental 40212
review appeals commission in accordance with section 3745.04 of 40213
the Revised Code. 40214

(B) The director shall adopt rules in accordance with 40215
Chapter 119. of the Revised Code to implement sections 3704.16 40216
to 3704.162 of the Revised Code. ~~The rules shall include all~~ 40217
that establish both of the following: 40218

(1) Requirements and procedures for inspection of motor 40219
vehicles and documents under division (A) (1) of this section; 40220

(2) A method by which any person may report violations or 40221
suspected violations of sections 3704.16 to 3704.162 of the 40222
Revised Code to the director for enforcement; 40223

~~(3) Any other rule the director determines necessary for the administration and enforcement of sections 3704.16 to 3704.162 of the Revised Code.~~ 40224
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(C) (1) Notwithstanding any other section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under divisions (D) and (E) of section 3704.99 of the Revised Code resulting from an arrest made by the law enforcement agency of a political subdivision shall be paid to the treasury of the political subdivision. 40227
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(2) All civil penalties collected pursuant to section 3704.06 of the Revised Code for violations of section 3704.16 of the Revised Code and the rules adopted under this section shall be deposited in the anti-tampering settlement fund, which is hereby created in the state treasury. The director shall use the moneys in the fund solely for public education concerning and administration and enforcement of sections 3704.16 to 3704.162 of the Revised Code. 40234
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Sec. 3705.02. A statewide system of registration of births, deaths, fetal deaths, and other vital statistics is hereby established, which shall consist of the office of vital statistics in the department of health and primary registration districts. The office of vital statistics shall be maintained at the capital of the state and shall be provided with sufficient staff, suitable offices, and other resources for the proper administration of the system of vital statistics and for the preservation of its official records. The director of health shall have charge of the system of vital statistics, enforce sections 3705.01 to 3705.29 of the Revised Code, and prepare and issue instructions necessary to secure the uniform observance of 40242
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such sections. ~~The director shall adopt rules as necessary to~~ 40254
~~insure that this state shall have a complete and accurate~~ 40255
~~registration of vital statistics.~~ No system of registration of 40256
births, deaths, fetal deaths, or other vital statistics shall be 40257
maintained in any political subdivision in conflict with such 40258
sections. 40259

Sec. 3705.24. (A) (1) The director of health shall, in 40260
accordance with section 111.15 of the Revised Code, adopt rules 40261
prescribing fees for the following items or services provided by 40262
the state office of vital statistics: 40263

(a) Except as provided in division (A) (4) of this section: 40264

(i) A certified copy of a vital record or a certification 40265
of birth; 40266

(ii) A search by the office of vital statistics of its 40267
files and records pursuant to a request for information, 40268
regardless of whether a copy of a record is provided; 40269

(iii) A copy of a record provided pursuant to a request. 40270

(b) Replacement of a birth certificate following an 40271
adoption, legitimation, paternity determination or 40272
acknowledgement, or court order; 40273

(c) Filing of a delayed registration of a vital record; 40274

(d) Amendment of a vital record that is requested later 40275
than one year after the filing date of the vital record; 40276

~~(e) Any other documents or services for which the director~~ 40277
~~considers the charging of a fee appropriate.~~ 40278

(2) Fees prescribed under division (A) (1) (a) of this 40279
section shall not be less than twelve dollars. 40280

(3) Fees prescribed under division (A)(1) of this section 40281
shall be collected in addition to any fees required by sections 40282
3109.14 and 3705.242 of the Revised Code. 40283

(4) Fees prescribed under division (A) of this section 40284
shall not apply to certifications issued under division (H) of 40285
this section or copies provided under section 3705.241 of the 40286
Revised Code. 40287

(B) In addition to the fees prescribed under division (A) 40288
of this section or section 3709.09 of the Revised Code, the 40289
office of vital statistics, the board of health of a city or 40290
general health district, or a local registrar of vital 40291
statistics who is not a salaried employee of a city or general 40292
health district shall charge a five-dollar fee for each 40293
certified copy of a vital record and each certification of 40294
birth. This fee shall be deposited in the general operations 40295
fund created under section 3701.83 of the Revised Code and be 40296
used to support the operations, the modernization, and the 40297
automation of the vital records program in this state. A board 40298
of health or a local registrar shall forward all fees collected 40299
under this division to the department of health not later than 40300
thirty days after the end of each calendar quarter. 40301

(C) Except as otherwise provided in division (H) of this 40302
section, and except as provided in section 3705.241 of the 40303
Revised Code, fees collected by the director of health under 40304
sections 3705.01 to 3705.29 of the Revised Code shall be paid 40305
into the state treasury to the credit of the general operations 40306
fund created by section 3701.83 of the Revised Code. Except as 40307
provided in division (B) or (I) of this section, money generated 40308
by the fees shall be used only for administration and 40309
enforcement of this chapter and the rules adopted under it. 40310

Amounts submitted to the department of health for copies of 40311
vital records or services in excess of the fees imposed by this 40312
section shall be dealt with as follows: 40313

(1) An overpayment of two dollars or less shall be 40314
retained by the department and deposited in the state treasury 40315
to the credit of the general operations fund created by section 40316
3701.83 of the Revised Code. 40317

(2) An overpayment in excess of two dollars shall be 40318
returned to the person who made the overpayment. 40319

(D) If a local registrar is a salaried employee of a city 40320
or a general health district, any fees the local registrar 40321
receives pursuant to section 3705.23 of the Revised Code shall 40322
be paid into the general fund of the city or the health fund of 40323
the general health district. 40324

Each local registrar of vital statistics, or each health 40325
district where the local registrar is a salaried employee of the 40326
district, shall be entitled to a fee for each birth, fetal 40327
death, death, or military service certificate properly and 40328
completely made out and registered with the local registrar or 40329
district and correctly copied and forwarded to the office of 40330
vital statistics in accordance with the population of the 40331
primary registration district at the last federal census. The 40332
fee for each birth, fetal death, death, or military service 40333
certificate shall be: 40334

(1) In primary registration districts of over two hundred 40335
fifty thousand, twenty cents; 40336

(2) In primary registration districts of over one hundred 40337
twenty-five thousand and less than two hundred fifty thousand, 40338
sixty cents; 40339

(3) In primary registration districts of over fifty 40340
thousand and less than one hundred twenty-five thousand, eighty 40341
cents; 40342

(4) In primary registration districts of less than fifty 40343
thousand, one dollar. 40344

(E) The director of health shall annually certify to the 40345
county treasurers of the several counties the number of birth, 40346
fetal death, death, and military service certificates registered 40347
from their respective counties with the names of the local 40348
registrars and the amounts due each registrar and health 40349
district at the rates fixed in this section. Such amounts shall 40350
be paid by the treasurer of the county in which the registration 40351
districts are located. No fees shall be charged or collected by 40352
registrars except as provided by this chapter and section 40353
3109.14 of the Revised Code. 40354

(F) A probate judge shall be paid a fee of fifteen cents 40355
for each certified abstract of marriage prepared and forwarded 40356
by the probate judge to the department of health pursuant to 40357
section 3705.21 of the Revised Code. The fee shall be in 40358
addition to the fee paid for a marriage license and shall be 40359
paid by the applicants for the license. 40360

(G) The clerk of a court of common pleas shall be paid a 40361
fee of one dollar for each certificate of divorce, dissolution, 40362
and annulment of marriage prepared and forwarded by the clerk to 40363
the department pursuant to section 3705.21 of the Revised Code. 40364
The fee for the certified abstract of divorce, dissolution, or 40365
annulment of marriage shall be added to the court costs allowed 40366
in these cases. 40367

(H) The fee for an heirloom certification of birth issued 40368

pursuant to division (B) (2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

(I) (1) Four dollars of each fee collected by the board of health of a city or general health district for a certified copy of a vital record or a certification of birth shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems. Of each four dollars collected, one dollar shall be used by the director of health to pay subsidies to boards of health. The subsidies shall be distributed in accordance with the same formula established under section 3701.342 of the Revised Code for the distribution of state health district subsidy funds to boards of health and local health departments.

(2) Four dollars of each fee collected by a local registrar of vital statistics who is not a salaried employee of a city or general health district, for a certified copy of a

vital record or certification of birth, shall be transferred to 40400
the office of vital statistics not later than thirty days after 40401
the end of each calendar quarter. The amount collected shall be 40402
used to support public health systems. 40403

Sec. 3706.25. As used in sections 3706.25 to ~~3706.29~~ 40404
3706.28 of the Revised Code: 40405

(A) "Advanced energy project" means any technologies, 40406
products, activities, or management practices or strategies that 40407
facilitate the generation or use of electricity or energy and 40408
that reduce or support the reduction of energy consumption or 40409
support the production of clean, renewable energy for 40410
industrial, distribution, commercial, institutional, 40411
governmental, research, not-for-profit, or residential energy 40412
users including, but not limited to, advanced energy resources 40413
and renewable energy resources. "Advanced energy project" 40414
includes any project described in division (A), (B), or (C) of 40415
section 4928.621 of the Revised Code. 40416

(B) "Advanced energy resource" means any of the following: 40417

(1) Any method or any modification or replacement of any 40418
property, process, device, structure, or equipment that 40419
increases the generation output of an electric generating 40420
facility to the extent such efficiency is achieved without 40421
additional carbon dioxide emissions by that facility; 40422

(2) Any distributed generation system consisting of 40423
customer cogeneration technology, primarily to meet the energy 40424
needs of the customer's facilities; 40425

(3) Advanced nuclear energy technology consisting of 40426
generation III technology as defined by the nuclear regulatory 40427
commission; other, later technology; or significant improvements 40428

to existing facilities; 40429

(4) Any fuel cell used in the generation of electricity, 40430
including, but not limited to, a proton exchange membrane fuel 40431
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 40432
solid oxide fuel cell; 40433

(5) Advanced solid waste or construction and demolition 40434
debris conversion technology, including, but not limited to, 40435
advanced stoker technology, and advanced fluidized bed 40436
gasification technology, that results in measurable greenhouse 40437
gas emissions reductions as calculated pursuant to the United 40438
States environmental protection agency's waste reduction model 40439
(WARM). 40440

(C) "Air contaminant source" has the same meaning as in 40441
section 3704.01 of the Revised Code. 40442

(D) "Cogeneration technology" means technology that 40443
produces electricity and useful thermal output simultaneously. 40444

(E) "Renewable energy resource" means solar photovoltaic 40445
or solar thermal energy, wind energy, power produced by a 40446
hydroelectric facility, power produced by a run-of-the-river 40447
hydroelectric facility placed in service on or after January 1, 40448
1980, that is located within this state, relies upon the Ohio 40449
river, and operates, or is rated to operate, at an aggregate 40450
capacity of forty or more megawatts, geothermal energy, fuel 40451
derived from solid wastes, as defined in section 3734.01 of the 40452
Revised Code, through fractionation, biological decomposition, 40453
or other process that does not principally involve combustion, 40454
biomass energy, energy produced by cogeneration technology that 40455
is placed into service on or before December 31, 2015, and for 40456
which more than ninety per cent of the total annual energy input 40457

is from combustion of a waste or byproduct gas from an air 40458
contaminant source in this state, which source has been in 40459
operation since on or before January 1, 1985, provided that the 40460
cogeneration technology is a part of a facility located in a 40461
county having a population of more than three hundred sixty-five 40462
thousand but less than three hundred seventy thousand according 40463
to the most recent federal decennial census, biologically 40464
derived methane gas, heat captured from a generator of 40465
electricity, boiler, or heat exchanger fueled by biologically 40466
derived methane gas, or energy derived from nontreated by- 40467
products of the pulping process or wood manufacturing process, 40468
including bark, wood chips, sawdust, and lignin in spent pulping 40469
liquors. "Renewable energy resource" includes, but is not 40470
limited to, any fuel cell used in the generation of electricity, 40471
including, but not limited to, a proton exchange membrane fuel 40472
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 40473
solid oxide fuel cell; wind turbine located in the state's 40474
territorial waters of Lake Erie; methane gas emitted from an 40475
abandoned coal mine; storage facility that will promote the 40476
better utilization of a renewable energy resource that primarily 40477
generates off peak; or distributed generation system used by a 40478
customer to generate electricity from any such energy. As used 40479
in this division, "hydroelectric facility" means a hydroelectric 40480
generating facility that is located at a dam on a river, or on 40481
any water discharged to a river, that is within or bordering 40482
this state or within or bordering an adjoining state and meets 40483
all of the following standards: 40484

(1) The facility provides for river flows that are not 40485
detrimental for fish, wildlife, and water quality, including 40486
seasonal flow fluctuations as defined by the applicable 40487
licensing agency for the facility. 40488

(2) The facility demonstrates that it complies with the water quality standards of this state, which compliance may consist of certification under Section 401 of the "Clean Water Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has not contributed to a finding by this state that the river has impaired water quality under Section 303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 U.S.C. 1313.

(3) The facility complies with mandatory prescriptions regarding fish passage as required by the federal energy regulatory commission license issued for the project, regarding fish protection for riverine, anadromous, and catadromous fish.

(4) The facility complies with the recommendations of the Ohio environmental protection agency and with the terms of its federal energy regulatory commission license regarding watershed protection, mitigation, or enhancement, to the extent of each agency's respective jurisdiction over the facility.

(5) The facility complies with provisions of the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as amended.

(6) The facility does not harm cultural resources of the area. This can be shown through compliance with the terms of its federal energy regulatory commission license or, if the facility is not regulated by that commission, through development of a plan approved by the Ohio historic preservation office, to the extent it has jurisdiction over the facility.

(7) The facility complies with the terms of its federal energy regulatory commission license or exemption that are related to recreational access, accommodation, and facilities

or, if the facility is not regulated by that commission, the 40518
facility complies with similar requirements as are recommended 40519
by resource agencies, to the extent they have jurisdiction over 40520
the facility; and the facility provides access to water to the 40521
public without fee or charge. 40522

(8) The facility is not recommended for removal by any 40523
federal agency or agency of any state, to the extent the 40524
particular agency has jurisdiction over the facility. 40525

Sec. 3710.02. (A) In accordance with Chapter 119. of the 40526
Revised Code, the director of environmental protection shall, ~~as~~ 40527
~~the director determines necessary,~~ adopt rules to carry out this 40528
~~chapter. The rules shall include that establish~~ all of the 40529
following: 40530

(1) Criteria and procedures for the certification of 40531
asbestos hazard abatement specialists, asbestos hazard 40532
evaluation specialists, asbestos hazard abatement workers, 40533
asbestos hazard abatement project designers, and asbestos hazard 40534
abatement air-monitoring technicians by the director; 40535

(2) Criteria and procedures for the director to examine 40536
the records of licensees, certificate holders, and asbestos 40537
hazard abatement training schools; 40538

(3) Procedures and criteria in addition to those provided 40539
in this chapter for the approval of courses for asbestos hazard 40540
training; 40541

(4) Fees for licenses, certifications, and course 40542
approvals in excess of the levels set in section 3710.05 of the 40543
Revised Code and fees for the certification of asbestos hazard 40544
abatement air-monitoring technicians; 40545

(5) Levels of asbestos exposure or other circumstances 40546

constituting an environmental health emergency that authorize 40547
the director to issue an emergency order under division (B) of 40548
section 3710.13 of the Revised Code; 40549

(6) Employee training standards, work practices that 40550
reduce the risk of contamination and recontamination of the 40551
environment, record-keeping requirements, action levels, project 40552
clearance levels, and other requirements that asbestos hazard 40553
abatement contractors, asbestos hazard abatement specialists, 40554
asbestos hazard evaluation specialists, asbestos hazard 40555
abatement project designers, asbestos hazard abatement air- 40556
monitoring technicians, asbestos hazard abatement workers, and 40557
other persons involved with asbestos hazard abatement activities 40558
must follow for the prevention of hazard to the public; 40559

(7) Worker protection equipment and practices and other 40560
health and safety standards for employees and agents of public 40561
entities coming in contact with asbestos through asbestos hazard 40562
abatement activity; 40563

(8) Standards of acceptable conduct for licensees and 40564
certificate holders engaged in asbestos hazard abatement or 40565
evaluation activities and acts and omissions that constitute 40566
grounds for the suspension or revocation of a license or 40567
certificate, or the denial of an application or renewal of a 40568
license or certificate in addition to those otherwise provided 40569
in this chapter; 40570

(9) Training requirements for asbestos hazard abatement 40571
project designers and asbestos hazard abatement air-monitoring 40572
technicians; 40573

(10) (a) Subject to the condition specified in division (A) 40574
(10) (b) of this section, a standard requiring that the amount of 40575

asbestos contained in the air in areas accessible to the public 40576
in buildings that are owned, operated, or leased by a public 40577
entity be not more than ten thousand asbestos fibers longer than 40578
five microns per cubic meter of air calculated as an eight-hour 40579
time-weighted average, which is measured during periods of 40580
normal building occupancy, and a requirement that measurement of 40581
airborne asbestos be made by either or both of the following 40582
methods, provided that results derived by use of the method 40583
described in division (A) (10) (a) (i) of this section supersede 40584
results derived by use of the method described in division (A) 40585
(10) (a) (ii) of this section if both methods are used and the 40586
methods yield conflicting results concerning the presence of 40587
fibers in the tested air that may not be asbestos: 40588

(i) Transmission electron microscopy in the manner 40589
described in the measurement protocol established by the United 40590
States environmental protection agency as set forth in 40 C.F.R. 40591
763; 40592

(ii) Optical phase contrast microscopy in the manner 40593
described in the measurement protocol established by the United 40594
States occupational safety and health administration as set 40595
forth in 29 C.F.R. 1910. 40596

(b) The director periodically shall review the standard 40597
required by division (A) (10) (a) of this section and determine 40598
whether and how it should be amended and how it shall be used in 40599
conjunction with visual and physical assessment of asbestos- 40600
containing materials located in buildings that are owned, 40601
operated, or leased by a public entity to determine appropriate 40602
and cost-effective response actions to such asbestos-containing 40603
materials and shall amend the standard if it determines that 40604
such action is necessary. 40605

~~(11) Other rules that the director determines necessary~~ 40606
~~for the implementation of this chapter and to protect the public~~ 40607
~~health from the hazards associated with exposure to asbestos.~~ 40608

(B) The director shall do all of the following: 40609

(1) Administer and enforce this chapter and the rules 40610
adopted pursuant thereto; 40611

(2) Develop comprehensive programs and policies for the 40612
control and prevention of nonoccupational exposure of the public 40613
to friable asbestos-containing materials; 40614

(3) Ensure that persons are trained and licensed or 40615
certified, where appropriate, in accordance with this chapter 40616
and the rules adopted pursuant thereto; 40617

(4) Examine those records of licensed asbestos hazard 40618
abatement contractors, certified asbestos hazard abatement 40619
specialists, asbestos hazard evaluation specialists, asbestos 40620
hazard abatement project designers, asbestos hazard abatement 40621
air-monitoring technicians, and asbestos hazard training courses 40622
in accordance with rules adopted by the director ~~as the director~~ 40623
~~determines necessary~~ to determine compliance with this chapter 40624
and the rules adopted pursuant thereto; 40625

(5) Prohibit and prevent improper asbestos hazard 40626
abatement procedures and require the modification or alteration 40627
of asbestos abatement procedures as they relate to this chapter 40628
and the rules adopted pursuant thereto; 40629

(6) Collect and disseminate health education information 40630
relating to safe management of asbestos hazards; 40631

(7) Accept and administer grants from the federal 40632
government and other sources, both public and private, for 40633

carrying out any of the director's functions; 40634

(8) As the director determines appropriate, conduct on- 40635
site inspections at any location where an asbestos hazard 40636
abatement activity is planned, in progress, or has been 40637
completed, at any location where an environmental health 40638
emergency involving asbestos may occur, is occurring, or has 40639
occurred, or to evaluate the performance or compliance of any 40640
person subject to this chapter; 40641

(9) Conduct an on-site audit of each asbestos hazard 40642
training provider approved pursuant to this chapter, at least 40643
once biennially, during an actual course conducted by the 40644
provider within the state; 40645

(10) Cooperate and assist in investigations, as such 40646
relate to this chapter, conducted by local law enforcement 40647
agencies, ~~the~~ United States occupational safety and health 40648
administration, and other local, state, and federal agencies. 40649

Sec. 3711.12. (A) The director of health shall adopt rules 40650
in accordance with Chapter 119. of the Revised Code ~~as the~~ 40651
~~director considers necessary~~ to implement the requirements of 40652
this chapter for licensure and operation of maternity homes. The 40653
rules shall ~~include~~ establish provisions for the following: 40654

(1) Licensure application forms and procedures; 40655

(2) Renewal procedures, including procedures that address 40656
the right of the director of health, at the director's sole 40657
discretion, to conduct an inspection prior to renewal of a 40658
license; 40659

(3) Initial license fees and license renewal fees; 40660

(4) Fees for inspections conducted by the director under 40661

section 3711.10 of the Revised Code;	40662
(5) Safety standards, quality-of-care standards, and	40663
quality-of-care data reporting requirements;	40664
(6) Reporting and auditing requirements;	40665
(7) Inspection criteria, procedures, and guidelines;	40666
(8) Application forms to be used and procedures to be	40667
followed in applying under section 3711.13 of the Revised Code	40668
for a variance or waiver of any of the requirements of the rules	40669
adopted under this section regarding the operation of a	40670
maternity home;—	40671
(9) Any other rules necessary to implement this chapter.	40672
(B) When adopting rules under this section, the director	40673
shall give consideration to recommendations regarding obstetric	40674
and newborn care issued by the American college of obstetricians	40675
and gynecologists; American academy of pediatrics; American	40676
academy of family physicians; American society of	40677
anesthesiologists; American college of nurse-midwives; United	40678
States centers for disease control and prevention; association	40679
of women's health, obstetric and neonatal nurses; and	40680
association of perioperative registered nurses, or their	40681
successor organizations.	40682
Sec. 3713.04. (A) In accordance with Chapter 119. of the	40683
Revised Code, the superintendent of industrial compliance shall:	40684
(1) Adopt rules pertaining to the definition, name, and	40685
description of materials necessary to carry out this chapter;	40686
(2) Determine the testing standards, fees, and charges to	40687
be paid for making any test or analysis required pursuant to	40688
section 3713.08 of the Revised Code.	40689

(B) In accordance with Chapter 119. of the Revised Code, 40690
the superintendent may adopt rules regarding the following: 40691

(1) Establishing an initial application fee or an annual 40692
registration renewal fee not more than fifty per cent higher 40693
than the fees set forth in section 3713.05 of the Revised Code; 40694

(2) Establishing standards, on a reciprocal basis, for the 40695
acceptance of labels and laboratory analyses from other states 40696
where the labeling requirements and laboratory analysis 40697
standards are substantially equal to the requirements of this 40698
state, provided the other state extends similar reciprocity to 40699
labels and laboratory analysis conducted under this chapter; 40700

~~(3) Any other rules necessary to administer and carry out 40701
this chapter. 40702~~

(C) The superintendent may do any of the following: 40703

(1) Issue administrative orders, conduct hearings, and 40704
take all actions necessary under the authority of Chapter 119. 40705
of the Revised Code for the administration of this chapter. The 40706
authority granted under this division shall include the 40707
authority to suspend, revoke, or deny registration under this 40708
chapter. 40709

(2) Establish and maintain facilities within the 40710
department of commerce to make tests and analysis of materials 40711
used in the manufacture of bedding and stuffed toys. The 40712
superintendent also may designate established laboratories that 40713
are qualified to make these tests. These laboratories may be 40714
used for making any test or analysis of materials used in the 40715
manufacture of bedding and stuffed toys. If the superintendent 40716
exercises this authority, the superintendent shall adopt rules 40717
to determine the fees and charges to be paid for making the 40718

tests or analyses authorized under this section. 40719

(3) Exercise such other powers and duties, except for the 40720
adoption of rules, as are necessary to carry out the purpose and 40721
intent of this chapter. 40722

Sec. 3714.052. (A) An application for a permit to install 40723
a new construction and demolition debris facility that is 40724
submitted under section 3714.051 of the Revised Code shall 40725
include all of the following: 40726

(1) A listing of all construction and demolition debris 40727
facilities or other waste disposal facilities that the owner or 40728
operator of the proposed new construction and demolition debris 40729
facility or a key employee of the owner or operator has operated 40730
or is operating in this state; 40731

(2) A listing of the construction and demolition debris 40732
facilities or other waste disposal facilities that the owner or 40733
operator or a key employee of the owner or operator has operated 40734
or is operating elsewhere in the United States together with a 40735
listing of the construction and demolition debris facilities or 40736
other waste disposal facilities that the owner or operator or a 40737
key employee of the owner or operator has operated or is 40738
operating outside the United States; 40739

(3) A listing of all administrative enforcement orders 40740
issued to the owner or operator or a key employee of the owner 40741
or operator, all civil actions in which the owner or operator or 40742
a key employee of the owner or operator was determined by the 40743
trier of fact to be liable in damages or was the subject of 40744
injunctive relief or another type of civil relief, and all 40745
criminal actions in which the owner or operator or a key 40746
employee of the owner or operator pleaded guilty or was 40747

convicted, during the ten years immediately preceding the 40748
submission of the application, in connection with any violation 40749
by the owner or operator or a key employee of the owner or 40750
operator of an applicable state or federal law pertaining to 40751
environmental protection or the environmental laws of another 40752
country; 40753

(4) A listing of all administrative enforcement orders, 40754
civil actions, or criminal actions pending at the time of the 40755
submission of the application for a permit to install in 40756
connection with a violation of any applicable state or federal 40757
law or law of another country pertaining to environmental 40758
protection that was alleged to have been committed by the owner 40759
or operator or a key employee of the owner or operator. 40760

The lists of construction and demolition debris facilities 40761
or other waste disposal facilities operated by the owner or 40762
operator or a key employee of the owner or operator within or 40763
outside this state or outside the United States shall include 40764
all such facilities operated by the owner or operator or a key 40765
employee of the owner or operator during the ten-year period 40766
immediately preceding the submission of the application. 40767

(B) If the applicant for a permit to install has been 40768
involved in any prior activity involving the operation of a 40769
construction and demolition debris facility or other waste 40770
disposal facility, the director of environmental protection or a 40771
board of health, as applicable, may deny the application if the 40772
director or board finds from the application, the information 40773
submitted under divisions (A) (1) to (4) of this section, 40774
pertinent information submitted to the director or board, and 40775
other pertinent information obtained by the director or board at 40776
the director's or board's discretion that the applicant or any 40777

other person listed on the application, in the operation of 40778
construction and demolition debris facilities or other waste 40779
disposal facilities, has a history of substantial noncompliance 40780
with state and federal laws pertaining to environmental 40781
protection or the environmental laws of another country that 40782
indicates that the applicant lacks sufficient reliability, 40783
expertise, and competence to operate the proposed new 40784
construction and demolition debris facility in substantial 40785
compliance with this chapter and rules adopted under it. 40786

(C) At the same time that an application for an annual 40787
operation license required under section 3714.06 of the Revised 40788
Code is submitted, an owner or operator of a construction and 40789
demolition debris facility that has submitted the information 40790
required under division (A) of this section shall submit to the 40791
director or board of health, as applicable, all information 40792
required to be submitted under division (A) of this section that 40793
has changed or been added since the issuance of the most recent 40794
annual operation license for the facility. If, during that 40795
period, there have been no changes in or additions to that 40796
information, the owner or operator shall submit to the director 40797
or board an affidavit stating that there have been no changes in 40798
or additions to that information during that time period. The 40799
director or board may revoke the license for the facility if the 40800
updated information indicates any of the reasons specified in 40801
division (B) of this section for the denial of an application 40802
for a permit to install. 40803

(D) A person to whom the permit to install or the license 40804
for a construction and demolition debris facility is proposed to 40805
be transferred under division (B) of section 3714.06 of the 40806
Revised Code shall submit to the director or a board of health, 40807
as applicable, the information that is required to be submitted 40808

under division (A) of this section by an applicant for a permit 40809
to install not later than one hundred twenty days prior to the 40810
proposed acquisition of the facility by the transferee. The 40811
director or board of health may deny the transfer of the permit 40812
or license, as applicable, if the information regarding the 40813
transferee indicates any of the reasons specified in division 40814
(B) of this section for the denial of an application for a 40815
permit to install. 40816

(E) When the owner or operator of a facility employs a new 40817
key employee, the owner or operator shall submit or shall 40818
require the new key employee to submit to the director or a 40819
board of health, as applicable, information regarding the new 40820
key employee that is required to be submitted under division (A) 40821
of this section by an applicant for a permit to install. The 40822
director or board may revoke the permit to install or the 40823
license for the facility, as applicable, if the information 40824
regarding the new key employee indicates any of the reasons 40825
specified in division (B) of this section for the denial of an 40826
application for a permit to install. 40827

(F) In lieu of complying with this section, an applicant 40828
for a permit to install for, or a proposed transferee of a 40829
permit to install or a license for, a construction and 40830
demolition debris facility may choose to comply with sections 40831
3734.41 to ~~3734.47~~3734.46 of the Revised Code. An applicant or 40832
transferee that so chooses shall comply with those sections. For 40833
purposes of this division, sections 3734.41 to ~~3734.47~~3734.46 40834
of the Revised Code are deemed to apply to applicants for 40835
permits to install for, and proposed transferees of permits to 40836
install or licenses for, construction and demolition debris 40837
facilities. The director shall provide notice in writing to the 40838
applicable board of health that the applicant or proposed 40839

transferee has complied with sections 3734.41 to ~~3734.47~~3734.46 40840
of the Revised Code and has sufficient reliability, expertise, 40841
and competence to operate the construction and demolition debris 40842
facility in substantial compliance with this chapter and the 40843
rules adopted under it. 40844

(G) As used in this section, "key employee" means an 40845
individual employed by an applicant for a permit to install for, 40846
or by the proposed transferee of a permit to install or license 40847
for, a construction and demolition debris facility in a 40848
supervisory capacity or who is empowered to make discretionary 40849
decisions with respect to the construction and demolition debris 40850
operations of the applicant or transferee, but does not include 40851
an employee who is exclusively engaged in the physical or 40852
mechanical collection, transfer, transportation, storage, or 40853
disposal of construction and demolition debris. If the applicant 40854
or transferee has entered into a contract with another person to 40855
operate the facility that is the subject of the application or 40856
transfer, "key employee" includes an employee of the contractor 40857
who acts in a supervisory capacity or is empowered to make 40858
discretionary decisions with respect to the operation of the 40859
facility. 40860

Sec. 3714.071. (A) For the purpose of funding and 40861
conducting ground water monitoring at construction and 40862
demolition debris facilities by boards of health of health 40863
districts that are on the approved list under section 3714.09 of 40864
the Revised Code and the director of environmental protection, 40865
the director may adopt rules under Chapter 119. of the Revised 40866
Code for the purpose of levying a fee of not more than five 40867
cents per cubic yard or ten cents per ton on the disposal of 40868
construction and demolition debris at a construction and 40869
demolition debris facility that is licensed under this chapter. 40870

Such a fee shall be in addition to the fee that is levied under 40871
section 3714.07 of the Revised Code. If the director adopts 40872
rules under this section establishing a fee on the disposal of 40873
construction and demolition debris at a construction and 40874
demolition debris facility, the rules shall be subject to review 40875
every five years by the joint committee on agency rule review. 40876

The owner or operator of a construction and demolition 40877
debris facility shall collect the fee levied under rules adopted 40878
under this section as a trustee for the health district having 40879
jurisdiction over the facility, if that district is on the 40880
approved list under section 3714.09 of the Revised Code, or for 40881
the state. The owner or operator shall collect and remit the fee 40882
in the same manner that the fee levied under section 3714.07 of 40883
the Revised Code is collected and remitted. 40884

The money collected by a board of health under this 40885
section shall be paid into a special fund, which is hereby 40886
created in each health district, and used solely to fund and 40887
conduct ground water monitoring at construction and demolition 40888
debris facilities within the health district as specified in 40889
division (B) of this section. Of the money that is collected, a 40890
board of health shall transmit eighty per cent of the money 40891
received from the owner or operator of a facility under this 40892
section to the director not later than forty-five days after the 40893
receipt of the money. 40894

The director shall transmit all money received under this 40895
section to the treasurer of state to be credited to the 40896
construction and demolition debris facility ground water 40897
monitoring fund, which is hereby created in the state treasury. 40898
The director shall administer the fund and shall use money 40899
credited to it solely for the purposes specified in division (B) 40900

of this section. 40901

(B) A board of health or the director, as applicable, 40902
shall conduct ground water monitoring at construction and 40903
demolition debris facilities in accordance with this section. In 40904
order to conduct the monitoring, the board or director, as 40905
applicable, shall pay for the installation of ground water 40906
monitoring wells, ground water sampling, and the laboratory 40907
analysis of the ground water samples at a construction and 40908
demolition debris facility in accordance with either of the 40909
following, as applicable: 40910

(1) If the facility is operating before April 15, 2005, 40911
and the facility has not had ground water monitoring wells 40912
installed and operating before that date, the board of health or 40913
director, as applicable, shall pay the cost of the installation 40914
of one or more ground water monitoring wells and the annual 40915
sampling and laboratory analysis of the ground water at the 40916
facility. 40917

(2) If the facility is operating before April 15, 2005, 40918
and the facility has had one or more ground water monitoring 40919
wells installed and operating before that date, the board of 40920
health or director, as applicable, shall pay the cost of the 40921
installation of one or more additional ground water monitoring 40922
wells and the annual sampling and laboratory analysis of the 40923
ground water at the facility that exceeds the facility's annual 40924
cost of ground water monitoring certified under division (C) of 40925
this section by the owner or operator of the facility. 40926

A board of health or the director, as applicable, shall 40927
not pay any costs under this section for the installation of 40928
ground water monitoring wells, ground water sampling, or the 40929
laboratory analysis of ground water samples incurred by a 40930

construction and demolition debris facility to comply with rules 40931
adopted under section 3714.02 of the Revised Code or a permit to 40932
install issued under section 3714.051 of the Revised Code. 40933

(C) For purposes of division (B) (2) of this section, the 40934
owner or operator of a construction and demolition debris 40935
facility that is operating before April 15, 2005, and that has 40936
had ground water monitoring wells installed and has incurred 40937
monitoring costs before that date shall retain for three years 40938
all documents evidencing the cost of the ground water 40939
monitoring. If the board or director, as applicable, requests 40940
documents evidencing the cost of the ground water monitoring, 40941
the owner or operator of the facility shall certify to the board 40942
or director, as applicable, the annual cost of ground water 40943
monitoring at the facility. 40944

(D) A board of health or the director, as applicable, 40945
shall determine the priority of purchases for ground water 40946
monitoring and the payment of the costs of conducting monitoring 40947
of ground water as provided in division (B) of this section. 40948
However, a board of health or the director, as applicable, shall 40949
not purchase ground water monitoring wells or pay the costs of 40950
conducting monitoring of ground water if the applicable fund 40951
does not have sufficient money to pay those costs. The director 40952
shall consult with boards of health to determine the priority of 40953
ground water monitoring at construction and demolition debris 40954
facilities that are licensed under this chapter. 40955

~~(E) The director may adopt rules in accordance with~~ 40956
~~Chapter 119. of the Revised Code that are necessary to~~ 40957
~~administer this section.~~ 40958

~~(F)~~ A board of health or the director, as applicable, may 40959
enter into contracts for the purpose of conducting ground water 40960

monitoring that is required in this section. 40961

Sec. 3715.022. (A) All food products, including those 40962
produced and packaged by a cottage food production operation, 40963
and all packaged maple syrup, sorghum, and honey, are subject to 40964
food sampling conducted by the director of agriculture, or a 40965
representative the director authorizes, to determine if a food 40966
product is misbranded or adulterated. A component of the food 40967
sampling conducted under this section may include the 40968
performance of sample analyses in accordance with section 40969
3715.02 of the Revised Code. 40970

~~The director of agriculture shall adopt rules as the 40971
director considers necessary to establish standards for food 40972
sampling and procedures for administration of this section. The 40973
rules shall be adopted in accordance with Chapter 119. of the 40974
Revised Code. 40975~~

(B) Labeling requirements do not apply to fruit butter 40976
produced at a festival or celebration, if the festival or 40977
celebration is organized by a political subdivision of this 40978
state and the fruit butter is sold during the festival or 40979
celebration from the production site. 40980

Sec. 3715.502. (A) A physician, physician assistant, 40981
advanced practice registered nurse, or certified mental health 40982
assistant may authorize one or more pharmacists and any of the 40983
pharmacy interns supervised by the one or more pharmacists to 40984
use a protocol developed pursuant to rules adopted under this 40985
section for the purpose of dispensing overdose reversal drugs. 40986
If use of the protocol has been authorized, a pharmacist or 40987
pharmacy intern may dispense overdose reversal drugs without a 40988
prescription to either of the following in accordance with that 40989
protocol: 40990

(1) An individual who there is reason to believe is 40991
experiencing or at risk of experiencing an opioid-related 40992
overdose; 40993

(2) A family member, friend, or other individual in a 40994
position to assist an individual who there is reason to believe 40995
is at risk of experiencing an opioid-related overdose. 40996

(B) A pharmacist or pharmacy intern who dispenses overdose 40997
reversal drugs under this section shall instruct the individual 40998
to whom the drugs are dispensed to summon emergency services as 40999
soon as practicable either before or after administering the 41000
drugs. 41001

(C) A pharmacist may document on a prescription form the 41002
dispensing of overdose reversal drugs by the pharmacist or a 41003
pharmacy intern supervised by the pharmacist. The form may be 41004
assigned a number for recordkeeping purposes. 41005

(D) This section does not affect the authority of a 41006
pharmacist or pharmacy intern to fill or refill a prescription 41007
for overdose reversal drugs. 41008

(E) A physician, physician assistant, advanced practice 41009
registered nurse, or certified mental health assistant who in 41010
good faith authorizes a pharmacist or pharmacy intern to 41011
dispense overdose reversal drugs without a prescription, as 41012
provided in this section, is not liable for or subject to any of 41013
the following for any act or omission of the individual to whom 41014
the drugs are dispensed: damages in any civil action, 41015
prosecution in any criminal proceeding, or professional 41016
disciplinary action. 41017

A pharmacist or pharmacy intern authorized under this 41018
section to dispense overdose reversal drugs without a 41019

prescription who does so in good faith is not liable for or 41020
subject to any of the following for any act or omission of the 41021
individual to whom the drugs are dispensed: damages in any civil 41022
action, prosecution in any criminal proceeding, or professional 41023
disciplinary action. 41024

(F) The state board of pharmacy, after consulting with the 41025
state medical board and board of nursing, shall adopt rules to 41026
~~implement this section. The rules shall that~~ specify a protocol 41027
under which pharmacists or pharmacy interns may dispense 41028
overdose reversal drugs without a prescription. 41029

All rules adopted under this section shall be adopted in 41030
accordance with Chapter 119. of the Revised Code. 41031

(G) (1) The state board of pharmacy shall develop a program 41032
to educate all of the following about the authority of a 41033
pharmacist or pharmacy intern to dispense overdose reversal 41034
drugs without a prescription: 41035

(a) Holders of licenses issued under Chapter 4729. of the 41036
Revised Code that engage in the sale or dispensing of overdose 41037
reversal drugs pursuant to this section; 41038

(b) Registered pharmacy technicians, certified pharmacy 41039
technicians, and pharmacy technician trainees registered under 41040
Chapter 4729. of the Revised Code who engage in the sale of 41041
overdose reversal drugs pursuant to this section; 41042

(c) Individuals who are not licensed or registered under 41043
Chapter 4729. of the Revised Code but are employed by license 41044
holders described in division (G) (1) (a) of this section. 41045

(2) As part of the program, the board also shall educate 41046
the license holders, pharmacy technicians, and employees 41047
described in division (G) (1) of this section about maintaining 41048

an adequate supply of overdose reversal drugs and methods for 41049
determining a pharmacy's stock of such drugs. 41050

(3) The board may use its web site to share information 41051
under the program. 41052

Sec. 3715.873. The state board of pharmacy shall adopt 41053
rules governing the drug repository program that establish all 41054
of the following: 41055

(A) Eligibility criteria for pharmacies, hospitals, and 41056
nonprofit clinics to participate in the program, including, in 41057
the case of nonprofit clinics, a definition of "underinsured 41058
person"; 41059

(B) Standards and procedures for accepting, safely 41060
storing, and distributing drugs donated or given; 41061

(C) Standards and procedures for inspecting the drugs 41062
described in division (C) (1) of section 3715.87 of the Revised 41063
Code to determine that the original unit dose packaging is 41064
sealed and tamper-evident and that the drugs are unadulterated, 41065
safe, and suitable for distribution; 41066

(D) With respect to drugs described in division (D) of 41067
section 3715.87 of the Revised Code, standards and procedures to 41068
determine based on a basic visual inspection that the drugs 41069
appear to be unadulterated, safe, and suitable for distribution; 41070

(E) Eligibility standards based on economic need for 41071
individuals to receive drugs under the program; 41072

(F) A means, such as an identification card, by which an 41073
individual who is eligible to receive drugs under the program 41074
may demonstrate eligibility to a pharmacy, hospital, or 41075
nonprofit clinic participating in the program; 41076

(G) A form that an individual receiving a drug under the program must sign before receiving the drug to confirm that the individual understands the immunity provisions of the program;

(H) A form that each individual who is donating or giving drugs to the program, or who represents the person or government entity that is donating or giving drugs to the program, must sign stating that the individual or the person or government entity being represented is the owner of the drugs and intends to voluntarily donate or give them to the program;

(I) A formula to determine the amount of a nominal handling fee that pharmacies, hospitals, and nonprofit clinics participating in the program may charge to drug recipients to cover restocking and distribution costs;

(J) A list of drugs or drug types, if applicable, that are ineligible to be donated or given under the program, including those described in division (C) (2) (b) of section 3715.87 of the Revised Code, and a statement as to why the listed drugs or drug types are ineligible to be donated or given;

(K) The standards by which a charitable pharmacy, hospital, or nonprofit clinic participating in the program may make occasional sales at wholesale, pursuant to section 4729.51 of the Revised Code, of drugs that have been donated or given to the program;

~~(L) Any other standards and procedures the board considers appropriate.~~

The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 3716.03. The director of health shall:

~~(A) Adopt rules in accordance with Chapter 119. of the Revised Code for the efficient enforcement of section 3716.02 of the Revised Code;~~ 41105
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~~(B)~~ Conduct examinations, inspections, and investigations 41108
for the purpose of establishing such regulations for the 41109
efficient enforcement of section 3716.02 of the Revised Code, 41110
through such officers of the department of health or the boards 41111
of health, as the director delegates; 41112

~~(C)~~ (B) Designate officers and employees to enter at 41113
reasonable times any factory, warehouse, or establishment in 41114
which hazardous substances are held, or to enter any vehicle 41115
being used to transport or hold such hazardous substance: 41116

(1) For the purpose of determining the nature of such 41117
substances; 41118

(2) To inspect or copy all records showing the movement of 41119
any such hazardous substance, or the holding thereof during or 41120
after such movement, and the quantity, shipper, and consignee 41121
thereof; provided, evidence obtained under this subdivision 41122
shall not be used in a criminal prosecution of the person from 41123
whom obtained; 41124

~~(D)~~ (C) Inspect and sample, upon tender of reasonable price 41125
for such sample, at reasonable times and within reasonable 41126
limits and in a reasonable manner, finished hazardous substances 41127
in retail packages and labeling thereon in such factory, 41128
warehouse, establishment, or vehicle. 41129

Sec. 3717.221. (A) Either of the following may register 41130
with the director of agriculture: 41131

(1) A farm market, which is a location where a producer 41132
offers fruits, vegetables, and other items for sale; 41133

(2) A farm product auction, which is a location where agricultural products, including food products, are offered for sale at auction. 41134
41135
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(B) The director shall inspect each farm market and farm product auction that registers under this section. Inspections shall occur at a frequency considered appropriate by the director and shall be conducted in accordance with sanitation standards established in rules adopted under ~~this section~~Chapter 119. of the Revised Code. 41137
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~~(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to administer this section.~~ 41143
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Sec. 3717.33. Pursuant to section 3717.04 of the Revised Code, the director of agriculture shall adopt rules regarding the following: 41146
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41148

(A) Licensing categories for retail food establishments and licensing requirements for each category, including appropriate practices for the activities performed by a retail food establishment; 41149
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41151
41152

(B) Standards for collection of food samples from retail food establishments for purposes of identifying adulteration and misbranding; 41153
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41155

(C) Records to be generated and maintained by licensed retail food establishments; 41156
41157

(D) Appeals of proposed suspensions and revocations of retail food establishment licenses and appeals of suspensions of licenses issued for violations presenting a clear and present danger to the public health; 41158
41159
41160
41161

(E) Standards and procedures, including a schedule of frequency, for conducting inspections of retail food establishments; 41162
41163
41164

(F) Standards and procedures for determining during an inspection whether articles should be removed from use because of a clear and present danger to the public health; 41165
41166
41167

(G) Standards and procedures for conducting investigations of complaints pertaining to retail food establishments; 41168
41169

(H) (1) Surveys conducted by the director to determine whether boards of health are qualified and have the capacity to administer and enforce the provisions of this chapter and the rules adopted under it applicable to retail food establishments and to abide by the Ohio uniform food safety code. The rules shall require, as part of a survey, both of the following: 41170
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(a) The director to evaluate whether an individual registered as an environmental health specialist or an environmental health specialist in training under Chapter 4736. of the Revised Code who is employed by or has contracted with a board of health to enforce this chapter as it relates to retail food establishments has sufficient knowledge of the provisions of this chapter, rules adopted under it, and of the Ohio uniform food safety code to conduct such enforcement; 41176
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(b) The director to evaluate an individual under division (H) (1) (a) of this section solely through the use of an objective written or electronic assessment that complies with all of the following: 41184
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41187

(i) It is developed by the director in consultation with representatives from the Ohio environmental health association and the association of Ohio health commissioners. 41188
41189
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(ii) It does not exceed fifty questions in length.	41191
(iii) In order to pass the assessment, the individual must correctly answer eighty per cent or more of the questions in the assessment. Questions on the exam shall be derived from the most common violations cited during the previous inspection year.	41192 41193 41194 41195
(iv) The individual is allowed to review the Ohio uniform food safety code during the assessment.	41196 41197
(2) The director, in consultation with representatives from the Ohio environmental health association and the association of Ohio health commissioners, shall review and update the assessment described in division (H) (1) (b) of this section on at least a biennial basis.	41198 41199 41200 41201 41202
(3) For purposes of any field review portion of the survey, the director may require a registered environmental health specialist or environmental health specialist in training to participate in the field review for training and educational purposes. However, the director shall not use such participation to evaluate whether the registered environmental health specialist or environmental health specialist in training has sufficient knowledge of this chapter, rules adopted under it, and of the Ohio uniform food safety code.	41203 41204 41205 41206 41207 41208 41209 41210 41211
(I) Reinstatement of a board of health as a licensor after the director has revoked the approval of the board;	41212 41213
(J) Procedures for resolving disputes between licensors and the holders of licenses for retail food establishments;	41214 41215
(K) Procedures for providing enforcement support to a board of health requesting assistance in the prosecution of a person for a violation of the provisions of this chapter applicable to retail food establishments;	41216 41217 41218 41219

~~(L) Any other matter the director considers relevant to the administration and enforcement of the provisions of this chapter applicable to retail food establishments.~~

Sec. 3719.28. (A) The state board of pharmacy, pursuant to Chapter 119. of the Revised Code, shall adopt rules ~~for~~ administration and enforcement of Chapter 3719. of the Revised Code and prescribing the manner of keeping and the form and content of records to be kept by persons authorized to manufacture, distribute, dispense, conduct research in, prescribe, administer, or otherwise deal with controlled substances. Such rules shall be designed to:

(1) Facilitate surveillance of traffic in drugs, to prevent the improper acquisition or use of controlled substances or their diversion into illicit channels;

(2) Aid the state board of pharmacy and state, local, and federal law enforcement officers in enforcing the laws of this state and the federal government dealing with drug abuse and control of drug traffic.

(B) Rules adopted pursuant to this section shall not provide any less stringent requirements with respect to records than the requirements of the federal drug abuse control laws and regulations adopted thereunder. To the extent that records kept under the federal drug abuse control laws and regulations adopted thereunder fulfill requirements for similar records under rules adopted pursuant to this section, compliance with the federal law and regulations shall constitute compliance with the law and rules of this state with respect to such records.

Sec. 3719.81. (A) As used in this section, "sample drug" has the same meaning as in section 2925.01 of the Revised Code.

(B) A person may furnish another a sample drug, if all of 41249
the following apply: 41250

(1) The sample drug is furnished free of charge by a 41251
manufacturer, manufacturer's representative, or wholesale dealer 41252
in pharmaceuticals to a licensed health professional authorized 41253
to prescribe drugs, or is furnished free of charge by such a 41254
professional to a patient for use as medication; 41255

(2) The sample drug is in the original container in which 41256
it was placed by the manufacturer, and the container is plainly 41257
marked as a sample; 41258

(3) Prior to its being furnished, the sample drug has been 41259
stored under the proper conditions to prevent its deterioration 41260
or contamination; 41261

(4) If the sample drug is of a type which deteriorates 41262
with time, the sample container is plainly marked with the date 41263
beyond which the sample drug is unsafe to use, and the date has 41264
not expired on the sample furnished. Compliance with the 41265
labeling requirements of the "Federal Food, Drug, and Cosmetic 41266
Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, shall 41267
be deemed compliance with this section. 41268

(5) The sample drug is distributed, stored, or discarded 41269
in such a way that the sample drug may not be acquired or used 41270
by any unauthorized person, or by any person, including a child, 41271
for whom it may present a health or safety hazard. 41272

(C) Division (B) of this section does not do any of the 41273
following: 41274

(1) Apply to or restrict the furnishing of any sample of a 41275
nonnarcotic substance if the substance may, under the "Federal 41276
Food, Drug, and Cosmetic Act" and under the laws of this state, 41277

otherwise be lawfully sold over the counter without a 41278
prescription; 41279

(2) Authorize a licensed health professional authorized to 41280
prescribe drugs who is a clinical nurse specialist, certified 41281
nurse-midwife, certified nurse practitioner, optometrist, 41282
physician assistant, or certified mental health assistant to 41283
furnish a sample drug that is not a drug the professional is 41284
authorized to prescribe. 41285

(3) Prohibit a licensed health professional authorized to 41286
prescribe drugs, manufacturer of dangerous drugs, wholesale 41287
distributor of dangerous drugs, or representative of a 41288
manufacturer of dangerous drugs from furnishing a sample drug to 41289
a charitable pharmacy in accordance with section 3719.811 of the 41290
Revised Code. 41291

(4) Prohibit a pharmacist working, whether or not for 41292
compensation, in a charitable pharmacy from dispensing a sample 41293
drug to a person in accordance with section 3719.811 of the 41294
Revised Code. 41295

~~(D) The state board of pharmacy shall, in accordance with 41296
Chapter 119. of the Revised Code, adopt rules as necessary to 41297
give effect to this section. 41298~~

Sec. 3719.811. (A) As used in this section: 41299

(1) "Charitable pharmacy" means a pharmacy that meets all 41300
of the following requirements: 41301

(a) Holds a terminal distributor of dangerous drugs 41302
license under section 4729.54 of the Revised Code. 41303

(b) Is exempt from federal taxation pursuant to 26 U.S.C. 41304
501(a) and (c) (3). 41305

- (c) Is not a hospital. 41306
- (2) "Prescription" has the same meaning as in section 41307
4729.01 of the Revised Code. 41308
- (3) "Sample drug" has the same meaning as in section 41309
2925.01 of the Revised Code. 41310
- (B) A manufacturer of dangerous drugs or wholesale 41311
distributor of dangerous drugs may furnish a sample drug to a 41312
charitable pharmacy if all of the following apply: 41313
- (1) The sample drug is in the original container in which 41314
it was placed by its manufacturer and the container is plainly 41315
marked as a sample. 41316
- (2) Prior to its being furnished, the sample drug has been 41317
stored under the proper conditions to prevent its deterioration 41318
or contamination. 41319
- (3) If the sample drug is of a type that deteriorates with 41320
time, the container in which the sample drug is stored is 41321
plainly marked with the date beyond which the sample drug is 41322
unsafe to use, and the date has not expired on the sample drug 41323
furnished. Compliance with the labeling requirements of the 41324
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 41325
U.S.C. 301, as amended, constitutes compliance with division (B) 41326
(3) of this section. 41327
- (4) The sample drug is distributed, stored, or discarded 41328
in such a way that the sample drug may not be acquired or used 41329
by any unauthorized person, or by any person, including a child, 41330
for whom it may present a health or safety hazard. 41331
- (5) The sample drug is furnished free of charge. 41332
- (6) The sample drug is not a controlled substance. 41333

(C) A representative of a manufacturer of dangerous drugs 41334
or a licensed health professional authorized to prescribe drugs 41335
may furnish a sample drug to a charitable pharmacy if all of the 41336
following apply: 41337

(1) Rules have been adopted rules under division (F) of 41338
this section that permit such a representative or health 41339
professional to furnish a sample drug to a charitable pharmacy. 41340

(2) The representative or health professional complies 41341
with standards and procedures established in rules adopted under 41342
division (F) of this section. 41343

(3) The requirements of divisions (B)(1) to (6) of this 41344
section are satisfied. 41345

(D) A pharmacist working, whether or not for compensation, 41346
in a charitable pharmacy may dispense a sample drug to a person 41347
if all of the following apply: 41348

(1) The person to whom the sample drug is dispensed is 41349
eligible for the sample drug under standards established by the 41350
body responsible for the charitable pharmacy's general 41351
management. 41352

(2) The person to whom the sample is dispensed presents to 41353
the pharmacist a valid prescription for the sample drug. 41354

(3) The sample drug is dispensed free of charge. 41355

(4) The requirements of divisions (B)(1) to (4) and (6) of 41356
this section are satisfied. 41357

(E) Divisions (B), (C), and (D) of this section do not do 41358
either of the following: 41359

(1) Apply to or restrict the furnishing of any sample of a 41360

nonnarcotic substance if the substance may, under the "Federal 41361
Food, Drug, and Cosmetic Act" and under the law of this state, 41362
otherwise be lawfully sold over the counter without a 41363
prescription. 41364

(2) Authorize a pharmacist working, whether or not for 41365
compensation, in a charitable pharmacy to dispense a sample drug 41366
that the charitable pharmacy is unauthorized to possess, have 41367
custody or control of, or distribute. 41368

(F) The state board of pharmacy ~~shall~~, in accordance with 41369
Chapter 119. of the Revised Code, may adopt rules ~~as necessary~~ 41370
~~to give effect to this section. The rules may to~~ permit 41371
representatives of manufacturers of dangerous drugs or licensed 41372
health professionals authorized to prescribe drugs to furnish 41373
sample drugs to charitable pharmacies under this section. If 41374
they do so, the rules shall establish standards and procedures 41375
for the representatives or health professionals to furnish the 41376
sample drugs. 41377

Sec. 3721.02. (A) As used in this section, "residential 41378
facility" means a residential facility licensed under section 41379
5119.34 of the Revised Code that provides accommodations, 41380
supervision, and personal care services for three to sixteen 41381
unrelated adults. 41382

(B) (1) The director of health shall license homes and 41383
establish procedures to be followed in inspecting and licensing 41384
homes. The director may inspect a home at any time. The director 41385
may enter at any time, for the purposes of investigation, any 41386
institution, residence, facility, or other structure that has 41387
been reported to the director or that the director has 41388
reasonable cause to believe is operating as a nursing home, 41389
residential care facility, or home for the aging without a valid 41390

license required by section 3721.05 of the Revised Code or, in 41391
the case of a county home or district home, is operating despite 41392
the revocation of its residential care facility license. The 41393
director may delegate the director's authority and duties under 41394
this chapter to any division, bureau, agency, or official of the 41395
department of health. 41396

(2) (a) Except as provided in division (B) (2) (b) of this 41397
section, prior to the issuance of a license, each home shall be 41398
inspected by the director and the state fire marshal or a 41399
township, municipal, or other legally constituted fire 41400
department approved by the state fire marshal. 41401

(b) The inspections set forth in division (B) (2) (a) of 41402
this section are not required prior to the issuance of a license 41403
if ownership of the home is assigned or transferred to a 41404
different person and the home was licensed under this chapter 41405
immediately prior to the assignment or transfer. 41406

(3) After issuance of a license by the director, each home 41407
shall be inspected as follows: 41408

(a) By the director at least once every fifteen months, 41409
except that a home that is a residential care facility, or part 41410
of a home for the aging that is licensed as a residential care 41411
facility, may, at the discretion of the director, be inspected 41412
at least once every thirty months if all of the following apply: 41413

(i) During the two most recent consecutive inspections 41414
that occurred at least once every fifteen months, there were no 41415
substantiated violations against the residential care facility; 41416

(ii) During the time period of the inspections referred to 41417
in division (B) (4) (a) of this section, there were no 41418
substantiated violations against the residential care facility 41419

from any other inspections or from any investigations of 41420
complaints; 41421

(iii) The residential care facility does not have any 41422
outstanding violations from any previous inspections or 41423
investigations. 41424

(b) By the state fire marshal or a township, municipal, or 41425
other legally constituted fire department approved by the 41426
marshal at least once every fifteen months. 41427

(4) A nursing home does not need to be inspected before 41428
the director increases the nursing home's licensed capacity if 41429
the beds being added to the nursing home are placed in resident 41430
rooms that were inspected, as part of the most recent previous 41431
inspection of the nursing home, for the same number of residents 41432
proposed to be placed in a room after the capacity increase. 41433

(5) (a) The inspection procedures established under 41434
division (B) of this section shall include a process for 41435
conducting expedited licensing inspections. An expedited 41436
licensing inspection may be requested by an applicant seeking a 41437
license for a new home or, in the case of an existing home, an 41438
applicant seeking approval to increase or decrease the home's 41439
licensed capacity or to make any other change for which the 41440
director requires a licensing inspection to be conducted. 41441

If an applicant submits a complete request for an 41442
expedited licensing inspection and the request is submitted in a 41443
manner and form approved by the director, the director shall 41444
commence the inspection of the home not later than ten business 41445
days after receiving the complete request. 41446

~~Any rules adopted by the director pursuant to section 41447
3721.04 of the Revised Code to implement the requirements 41448~~

~~described in division (B) (5) (a) of this section are not subject to the requirements of division (F) of section 121.95 of the Revised Code.~~

(b) The director may charge a fee for an expedited licensing inspection that is adequate to cover the expense of expediting the inspection. The fee shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code and used solely for expediting inspections.

(C) A single facility may be licensed both as a nursing home pursuant to this chapter and as a residential facility pursuant to section 5119.34 of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as a residential facility.

(D) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a residential care facility shall be considered as another group.

(2) The home is both a nursing home and a residential facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as ~~an a~~ residential facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(E) (1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or part thereof of a home's licensed capacity:

(a) For state fiscal year 2010, two hundred twenty dollars;

(b) For state fiscal year 2011, two hundred seventy dollars;

(c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

(F) (1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in either of the following:

(a) Any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code;

(b) An advertisement, unless the advertisement includes all of the following:

(i) The date the inspection or investigation was conducted;

(ii) A statement that the director of health inspects all homes at least once every fifteen months or, if applicable under this section, at least once every thirty months;

(iii) If a finding or deficiency cited in the statement of deficiencies has been substantially corrected, a statement that the finding or deficiency has been substantially corrected and the date that the finding or deficiency was substantially

corrected; 41536

(iv) The number of findings and deficiencies cited in the 41537
statement of deficiencies on the basis of the inspection or 41538
investigation; 41539

(v) The average number of findings and deficiencies cited 41540
in a statement of deficiencies on the basis of an inspection or 41541
investigation conducted under this section during the same 41542
calendar year as the inspection or investigation used in the 41543
advertisement; 41544

(vi) A statement that the advertisement is neither 41545
authorized nor endorsed by the department of health or any other 41546
government agency. 41547

(2) Nothing in division (F)(1) of this section prohibits 41548
the results of an inspection or investigation conducted under 41549
this section from being used in a criminal investigation or 41550
prosecution. 41551

Sec. 3721.022. (A) As used in this section: 41552

(1) "Nursing facility" has the same meaning as in section 41553
5165.01 of the Revised Code. 41554

(2) "Deficiency" and "survey" have the same meanings as in 41555
section 5165.60 of the Revised Code. 41556

(3) "Title XIX" and "Title XVIII" have the same meanings 41557
as in section 5165.01 of the Revised Code. 41558

(B) The department of health is hereby designated the 41559
state agency responsible for establishing and maintaining health 41560
standards and serving as the state survey agency for the 41561
purposes of Title XVIII and Title XIX. The department shall 41562
carry out these functions in accordance with the regulations, 41563

guidelines, and procedures issued under Title XVIII and Title 41564
XIX by the United States secretary of health and human services 41565
and with sections 5165.60 to 5165.89 of the Revised Code. The 41566
director of health shall enter into agreements with regard to 41567
these functions with the department of medicaid and the United 41568
States department of health and human services. The director may 41569
also enter into agreements with the department of medicaid under 41570
which the department of health is designated to perform 41571
functions under sections 5165.60 to 5165.89 of the Revised Code. 41572

The director, in accordance with Chapter 119. of the 41573
Revised Code, shall adopt rules ~~necessary~~ to implement the 41574
survey and certification requirements for skilled nursing 41575
facilities and nursing facilities established by the United 41576
States secretary of health and human services under Title XVIII 41577
and Title XIX and the survey requirements established under 41578
sections 5165.60 to 5165.89 of the Revised Code. The rules shall 41579
include an informal process by which a facility may obtain up to 41580
two reviews of any deficiencies that have been cited on a 41581
statement of deficiencies made by the department of health under 41582
42 C.F.R. Part 488 and cause the facility to be in noncompliance 41583
as defined in 42 C.F.R. 488.301. The first review shall be 41584
conducted by an employee of the department who did not 41585
participate in and was not otherwise involved in any way with 41586
the survey. A facility that is not satisfied with the results of 41587
a first review may receive a second review on payment of a fee 41588
to the department. The amount of the fee shall be specified in 41589
rules adopted under this section. The fee shall be deposited 41590
into the state treasury to the credit of the general operations 41591
fund created in section 3701.83 of the Revised Code for use in 41592
the implementation of this section. The second review shall be 41593
conducted by either of the following as selected by the 41594

facility: a hearing officer employed by the department or a 41595
hearing officer included on a list the department shall provide 41596
the facility. A final determination that any deficiency citation 41597
is unjustified shall be reflected clearly in all records 41598
relating to the survey. 41599

The director need not adopt as rules any of the 41600
regulations, guidelines, or procedures issued under Title XVIII 41601
and Title XIX by the United States secretary of health and human 41602
services. 41603

Sec. 3721.026. (A) Before the director of health can issue 41604
a license to operate a nursing home to an entering operator, all 41605
of the following requirements must be satisfied: 41606

(1) The entering operator completes a change of operator 41607
license application on a form prescribed by the director and 41608
pays the applicable fee as determined by the director. 41609

Any fee required by the director under division (A) (1) of 41610
this section shall be credited to the general operations fund 41611
established under section 3701.83 of the Revised Code. 41612

A completed application shall be submitted not later than 41613
forty-five days before the proposed effective date of the change 41614
of operator if the change of operator does not entail the 41615
relocation of residents. A completed application shall be 41616
submitted not later than ninety days before the proposed 41617
effective date of the change of operator if the change of 41618
operator entails the relocation of residents. The director may 41619
waive the time requirements specified in division (A) (1) of this 41620
section in an emergency, such as the death of the operator. 41621

The change of operator license application established 41622
under this section shall include all of the following: 41623

(a) Disclosure of all direct and indirect owners owning at least five per cent of each of the following:	41624 41625
(i) The entering operator, if the entering operator is an entity;	41626 41627
(ii) The owner of the building or buildings in which the nursing home is housed, if the owner of the building or buildings is a different person or government entity from the entering operator;	41628 41629 41630 41631
(iii) The owner of the legal rights associated with the ownership and operation of the nursing home beds, if the owner of the legal rights is a different person or government entity from the entering operator;	41632 41633 41634 41635
(iv) Each related party that provides or will provide services to the nursing home, through contracts with any party identified in division (A) (1) (a) of this section.	41636 41637 41638
(b) Disclosure of whether a person or government entity identified in division (A) (1) (a) of this section has or had a direct or indirect ownership or operational interest in a current or previously licensed nursing home in this state or another state, including disclosure of whether any of the following occurred with respect to an identified nursing home within the five years immediately preceding the date of application:	41639 41640 41641 41642 41643 41644 41645 41646
(i) Voluntary or involuntary closure of the nursing home;	41647
(ii) Voluntary or involuntary bankruptcy proceedings;	41648
(iii) Voluntary or involuntary receivership proceedings;	41649
(iv) License suspension, denial, or revocation;	41650

(v) Injunction proceedings initiated by a regulatory agency; 41651
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(vi) The nursing home is listed in table A, table B, or table D on the SFF list under the special focus facility program; 41653
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(vii) A civil or criminal action was filed against it by a state or federal entity. 41656
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(c) Any additional information that the director considers necessary to determine the ownership, operation, management, and control of the nursing home. 41658
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(2) Except for applications that demonstrate that the entering operator, or a person or government entity that directly or indirectly owns at least fifty per cent of the entering operator, directly or indirectly owns at least fifty per cent of the nursing home and its assets, the entering operator submits evidence of a bond or other financial security reasonably acceptable to the director for an amount not less than the product of the number of licensed beds in the nursing home, as reflected in the application, multiplied by ten thousand dollars. The bond may be supplied by either the entering operator or the property owner of the nursing home. 41661
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(a) The bond or other financial security shall be renewed, replaced, or maintained for five years after the effective date of the change of operator. The aggregate liability of a surety shall not exceed the sum of the bond, which is not cumulative from period to period. If the bond or other financial security is not renewed, replaced, or maintained in accordance with this division, the director shall revoke the nursing home operator's license after providing thirty days' notice to the operator. The 41672
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bond or other financial security shall be released five years 41680
after the effective date of the change of operator if none of 41681
the events described in division (A) (2) (b) of this section have 41682
occurred. 41683

(b) The director may utilize the bond or other financial 41684
security required under division (A) (2) of this section to pay 41685
expenses incurred by the director or another state official or 41686
agency if any of the following occur during the five-year period 41687
for which the bond or other financial security is required: 41688

(i) The nursing home is voluntarily or involuntarily 41689
closed. 41690

(ii) The nursing home or its owner or operator is the 41691
subject of voluntary or involuntary bankruptcy proceedings. 41692

(iii) The nursing home or its owner or operator is the 41693
subject of voluntary or involuntary receivership proceedings. 41694

(iv) The license to operate the nursing home is suspended, 41695
denied, or revoked. 41696

(v) The nursing home undergoes a change of operator, 41697
unless the new applicant submits a bond or other financial 41698
security in accordance with this section. 41699

(vi) The nursing home appears in table A, table B, or 41700
table D on the SFF list under the special focus facility 41701
program. 41702

(3) The entering operator or a person or government entity 41703
who will have operational control of the nursing home has at 41704
least five years of experience as either of the following: 41705

(a) An administrator of a nursing home located in this 41706
state or another state; 41707

- (b) A person or government entity with operational control of a nursing home located in this state or another state. 41708
41709
- (4) The entering operator attests that the entering operator has plans for quality assurance and risk management for the operation of the nursing home. 41710
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- (5) The entering operator attests that the entering operator has general and professional liability insurance coverage that provides coverage of at least one million dollars per occurrence and three million dollars aggregate. 41713
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- (6) The entering operator attests that the entering operator has sufficient numbers of qualified staff, by training or experience, who will be employed to properly care for the type and number of nursing home residents. 41717
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- (B) The director shall issue to the entering operator a notice of intent to grant a change of operator license upon a determination that all requirements of this section have been met, except for submission of the final document evidencing completion of the transaction. 41721
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- (C) The director may conduct a survey of the nursing home not less than sixty days after the effective date of the change of operator. 41726
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- (D) The requirements established by this section are in addition to the other requirements established by this chapter and the rules adopted under it for a license to operate a nursing home. 41729
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- (E) The director shall deny a change of operator license application if any of the following circumstances exist: 41733
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- (1) The requirements established by this section are not 41735

satisfied. 41736

(2) The entering operator or a person or government entity 41737
identified in division (A) (1) (a) of this section who directly or 41738
indirectly has twenty-five per cent or more ownership of the 41739
entering operator meets both of the following criteria: 41740

(a) The entering operator or the person or government 41741
entity has or had either of the following relationships to a 41742
currently or previously licensed nursing home in this state or 41743
another state: 41744

(i) Fifty per cent or more direct or indirect ownership in 41745
the nursing home; 41746

(ii) Alone or together with one or more other persons, 41747
operational control of the nursing home. 41748

(b) Any of the following occurred with respect to the 41749
current or previously licensed nursing home described in 41750
division (E) (2) (a) of this section within the five years 41751
immediately preceding the date of application: 41752

(i) Involuntary closure of the nursing home by a 41753
regulatory agency or voluntary closure in response to licensure 41754
or certification action; 41755

(ii) Voluntary or involuntary bankruptcy proceedings that 41756
are not dismissed within sixty days; 41757

(iii) Voluntary or involuntary receivership proceedings 41758
that are not dismissed within sixty days; 41759

(iv) License suspension, denial, or revocation for failure 41760
to comply with operating standards. 41761

(3) If a change of twenty-five per cent or more of the 41762

property ownership interest in a nursing home occurs in 41763
connection with the change of operator, the person or government 41764
entity who acquired the property ownership interest meets both 41765
of the following criteria: 41766

(a) The person or government entity has or had either of 41767
the following relationships to a currently or previously 41768
licensed nursing home in this state or another state: 41769

(i) Fifty per cent or more direct or indirect property 41770
ownership in the nursing home; 41771

(ii) Alone or together with one or more other persons, 41772
operational control of the nursing home. 41773

(b) Any of the following occurred with respect to the 41774
current or previously licensed nursing home described in 41775
division (E) (3) (a) of this section within the five years 41776
immediately preceding the date of application: 41777

(i) Involuntary closure of the nursing home by a 41778
regulatory agency or voluntary closure in response to licensure 41779
or certification action; 41780

(ii) Voluntary or involuntary bankruptcy proceedings that 41781
are not dismissed within sixty days; 41782

(iii) Voluntary or involuntary receivership proceedings 41783
that are not dismissed within sixty days; 41784

(iv) License suspension, denial, or revocation for failure 41785
to comply with operating standards. 41786

(F) An entering operator may appeal the denial of a change 41787
of operator license application in accordance with Chapter 119. 41788
of the Revised Code. 41789

(G) An entering operator shall do all of the following:	41790
(1) Notify the director immediately upon discovery of any error, omission, or change of information in a change of operator license application.	41791 41792 41793
(2) Notify the director within ten days of any change in the information or documentation required by this section that occurs after the effective date of the change of operator.	41794 41795 41796
(3) Truthfully supply any additional information or documentation requested by the director.	41797 41798
If an entering operator fails to notify the director or supply additional information or documentation in accordance with this division, the director shall impose a civil penalty of two thousand dollars for each day of noncompliance.	41799 41800 41801 41802
(4) Not complete the change of operator until the director issues to the entering operator notice of intent to grant a change of operator license in accordance with division (B) of this section. The entering operator shall submit the final document evidencing completion of the transaction not later than five days after completion.	41803 41804 41805 41806 41807 41808
(H) (1) The director shall investigate an allegation that a change of operator has occurred and the entering operator failed to submit an application in accordance with this section or an application was filed but the information was fraudulent. The director may request the attorney general's assistance with an investigation under this section.	41809 41810 41811 41812 41813 41814
(2) If the director becomes aware, by means of an investigation or otherwise, that a change of operator has occurred and the entering operator failed to submit an application in accordance with this section, or an application	41815 41816 41817 41818

was filed but the information provided was fraudulent, the 41819
director shall impose a civil penalty of two thousand dollars 41820
for each day of noncompliance after the date the director 41821
becomes aware that the change of operator has occurred. If the 41822
entering operator fails to submit an application or new 41823
application in accordance with this section within sixty days of 41824
the director becoming aware of the change of operator, the 41825
director shall begin the process of revoking a nursing home 41826
license as specified in section 3721.03 of the Revised Code. 41827

(I) It is the intent of the general assembly in amending 41828
this section to require full and complete disclosure and 41829
transparency with respect to the ownership, operation, and 41830
management of each licensed nursing home located in this state. 41831
~~The director may adopt rules as necessary to implement this~~ 41832
~~section. Any rules shall be adopted in accordance with Chapter~~ 41833
~~119. of the Revised Code.~~ 41834

Sec. 3721.032. The state fire marshal shall enforce all 41835
statutes and rules pertaining to fire safety in homes ~~and shall~~ 41836
~~adopt rules pertaining to fire safety in homes as the marshal~~ 41837
~~determines necessary. The rules adopted by the marshal shall be~~ 41838
~~in addition to those fire safety rules that the board of~~ 41839
~~building standards and the director of health are empowered to~~ 41840
~~adopt.~~ In the event of a dispute between the state fire marshal 41841
and another officer having responsibilities under sections 41842
3721.01 to 3721.09 of the Revised Code with respect to the 41843
interpretation or application of a specific fire safety statute 41844
or rule, the interpretation of the state fire marshal shall 41845
prevail. 41846

Sec. 3721.04. (A) The director of health shall adopt and 41847
publish rules ~~governing the operation of homes,~~ which shall have 41848

uniform application throughout the state, ~~and shall prescribe~~ 41849
prescribing standards for homes with respect to, ~~but not limited~~ 41850
~~to,~~ the following matters: 41851

(1) The minimum space requirements for occupants and 41852
equipping of the buildings in which homes are housed so as to 41853
ensure healthful, safe, sanitary, and comfortable conditions for 41854
all residents, so long as they are not inconsistent with 41855
Chapters 3781. and 3791. of the Revised Code or with any rules 41856
adopted by the board of building standards and by the state fire 41857
marshal; 41858

(2) The number and qualifications of personnel, including 41859
management and nursing staff, for each class of home, and the 41860
qualifications of nurse aides, as defined in section 3721.21 of 41861
the Revised Code, used by long-term care facilities, as defined 41862
in that section; 41863

(3) The medical, rehabilitative, and recreational services 41864
to be provided by each class of home; 41865

(4) Dietetic services, including but not limited to 41866
sanitation, nutritional adequacy, and palatability of food; 41867

(5) The personal and social services to be provided by 41868
each class of home; 41869

(6) The business and accounting practices to be followed 41870
and the type of patient and business records to be kept by such 41871
homes; 41872

(7) The operation of adult day-care programs provided by 41873
and on the same site as homes licensed under this chapter; 41874

(8) The standards and procedures to be followed by 41875
residential care facilities in admitting and retaining a 41876

resident who requires the application of dressings, including 41877
requirements for charting and evaluating on a weekly basis; 41878

(9) The requirements for conducting weekly evaluations of 41879
residents receiving skilled nursing care in residential care 41880
facilities. 41881

~~(B) The director may adopt whatever additional rules are 41882
necessary to carry out or enforce the provisions of sections 41883
3721.01 to 3721.09 and 3721.99 of the Revised Code. 41884~~

~~(C) The following apply to the director when adopting 41885
rules under division (A) (1) of this section regarding the 41886
equipping of the buildings in which homes are housed: 41887~~

(1) The rules shall not require that each resident 41888
sleeping room, or a percentage of the resident sleeping rooms, 41889
have a bathtub or shower that is directly accessible from or 41890
exclusively for the room. 41891

(2) The rules shall require that the privacy and dignity 41892
of residents be protected when the residents are transported to 41893
and from bathing facilities, prepare for bathing, and bathe. 41894

~~(D)~~ (C) The following apply to the director when adopting 41895
rules under division (A) (2) of this section regarding the number 41896
and qualifications of personnel in homes: 41897

(1) When adopting rules applicable to residential care 41898
facilities, the director shall take into consideration the 41899
effect that the following may have on the number of personnel 41900
needed: 41901

(a) Provision of personal care services; 41902

(b) Provision of part-time, intermittent skilled nursing 41903
care pursuant to division (C) of section 3721.011 of the Revised 41904

Code;	41905
(c) Provision of skilled nursing care to residents	41906
pursuant to division (D) of section 3721.011 of the Revised	41907
Code.	41908
(2) When adopting rules applicable to nursing homes, the	41909
director shall require each nursing home to do both of the	41910
following:	41911
(a) Have sufficient direct care staff on each shift to	41912
meet the needs of the residents in an appropriate and timely	41913
manner;	41914
(b) Have the following individuals provide a minimum daily	41915
average of two and one-half hours of direct care per resident:	41916
(i) Registered nurses, including registered nurses who	41917
perform administrative and supervisory duties;	41918
(ii) Licensed practical nurses, including licensed	41919
practical nurses who perform administrative and supervisory	41920
duties;	41921
(iii) Nurse aides.	41922
(3) The rules prescribing qualifications of nurse aides	41923
used by long-term care facilities, as those terms are defined in	41924
section 3721.21 of the Revised Code, shall be no less stringent	41925
than the requirements, guidelines, and procedures established by	41926
the United States secretary of health and human services under	41927
section 1819 of the "Social Security Act," 101 Stat. 1330-160	41928
(1987), 42 U.S.C. 1395i-3, as amended, and section 1919 of the	41929
"Social Security Act," 101 Stat. 1330-182 (1987), 42 U.S.C.	41930
1396r, as amended.	41931
(E) <u>(D)</u> The following apply to the director when adopting	41932

rules under division (A) (2) of this section regarding the number 41933
and qualifications of personnel in nursing homes or rules under 41934
division (A) (5) of this section regarding social services to be 41935
provided by nursing homes: 41936

(1) The rules shall not prescribe the number of 41937
individuals licensed as social workers under Chapter 4757. of 41938
the Revised Code that a nursing home with one hundred twenty or 41939
fewer beds must employ. 41940

(2) The rules shall require each nursing home with more 41941
than one hundred twenty beds to employ on a full-time basis one 41942
individual licensed as a social worker under Chapter 4757. of 41943
the Revised Code. 41944

(3) The rules shall require each nursing home to offer its 41945
residents medically related social services that assist the 41946
residents in attaining or maintaining their highest practicable 41947
physical, mental, and psychosocial well-being. 41948

Sec. 3721.041. (A) As used in this section: 41949

(1) "Advisory committee" means the advisory committee on 41950
immunization practices of the United States centers for disease 41951
control and prevention or a successor committee or agency. 41952

(2) "Certified nurse-midwife," "clinical nurse 41953
specialist," and "certified nurse practitioner" have the same 41954
meanings as in section 4723.01 of the Revised Code. 41955

(3) "Physician" means an individual authorized under 41956
Chapter 4731. of the Revised Code to practice medicine and 41957
surgery or osteopathic medicine and surgery. 41958

(B) (1) Each home shall, on an annual basis, offer to each 41959
resident, in accordance with guidelines issued by the advisory 41960

committee, vaccination against influenza, unless a physician, 41961
certified nurse-midwife if authorized as described in section 41962
4723.438 of the Revised Code, clinical nurse specialist, or 41963
certified nurse practitioner has determined that vaccination of 41964
the resident is medically inappropriate. The vaccine shall be of 41965
a form approved by the advisory committee for that calendar 41966
year. A resident may refuse vaccination. 41967

(2) Each home shall obtain the influenza vaccine 41968
information sheet described in section 3701.138 of the Revised 41969
Code and post the sheet in a conspicuous location that is 41970
accessible to all residents, employees, and visitors. Not later 41971
than the first day of August each year, the home shall determine 41972
whether the information sheet it has posted is the most recent 41973
version available. If it is not, the home shall replace the 41974
information sheet with the updated version. Nothing in this 41975
division requires an older adult to be vaccinated against 41976
influenza. 41977

Failure to comply with the requirement to post the 41978
information sheet shall not be taken into account when any 41979
survey or inspection of the home is conducted and shall not be 41980
used as the basis for imposing any penalty against the home. 41981

(C) Each home shall offer to each resident, in accordance 41982
with guidelines issued by the advisory committee, vaccination 41983
against pneumococcal pneumonia, unless the resident has already 41984
received such vaccination or a physician, certified nurse- 41985
midwife if authorized as described in section 4723.438 of the 41986
Revised Code, clinical nurse specialist, or certified nurse 41987
practitioner has determined that vaccination of the resident is 41988
medically inappropriate. Each vaccine shall be of a form 41989
approved by the advisory committee for that calendar year. A 41990

resident may refuse vaccination. 41991

~~(D) The director of health may adopt rules under Chapter 41992
119. of the Revised Code as the director considers appropriate 41993
to implement this section. 41994~~

Sec. 3721.121. (A) As used in this section: 41995

(1) "Adult day-care program" means a program operated 41996
pursuant to rules adopted by the director of health under 41997
section 3721.04 of the Revised Code and provided by and on the 41998
same site as homes licensed under this chapter. 41999

(2) "Applicant" means a person who is under final 42000
consideration for employment with a home or adult day-care 42001
program in a full-time, part-time, or temporary position that 42002
involves providing direct care to an older adult. "Applicant" 42003
does not include a person who provides direct care as a 42004
volunteer without receiving or expecting to receive any form of 42005
remuneration other than reimbursement for actual expenses. 42006

(3) "Community-based long-term care services provider" 42007
means a provider as defined in section 173.39 of the Revised 42008
Code. 42009

(4) "Criminal records check" has the same meaning as in 42010
section 109.572 of the Revised Code. 42011

(5) "Home" means a home as defined in section 3721.10 of 42012
the Revised Code. 42013

(6) "Older adult" means a person age sixty or older. 42014

(B) (1) Except as provided in division (I) of this section, 42015
the chief administrator of a home or adult day-care program 42016
shall request that the superintendent of the bureau of criminal 42017
identification and investigation conduct a criminal records 42018

check of each applicant. If an applicant for whom a criminal 42019
records check request is required under this division does not 42020
present proof of having been a resident of this state for the 42021
five-year period immediately prior to the date the criminal 42022
records check is requested or provide evidence that within that 42023
five-year period the superintendent has requested information 42024
about the applicant from the federal bureau of investigation in 42025
a criminal records check, the chief administrator shall request 42026
that the superintendent obtain information from the federal 42027
bureau of investigation as part of the criminal records check of 42028
the applicant. Even if an applicant for whom a criminal records 42029
check request is required under this division presents proof of 42030
having been a resident of this state for the five-year period, 42031
the chief administrator may request that the superintendent 42032
include information from the federal bureau of investigation in 42033
the criminal records check. 42034

(2) A person required by division (B) (1) of this section 42035
to request a criminal records check shall do both of the 42036
following: 42037

(a) Provide to each applicant for whom a criminal records 42038
check request is required under that division a copy of the form 42039
prescribed pursuant to division (C) (1) of section 109.572 of the 42040
Revised Code and a standard fingerprint impression sheet 42041
prescribed pursuant to division (C) (2) of that section, and 42042
obtain the completed form and impression sheet from the 42043
applicant; 42044

(b) Forward the completed form and impression sheet to the 42045
superintendent of the bureau of criminal identification and 42046
investigation. 42047

(3) An applicant provided the form and fingerprint 42048

impression sheet under division (B) (2) (a) of this section who 42049
fails to complete the form or provide fingerprint impressions 42050
shall not be employed in any position for which a criminal 42051
records check is required by this section. 42052

(C) (1) Except as provided in rules adopted by the director 42053
of health in accordance with division (F) of this section and 42054
subject to division (C) (2) of this section, no home or adult 42055
day-care program shall employ a person in a position that 42056
involves providing direct care to an older adult if the person 42057
has been convicted of or pleaded guilty to any of the following: 42058

(a) A violation of section 2903.01, 2903.02, 2903.03, 42059
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 42060
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 42061
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 42062
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 42063
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 42064
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 42065
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 42066
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code. 42067

(b) A violation of an existing or former law of this 42068
state, any other state, or the United States that is 42069
substantially equivalent to any of the offenses listed in 42070
division (C) (1) (a) of this section. 42071

(2) (a) A home or an adult day-care program may employ 42072
conditionally an applicant for whom a criminal records check 42073
request is required under division (B) of this section prior to 42074
obtaining the results of a criminal records check regarding the 42075
individual, provided that the home or program shall request a 42076
criminal records check regarding the individual in accordance 42077
with division (B) (1) of this section not later than five 42078

business days after the individual begins conditional 42079
employment. In the circumstances described in division (I) (2) of 42080
this section, a home or adult day-care program may employ 42081
conditionally an applicant who has been referred to the home or 42082
adult day-care program by an employment service that supplies 42083
full-time, part-time, or temporary staff for positions involving 42084
the direct care of older adults and for whom, pursuant to that 42085
division, a criminal records check is not required under 42086
division (B) of this section. 42087

(b) A home or adult day-care program that employs an 42088
individual conditionally under authority of division (C) (2) (a) 42089
of this section shall terminate the individual's employment if 42090
the results of the criminal records check requested under 42091
division (B) of this section or described in division (I) (2) of 42092
this section, other than the results of any request for 42093
information from the federal bureau of investigation, are not 42094
obtained within the period ending sixty days after the date the 42095
request is made. Regardless of when the results of the criminal 42096
records check are obtained, if the results indicate that the 42097
individual has been convicted of or pleaded guilty to any of the 42098
offenses listed or described in division (C) (1) of this section, 42099
the home or program shall terminate the individual's employment 42100
unless the home or program chooses to employ the individual 42101
pursuant to division (F) of this section. Termination of 42102
employment under this division shall be considered just cause 42103
for discharge for purposes of division (D) (2) of section 4141.29 42104
of the Revised Code if the individual makes any attempt to 42105
deceive the home or program about the individual's criminal 42106
record. 42107

(D) (1) Each home or adult day-care program shall pay to 42108
the bureau of criminal identification and investigation the fee 42109

prescribed pursuant to division (C) (3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D) (1) of this section. A home or program may collect a fee only if both of the following apply:

(a) The home or program notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medicaid program does not reimburse the home or program the fee it pays under division (D) (1) of this section.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the home or program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home or program;

(4) A court, hearing officer, or other necessary

individual involved in a case dealing with a denial of 42138
employment of the applicant or dealing with employment or 42139
unemployment benefits of the applicant; 42140

(5) Any person to whom the report is provided pursuant to, 42141
and in accordance with, division (I)(1) or (2) of this section; 42142

(6) The board of nursing for purposes of accepting and 42143
processing an application for a medication aide certificate 42144
issued under Chapter 4723. of the Revised Code; 42145

(7) The director of aging or the director's designee if 42146
the criminal records check is requested by the chief 42147
administrator of a home that is also a community-based long-term 42148
care services provider. 42149

(F) ~~In accordance with section 3721.11 of the Revised~~ 42150
~~Code, the~~ The director of health shall adopt rules in accordance 42151
with Chapter 119. of the Revised Code to implement this section. 42152
~~The rules shall specify~~ circumstances under which a home or 42153
adult day-care program may employ a person who has been 42154
convicted of or pleaded guilty to an offense listed or described 42155
in division (C)(1) of this section but meets personal character 42156
standards set by the director. 42157

(G) The chief administrator of a home or adult day-care 42158
program shall inform each individual, at the time of initial 42159
application for a position that involves providing direct care 42160
to an older adult, that the individual is required to provide a 42161
set of fingerprint impressions and that a criminal records check 42162
is required to be conducted if the individual comes under final 42163
consideration for employment. 42164

(H) In a tort or other civil action for damages that is 42165
brought as the result of an injury, death, or loss to person or 42166

property caused by an individual who a home or adult day-care 42167
program employs in a position that involves providing direct 42168
care to older adults, all of the following shall apply: 42169

(1) If the home or program employed the individual in good 42170
faith and reasonable reliance on the report of a criminal 42171
records check requested under this section, the home or program 42172
shall not be found negligent solely because of its reliance on 42173
the report, even if the information in the report is determined 42174
later to have been incomplete or inaccurate; 42175

(2) If the home or program employed the individual in good 42176
faith on a conditional basis pursuant to division (C) (2) of this 42177
section, the home or program shall not be found negligent solely 42178
because it employed the individual prior to receiving the report 42179
of a criminal records check requested under this section; 42180

(3) If the home or program in good faith employed the 42181
individual according to the personal character standards 42182
established in rules adopted under division (F) of this section, 42183
the home or program shall not be found negligent solely because 42184
the individual prior to being employed had been convicted of or 42185
pleaded guilty to an offense listed or described in division (C) 42186
(1) of this section. 42187

(I) (1) The chief administrator of a home or adult day-care 42188
program is not required to request that the superintendent of 42189
the bureau of criminal identification and investigation conduct 42190
a criminal records check of an applicant if the applicant has 42191
been referred to the home or program by an employment service 42192
that supplies full-time, part-time, or temporary staff for 42193
positions involving the direct care of older adults and both of 42194
the following apply: 42195

(a) The chief administrator receives from the employment 42196
service or the applicant a report of the results of a criminal 42197
records check regarding the applicant that has been conducted by 42198
the superintendent within the one-year period immediately 42199
preceding the applicant's referral; 42200

(b) The report of the criminal records check demonstrates 42201
that the person has not been convicted of or pleaded guilty to 42202
an offense listed or described in division (C)(1) of this 42203
section, or the report demonstrates that the person has been 42204
convicted of or pleaded guilty to one or more of those offenses, 42205
but the home or adult day-care program chooses to employ the 42206
individual pursuant to division (F) of this section. 42207

(2) The chief administrator of a home or adult day-care 42208
program is not required to request that the superintendent of 42209
the bureau of criminal identification and investigation conduct 42210
a criminal records check of an applicant and may employ the 42211
applicant conditionally as described in this division, if the 42212
applicant has been referred to the home or program by an 42213
employment service that supplies full-time, part-time, or 42214
temporary staff for positions involving the direct care of older 42215
adults and if the chief administrator receives from the 42216
employment service or the applicant a letter from the employment 42217
service that is on the letterhead of the employment service, 42218
dated, and signed by a supervisor or another designated official 42219
of the employment service and that states that the employment 42220
service has requested the superintendent to conduct a criminal 42221
records check regarding the applicant, that the requested 42222
criminal records check will include a determination of whether 42223
the applicant has been convicted of or pleaded guilty to any 42224
offense listed or described in division (C)(1) of this section, 42225
that, as of the date set forth on the letter, the employment 42226

service had not received the results of the criminal records 42227
check, and that, when the employment service receives the 42228
results of the criminal records check, it promptly will send a 42229
copy of the results to the home or adult day-care program. If a 42230
home or adult day-care program employs an applicant 42231
conditionally in accordance with this division, the employment 42232
service, upon its receipt of the results of the criminal records 42233
check, promptly shall send a copy of the results to the home or 42234
adult day-care program, and division (C) (2) (b) of this section 42235
applies regarding the conditional employment. 42236

Sec. 3721.122. Before an individual is admitted as a 42237
resident to a home, the home's administrator shall search for 42238
the individual's name in the internet-based sex offender and 42239
child-victim offender database established under division ~~(A)~~ 42240
~~(11)~~ (A) (10) of section 2950.13 of the Revised Code. If the 42241
search results identify the individual as a sex offender and the 42242
individual is admitted as a resident to the home, the 42243
administrator shall provide for the home to do all of the 42244
following: 42245

(A) Develop a plan of care to protect the other residents' 42246
rights to a safe environment and to be free from abuse; 42247

(B) Notify all of the home's other residents and their 42248
sponsors that a sex offender has been admitted as a resident to 42249
the home and include in the notice a description of the plan of 42250
care developed under division (A) of this section; 42251

(C) Direct the individual in updating the individual's 42252
address under section 2950.05 of the Revised Code and, if the 42253
individual is unable to do so without assistance, provide the 42254
assistance the individual needs to update the individual's 42255
address under that section. 42256

Sec. 3721.26. The director of health shall adopt rules 42257
pursuant to Chapter 119. of the Revised Code ~~to implement~~ 42258
~~sections 3721.21 to 3721.25 of the Revised Code, including rules~~ 42259
prescribing requirements for the notice and hearing required 42260
under section 3721.23 of the Revised Code. The notice and 42261
hearing required under section 3721.23 of the Revised Code are 42262
not subject to Chapter 119. of the Revised Code; however, the 42263
rules may provide for the notice to be provided and the hearing 42264
to be conducted in accordance with that chapter. Rules adopted 42265
under this section shall be no less stringent than the 42266
requirements, guidelines, and procedures established by the 42267
United States secretary of health and human services under 42268
sections 1819 and 1919 of the "Social Security Act," 49 Stat. 42269
620 (1935), 42 U.S.C.A. 301, as amended. 42270

Sec. 3721.29. In addition to competency evaluation 42271
programs and training and competency evaluation programs 42272
required by this chapter, each long-term care facility shall 42273
provide both of the following to each nurse aide it uses: 42274

(A) An orientation program that includes at least an 42275
explanation of the organizational structure of the facility, its 42276
policies and procedures, its philosophy of care, a description 42277
of its resident population, and an enumeration of its employee 42278
rules; 42279

(B) Regular performance review and in-service education to 42280
assure that individuals working in the facility as nurse aides 42281
are competent to perform the nursing and nursing-related 42282
services they perform. In-service education shall include 42283
training for nurse aides providing nursing and nursing-related 42284
services to residents and patients with cognitive impairments. 42285

~~The director of health shall adopt rules to implement the~~ 42286

~~purposes of this section. The rules shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.~~

Sec. 3721.30. (A) (1) A training and competency evaluation program approved by the director of health under division (A) of section 3721.31 of the Revised Code or a competency evaluation program conducted by the director under division (C) of that section shall evaluate the competency of a nurse aide in the following areas:

- (a) Basic nursing skills;
- (b) Personal care skills;
- (c) Recognition of mental health and social service needs;
- (d) Care of residents with cognitive impairments;
- (e) Basic restorative services;
- (f) Residents' rights;
- ~~(g) Any other area specified by rule of the director.~~

(2) Any training and competency evaluation program approved or competency evaluation program conducted by the director may include a written examination, but shall permit a nurse aide, at the nurse aide's option, to establish competency in another manner approved by the director. A nurse aide shall be permitted to have the competency evaluation conducted at the long-term care facility at which the nurse aide is or will be employed, unless the facility has been determined by the director or the United States secretary of health and human services to have been out of compliance with the requirements of

subsection (b), (c), or (d) of section 1819 or 1919 of the 42315
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 42316
amended, within the previous two years. 42317

(B) A training and competency evaluation program approved 42318
or conducted by the director under section 3721.31 of the 42319
Revised Code shall consist of training and competency evaluation 42320
specified by the director in rules adopted under division (C) of 42321
this section, including a minimum of seventy-five hours divided 42322
between skills training and classroom instruction in the 42323
following topic areas: 42324

(1) Basic nursing skills; 42325

(2) Personal care skills; 42326

(3) Recognition of mental health and social service needs; 42327

(4) Care of residents with cognitive impairments; 42328

(5) Basic restorative services; 42329

(6) Residents' rights; 42330

(7) Needs of various groups of long-term care facility 42331
residents and patients; 42332

~~(8) Other topic areas specified by rule of the director. 42333~~

(C) In accordance with Chapter 119. of the Revised Code, 42334
the director shall adopt rules establishing procedures and 42335
criteria for approval of training and competency evaluation 42336
programs. The requirements established by rules shall be no less 42337
stringent than the requirements, guidelines, and procedures 42338
established by the United States secretary of health and human 42339
services under sections 1819 and 1919 of the "Social Security 42340
Act." The director also shall adopt rules governing all of the 42341

following:	42342
(1) Procedures for determination of an individual's competency to perform services as a nurse aide;	42343 42344
(2) The curriculum of training and competency evaluation programs;	42345 42346
(3) The clinical supervision and physical facilities used for training and competency evaluation programs;	42347 42348
(4) The number of hours of training required in training and competency evaluation programs;	42349 42350
(5) The qualifications for instructors, coordinators, and evaluators of training and competency evaluation programs, except that the rules shall not require an instructor for a training and competency evaluation program to have nursing home experience if the program is under the general supervision of a coordinator who is a registered nurse who possesses a minimum of two years of nursing experience, at least one of which is in the provision of services in a nursing home or intermediate care facility for individuals with intellectual disabilities;	42351 42352 42353 42354 42355 42356 42357 42358 42359
(6) Requirements that training and competency evaluation programs must meet to retain approval;	42360 42361
(7) Standards for successful completion of a training and competency evaluation program;	42362 42363
(8) Procedures and criteria for review and reapproval of training and competency evaluation programs;	42364 42365
(9) Fees for application for approval or reapproval of training and competency evaluation programs and programs to train instructors, coordinators, and evaluators for training and competency evaluation programs;	42366 42367 42368 42369

(10) Fees for participation in any training and competency evaluation program or other program conducted by the director under section 3721.31 of the Revised Code; 42370
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(11) Procedures for reporting to the nurse aide registry established under section 3721.32 of the Revised Code whether or not individuals participating in training and competency evaluation programs have successfully completed the programs. 42373
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(D) In accordance with Chapter 119. of the Revised Code, the director may adopt rules prescribing criteria and procedures for approval of training programs for instructors, coordinators, and evaluators for competency evaluation programs and training and competency evaluation programs. ~~The director may adopt other rules that the director considers necessary for the administration and enforcement of sections 3721.28 to 3721.34 of the Revised Code or for compliance with requirements, guidelines, or procedures issued by the United States secretary of health and human services for implementation of section 1819 or 1919 of the "Social Security Act."~~ 42377
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(E) No person or government entity shall impose on a nurse aide any charge for participation in any competency evaluation program or training and competency evaluation program approved or conducted by the director under section 3721.31 of the Revised Code, including any charge for textbooks, other required course materials, or a competency evaluation. 42388
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(F) No person or government entity shall require that an individual used by the person or government entity as a nurse aide or seeking employment as a nurse aide pay or repay, either before or while the individual is employed by the person or government entity or when the individual leaves the person or government entity's employ, any costs associated with the 42394
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individual's participation in a competency evaluation program or 42400
training and competency evaluation program approved or conducted 42401
by the director. 42402

Sec. 3721.60. As used in sections 3721.60 to ~~3721.67~~ 42403
3721.66 of the Revised Code: 42404

(A) "Attorney in fact" means a person designated as such 42405
by a durable power of attorney for health care executed pursuant 42406
to sections 1337.11 to 1337.17 of the Revised Code. 42407

(B) "Electronic monitoring device" means a surveillance 42408
instrument with a fixed position video camera or an audio 42409
recording device, or a combination thereof, that is installed in 42410
a resident's room and broadcasts or records activities or sounds 42411
occurring in the room. 42412

(C) "Guardian" has the same meaning as in section 2111.01 42413
of the Revised Code. 42414

(D) "Long-term care facility" has the same meaning as in 42415
section 3721.21 of the Revised Code. 42416

(E) "Resident" means an individual who resides in a long- 42417
term care facility. 42418

Sec. 3721.63. A long-term care facility may prescribe a 42419
form for use by a resident or resident's guardian or attorney in 42420
fact seeking to authorize the installation and use of an 42421
electronic monitoring device in the resident's room in a long- 42422
term care facility. If a long-term care facility prescribes a 42423
form, it shall, at a minimum, include all of the following: 42424

(A) An explanation of sections 3721.60 to ~~3721.67~~ 3721.66 42425
of the Revised Code; 42426

(B) An acknowledgment that the resident or resident's 42427

guardian or attorney in fact has consented to the installation 42428
and use of the device in the resident's room; 42429

(C) In the case of a resident who lives in a room with 42430
another resident, an acknowledgment that the other resident or 42431
other resident's guardian or attorney in fact has consented to 42432
the installation and use of the device and a description of any 42433
conditions placed on that consent pursuant to division (B) (2) of 42434
section 3721.62 of the Revised Code; 42435

(D) A section for providing the facility with information 42436
regarding the type, function, and use of the device to be 42437
installed and used; 42438

(E) A section stating that the facility is released from 42439
liability in any civil or criminal action or administrative 42440
proceeding for a violation of the resident's right to privacy in 42441
connection with using the device. 42442

Sec. 3721.68. Sections 3721.60 to ~~3721.67~~ 3721.66 of the 42443
Revised Code do not apply if an electronic monitoring device is 42444
installed by a law enforcement agency and used solely for a bona 42445
fide law enforcement purpose. 42446

Sec. 3722.06. (A) Not later than the date that is one year 42447
after ~~the effective date of this section~~ September 30, 2022, the 42448
director of health shall adopt rules establishing ~~health,~~ 42449
~~safety, welfare, and quality standards,~~ for hospitals licensed 42450
under this chapter, ~~including~~ standards for all of the 42451
following: 42452

(1) Maternity units; 42453

(2) Newborn care nurseries; 42454

(3) Health care services. 42455

- (B) Not later than the date that is one year after ~~the~~ 42456
~~effective date of this section~~ September 30, 2022, the director 42457
shall adopt rules establishing standards and procedures for the 42458
licensure of hospitals, including all of the following: 42459
- (1) Procedures for applying and renewing licenses as 42460
described in section 3722.03 of the Revised Code; 42461
- (2) Procedures for transferring licenses as described in 42462
section 3722.04 of the Revised Code; 42463
- (3) Procedures for inspections following complaints; 42464
- (4) Subject to division (C) (1) of this section, fees for 42465
initial applications, license renewals, and license transfers, 42466
as well as inspections conducted under section 3722.05 of the 42467
Revised Code; 42468
- (5) Subject to division (C) (2) of this section, standards 42469
and procedures for imposing civil penalties as described in 42470
section 3722.07 of the Revised Code; 42471
- (6) Subject to division (C) (3) of this section, standards 42472
and procedures for correcting violations, including through the 42473
submission of correction plans; 42474
- (7) Standards and procedures for identifying, monitoring, 42475
managing, reporting, and reducing exposures to risk conditions, 42476
such as Legionella, including through the use of environmental 42477
facility assessments, the development of water management plans, 42478
and the use of disinfection measures; 42479
- (8) Standards and procedures for data reporting; 42480
- (9) Standards and procedures for emergency preparedness; 42481
- (10) Standards and procedures for the provision of 42482

technical assistance as described in section 3722.09 of the Revised Code; 42483
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(11) Standards and procedures for new hospitals to demonstrate eligibility as described in division (B) (2) of section 3722.03 of the Revised Code; 42485
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(12) Standards and procedures to address changes to a hospital's license, including adding or removing a location of the hospital. 42488
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(C) (1) In the case of an inspection fee described in division (B) (4) of this section, the director shall establish an amount to cover only the cost of the inspection. All other fees established under that division shall be limited to what is necessary to support the hospital licensure program. 42491
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(2) The director shall establish a scale for use in determining the amount of a civil penalty that may be imposed under section 3722.07 of the Revised Code. The scale shall include per day amounts for ongoing violations. The total amount of a civil penalty shall not exceed two hundred fifty thousand dollars for each violation. 42496
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(3) The director shall accept a corrective action plan that also was accepted by the federal centers for medicare and medicaid services or an accrediting organization approved under 42 U.S.C. 1395bb(a) provided that the plan was submitted to the centers or organization in response to the same deficiencies identified by the director. 42502
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~~(D) The director may adopt any other rules as necessary to implement this chapter.~~ 42508
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~~(E)~~ When adopting rules under this section, all of the following apply: 42510
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(1) The director shall adopt the rules in accordance with Chapter 119. of the Revised Code; 42512
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(2) Any rules adopted are not subject to division (F) of section 121.95 of the Revised Code; 42514
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(3) The director shall collaborate with representatives of this state's hospital industry to maximize the public health utility of rules adopted under this section and limit the administrative burden of and costs of complying with such rules. 42516
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(4) The director shall not adopt rules that conflict with requirements under federal laws or regulations. 42520
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Sec. 3723.09. (A) ~~To protect the health of individuals inhabiting, occupying, or frequenting buildings, the director of health shall adopt rules to implement the requirements of this chapter.~~ All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. 42522
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(B) The director shall adopt rules establishing criteria and procedures for issuing and renewing licenses under section 3723.06 of the Revised Code to radon testers, mitigation specialists, and mitigation contractors. The rules may require that all applicants for licensure as a radon tester or mitigation specialist pass an examination. If an examination is required, the rules may require applicants to pass an examination conducted by the department or an appropriate examination conducted by the United States environmental protection agency. 42527
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(C) The director shall adopt rules establishing criteria and procedures for approving training courses under section 3723.07 of the Revised Code. The rules may require that participants in training courses pass an examination conducted 42537
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by the operator of the course and may require that the 42541
examinations be approved by the director. 42542

(D) The director shall adopt rules establishing criteria 42543
and procedures for approving radon laboratories under section 42544
3723.07 of the Revised Code. 42545

(E) The director shall adopt rules establishing reasonable 42546
fees for licenses, license renewals, radon laboratory approvals, 42547
and training course approvals. 42548

(F) The director shall adopt rules establishing standards 42549
to be followed by licensed radon testers, mitigation 42550
specialists, and mitigation contractors for the prevention of 42551
hazards to the public health, including standards for worker 42552
protection, record keeping, and training of employees of 42553
licensed radon mitigation contractors. 42554

(G) The director shall adopt rules establishing procedures 42555
to be followed by any individual, business entity, or government 42556
entity licensed by another state to practice as a radon tester, 42557
mitigation specialist, or mitigation contractor in providing 42558
notice to the director of health prior to commencing practice in 42559
this state pursuant to section 3723.03 of the Revised Code. 42560

(H) The director may adopt rules that require licensed 42561
radon testers and mitigation specialists to report to the 42562
director, by street address, radon test results that indicate 42563
the presence of radon at a level considered to be dangerous as 42564
determined by the director. The rules may require the reporting 42565
of screening measurements, follow-up measurements, post- 42566
mitigation measurements, and, if it is known that radon 42567
mitigation has been performed, the methods of mitigation that 42568
were used. Any information required to be reported to the 42569

director under these rules is not a public record under section 42570
149.43 of the Revised Code, and shall not be released except in 42571
aggregate statistical form. 42572

Sec. 3725.02. ~~(A)~~ No person other than a hospital shall 42573
collect plasma, regardless of the use for which the plasma is 42574
intended, except at a plasmapheresis center holding a current, 42575
valid certificate of approval issued by the director of health. 42576

Whoever violates this division is guilty of a misdemeanor 42577
of the fourth degree. 42578

~~(B) The director shall adopt such rules as are necessary to 42579
carry out this chapter. 42580~~

Sec. 3725.03. Application for certificate shall be made to 42581
the director of health by the operator of each establishment 42582
desiring to operate as a plasmapheresis center. The director 42583
shall prescribe the application form. 42584

The director or ~~his~~ the director's representative shall 42585
inspect each establishment prior to certification, and 42586
thereafter at least once each year. Plasmapheresis facilities 42587
and operations shall be made available for inspection during 42588
normal working hours upon request of any authorized 42589
representative of the state department of health. If the 42590
director finds, upon inspection, that an establishment applying 42591
for certification complies with this chapter ~~and the rules~~ 42592
~~adopted thereunder,~~ he the director shall issue a certificate of 42593
approval to the owner of the center. The owner shall annually 42594
apply for renewal of certification according to the standard 42595
renewal procedure under Chapter 4745. of the Revised Code. 42596

The director may require the center at any time to send 42597
samples of any material collected or processed by the center, 42598

together with the results of applicable tests, to the department 42599
of health. 42600

Sec. 3725.04. Certification of a plasmapheresis center may 42601
be denied, revoked, or suspended if the director of health finds 42602
that the center is not in compliance with this chapter ~~and the~~ 42603
~~rules adopted thereunder, or if the examination of samples and~~ 42604
~~test results submitted under section 3725.03 of the Revised Code~~ 42605
~~reveals noncompliance with such rules.~~ The director shall notify 42606
the owner of the center of the proposed action and the violation 42607
or information on which it is based. If the owner requests a 42608
hearing within seven working days of the receipt of notice, 42609
certification shall not be revoked or suspended prior to the 42610
hearing, except that certification may be temporarily suspended 42611
if the director finds that the public health and safety is in 42612
imminent danger. 42613

Sec. 3725.05. No plasmapheresis center shall be certified 42614
by the director of health unless all federal requirements for 42615
the collection of plasma by plasmapheresis under the "Public 42616
Health Service Act," 58 Stat. 682 (1944) 42 U.S.C. 201, as 42617
amended, are met and: 42618

(A) A test approved by the director of health for 42619
hepatitis B antigen is made on a sample of blood taken from the 42620
donor at the time of blood collection; 42621

(B) No person who has ever shown a positive test for 42622
hepatitis B antigen or who has a history of hepatitis serves as 42623
a donor for plasma, with the exception of plasma intended for 42624
special purposes approved by the director of health; 42625

(C) A qualified licensed physician, known as the medical 42626
director, is responsible for compliance with this chapter ~~and~~ 42627

~~rules adopted thereunder,~~ and for maintaining the health and 42628
safety of participants in the plasmapheresis procedure; 42629

(D) One of the following individuals is in attendance at 42630
all times when a donor is undergoing plasmapheresis and is 42631
responsible for supervising the procedure and the maintenance of 42632
sterile technique: 42633

(1) A physician authorized under Chapter 4731. of the 42634
Revised Code to practice medicine and surgery or osteopathic 42635
medicine and surgery; 42636

(2) A licensed practical nurse or registered nurse as 42637
defined in section 4723.01 of the Revised Code; 42638

(3) An individual who is certified as an emergency medical 42639
technician-intermediate or emergency medical technician- 42640
paramedic under Chapter 4765. of the Revised Code, but is not 42641
attending or supervising the procedure or maintaining sterile 42642
technique in the individual's capacity as an emergency medical 42643
technician; 42644

(4) Another qualified medical staff person, including a 42645
medical technologist, approved by the director of health. 42646

(E) Handwashing facilities are present in the room where 42647
the blood is drawn and in the room where the formed elements are 42648
separated from the plasma. 42649

Sec. 3726.14. Not later than ninety days after ~~the~~ 42650
~~effective date of this section~~ April 6, 2021, the director of 42651
health, in accordance with Chapter 119. of the Revised Code, 42652
shall adopt rules ~~necessary to carry out sections 3726.01 to~~ 42653
~~3726.13 of the Revised Code, including rules that prescribe the~~ 42654
following: 42655

(A) The notification form informing pregnant women who seek surgical abortions of the following: 42656
42657

(1) The right to determine final disposition of fetal remains under division (A) of section 3726.03 of the Revised Code; 42658
42659
42660

(2) The available options for locations and methods for the disposition of fetal remains. 42661
42662

(B) The consent form for purposes of section 3726.04 or 3726.041 of the Revised Code; 42663
42664

(C) (1) A detachable supplemental form to the form described in division (B) (4) of section 2317.56 of the Revised Code that meets the following requirements: 42665
42666
42667

(a) Indicates whether the pregnant woman has indicated a preference as to the method of disposition of the fetal remains and the preferred method selected; 42668
42669
42670

(b) Indicates whether the pregnant woman has indicated a preference as to the location of disposition of the fetal remains; 42671
42672
42673

(c) Provides for the signature of the physician who is to perform or induce the abortion; 42674
42675

(d) Provides for a medical identification number for the pregnant woman but does not provide for the pregnant woman's printed name or signature. 42676
42677
42678

(2) If a medical emergency or medical necessity prevents the pregnant woman from completing the detachable supplemental form, procedures to complete that form a reasonable time after the medical emergency or medical necessity has ended. 42679
42680
42681
42682

Sec. 3727.131. (A) (1) In an effort to improve the quality 42683
of care for patients affected by stroke, the department of 42684
health shall establish and maintain a process for the 42685
collection, transmission, compilation, and oversight of data 42686
related to stroke care. Such data shall be collected, 42687
transmitted, compiled, and overseen in a manner prescribed by 42688
the director of health. 42689

As part of the process and except as provided in division 42690
(A) (2) of this section, the department shall establish or 42691
utilize a stroke registry database to store information, 42692
statistics, and other data on stroke care, including 42693
information, statistics, and data that align with nationally 42694
recognized treatment guidelines and performance measures. 42695

(2) If the department established or utilized, prior to 42696
~~the effective date of this section~~ October 3, 2023, a stroke 42697
registry database that meets the requirements of this section, 42698
then both of the following apply: 42699

(a) Division (A) (1) of this section shall not be construed 42700
to require the department to establish or utilize another such 42701
database. 42702

(b) The department shall maintain both the process and 42703
stroke registry database described in this section, including in 42704
the event federal moneys are no longer available to support the 42705
process or database. 42706

(B) Not later than six months after ~~the effective date of~~ 42707
~~this section~~ October 3, 2023, the director of health shall adopt 42708
~~rules as necessary to implement this section, including rules~~ 42709
specifying all of the following: 42710

(1) The information, statistics, and other data to be 42711

collected, which shall do both of the following: 42712

(a) Align with stroke consensus metrics developed and 42713
approved by both of the following: (i) The United States centers 42714
for disease control and prevention; (ii) Accreditation 42715
organizations that are approved by the United States centers for 42716
medicare and medicaid services and that certify stroke centers. 42717

(b) Include at a minimum both of the following: 42718

(i) Data that is consistent with nationally recognized 42719
treatment guidelines for patients with confirmed stroke; 42720

(ii) In the case of mechanical endovascular thrombectomy, 42721
data regarding the treatment's processes, complications, and 42722
outcomes, including data required by national certifying 42723
organizations. 42724

(2) The manner in which the information, statistics, and 42725
other data are to be collected; 42726

(3) The manner in which the information, statistics, and 42727
other data are to be transmitted for inclusion in the stroke 42728
registry database. 42729

(C) When adopting rules as described in division (B) of 42730
this section, all of the following apply: 42731

(1) The director of health shall do all of the following: 42732

(a) Consider nationally recognized stroke care performance 42733
measures; 42734

(b) Designate an electronic platform for the collection 42735
and transmission of data. 42736

When designating the platform, the director shall consider 42737
nationally recognized stroke data platforms. 42738

(c) In an effort to avoid duplication and redundancy, 42739
coordinate, to every extent possible, with hospitals recognized 42740
by the department under section 3727.13 of the Revised Code and 42741
national voluntary health organizations involved in stroke 42742
quality improvement. 42743

(2) The director of health may specify that, of the 42744
information, statistics, or other data that is collected, only 42745
samples are to be transmitted for inclusion in the stroke 42746
registry database. 42747

(3) The rules shall be adopted in accordance with Chapter 42748
119. of the Revised Code. 42749

(D) (1) Except as provided in division (D) (2) of this 42750
section, each hospital that is recognized by the department 42751
under section 3727.13 of the Revised Code as a comprehensive 42752
stroke center, thrombectomy-capable stroke center, or primary 42753
stroke center shall do both of the following: 42754

(a) Collect the information, statistics, and other data 42755
specified by the director in rules adopted under division (B) of 42756
this section; 42757

(b) Transmit the information, statistics, and other data 42758
for inclusion in the stroke registry database. 42759

A hospital may contract with a third-party organization 42760
for the collection and transmission of the information, 42761
statistics, and other data. If a hospital contracts with a 42762
third-party organization, the organization shall collect and 42763
transmit such information, statistics, and other data for 42764
inclusion in the stroke registry database. 42765

(2) The data described in division (B) (1) (b) (ii) of this 42766
section shall be collected and transmitted only by a hospital 42767

that is recognized by the department under section 3727.13 of 42768
the Revised Code as a thrombectomy-capable stroke center. 42769

(3) In the case of a hospital that is recognized by the 42770
department under section 3727.13 of the Revised Code as an acute 42771
stroke ready hospital, the collection and transmission of the 42772
data described in division (B) of this section is encouraged. 42773

(E) The information, statistics, or other data collected 42774
or transmitted as required or encouraged by this section shall 42775
not identify or tend to identify any particular patient. 42776

(F) The department may establish an oversight committee to 42777
advise and monitor the department in implementing this section 42778
and to assist the department in developing short- and long-term 42779
goals for the stroke registry database. 42780

If established, the membership of the committee shall 42781
consist of individuals with expertise or experience in data 42782
collection, data management, or stroke care, including both of 42783
the following: 42784

(1) Individuals representing organizations advocating on 42785
behalf of those with stroke or cardiovascular conditions; 42786

(2) Individuals representing hospitals recognized by the 42787
department under section 3727.13 of the Revised Code. 42788

Sec. 3727.19. (A) As used in this section: 42789

(1) "Advisory committee" means the advisory committee on 42790
immunization practices of the United States centers for disease 42791
control and prevention or its successor agency. 42792

(2) "Certified nurse-midwife," "clinical nurse 42793
specialist," and "certified nurse practitioner" have the same 42794
meanings as in section 4723.01 of the Revised Code. 42795

(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(B) Each hospital shall offer to each patient who is admitted to the hospital, in accordance with guidelines issued by the advisory committee, vaccination against influenza, unless a physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, or certified nurse practitioner has determined that vaccination of the patient is medically inappropriate. The vaccine shall be of a form approved by the advisory committee for that calendar year. A patient may refuse vaccination.

(C) Each hospital shall offer to each patient who is admitted to the hospital, in accordance with guidelines issued by the advisory committee, vaccination against pneumococcal pneumonia, unless a physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, or certified nurse practitioner has determined that vaccination of the patient is medically inappropriate. Each vaccine shall be of a form approved by the advisory committee for that calendar year. A patient may refuse vaccination.

~~(D) The director of health may adopt rules under Chapter 119. of the Revised Code as the director considers appropriate to implement this section.~~

Sec. 3727.23. The director of health may adopt rules ~~for the implementation of sections 3727.21 and 3727.22 of the Revised Code, including rules establishing procedures and~~ criteria for the review and evaluation of proposed cooperative agreements under section 3727.22 of the Revised Code. If rules

are adopted, they shall ensure that there is opportunity for 42826
public comment during the review and evaluation of proposed 42827
cooperative agreements. 42828

Sec. 3727.25. (A) As used in this section: 42829

(1) "Surgical smoke" means the airborne byproduct of an 42830
energy-generating device used in a surgical procedure, including 42831
smoke plume, bioaerosols, gases, laser-generated contaminants, 42832
and dust. 42833

(2) "Surgical smoke evacuation system" means equipment 42834
designed to capture, filter, and eliminate surgical smoke at the 42835
point of origin, before the smoke makes contact with the eyes or 42836
respiratory tract of individuals. 42837

(B) Not later than one year after ~~the effective date of~~ 42838
~~this section~~ October 3, 2023, each hospital that offers surgical 42839
services shall adopt and implement a policy designed to prevent 42840
human exposure to surgical smoke during any planned surgical 42841
procedure that is likely to generate surgical smoke. The policy 42842
shall include the use of a surgical smoke evacuation system. 42843

~~(C) The director of health may adopt any rules the~~ 42844
~~director considers necessary to implement this section. The~~ 42845
~~rules shall be adopted in accordance with Chapter 119. of the~~ 42846
~~Revised Code.~~ 42847

Sec. 3727.31. As used in sections 3727.31 to ~~3727.40~~ 42848
3727.39 of the Revised Code: 42849

(A) "Ancillary service" means a hospital item or service 42850
that a hospital customarily provides as part of a shoppable 42851
service. 42852

(B) "Chargemaster" means the list maintained by a hospital 42853

of each hospital item or service for which the hospital has established a charge. 42854
42855

(C) "De-identified maximum negotiated charge" means the highest charge that a hospital has negotiated with all third-party payors for a hospital item or service. 42856
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(D) "De-identified minimum negotiated charge" means the lowest charge that a hospital has negotiated with all third-party payors for a hospital item or service. 42859
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(E) "Discounted cash price" means the charge that applies to an individual who pays cash, or a cash equivalent, for a hospital item or service. 42862
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(F) "Federal price transparency law" means section 2718(e) of the "Public Health Service Act," 42 U.S.C. 300gg-18, and hospital price transparency rules adopted by the United States department of health and human services and the United States centers for medicare and medicaid services implementing that section, including the rules and requirements under 45 C.F.R. 180. 42865
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(G) "Hospital" has the same meaning as in section 3722.01 of the Revised Code. 42872
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(H) "Hospital items or services" means all items or services, including individual items or services and service packages, that may be provided by a hospital to a patient in connection with an inpatient admission or an outpatient department visit, as applicable, for which the hospital has established a standard charge, including all of the following: 42874
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(1) Supplies and procedures; 42880

(2) Room and board; 42881

(3) Use of the hospital and other areas, the charges for which are generally referred to as facility fees;	42882 42883
(4) Services of physicians and non-physician practitioners, employed by the hospital, the charges for which are generally referred to as professional fees;	42884 42885 42886
(5) Any other item or service for which a hospital has established a standard charge.	42887 42888
(I) "Gross charge" means the charge for a hospital item or service that is reflected on a hospital's chargemaster, absent any discounts.	42889 42890 42891
(J) "Machine-readable format" means a digital representation of information in a file that can be imported or read into a computer system for further processing. "Machine-readable format" includes .XML, .JSON, and .CSV <u>includes .XML, .JSON, and .CSV</u> formats.	42892 42893 42894 42895 42896
(K) "Payor-specific negotiated charge" means the charge that a hospital has negotiated with a third-party payor for a hospital item or service.	42897 42898 42899
(L) "Personal data" means any information that is linked or reasonably linkable to an identified or identifiable person in this state. "Personal data" does not include either of the following:	42900 42901 42902 42903
(1) Publicly available information;	42904
(2) Personal data that has been de-identified or aggregated using commercially reasonable methods such that neither the associated person, nor a device linked to that person, can be reasonably identified.	42905 42906 42907 42908
(M) "Process" or "processing" means any operation or set	42909

of operations that are performed on personal data, whether or 42910
not by automated means, including the collection, use, storage, 42911
disclosure, analysis, deletion, transfer, or modification of 42912
personal data. 42913

(N) "Publicly available information" means information 42914
that is lawfully made available from federal, state, or local 42915
government records or widely available media. 42916

(O) "Service package" means an aggregation of individual 42917
hospital items or services into a single service with a single 42918
charge. 42919

(P) "Shoppable service" means a service that may be 42920
scheduled by a health care consumer in advance. 42921

(Q) "Standard charge" means the regular rate established 42922
by the hospital for a hospital item or service provided to a 42923
specific group of paying patients. "Standard charge" includes 42924
all of the following: 42925

(1) The gross charge; 42926

(2) The payor-specific negotiated charge; 42927

(3) The de-identified minimum negotiated charge; 42928

(4) The de-identified maximum negotiated charge; 42929

(5) The discounted cash price. 42930

(R) "Targeted advertising" means displaying an 42931
advertisement that is selected based on personal data obtained 42932
from the use of a hospital's internet-based price estimator tool 42933
by a person in this state. "Targeted advertising" does not 42934
include any of the following: 42935

(1) Advertising in response to the user's request for 42936

information or feedback; 42937

(2) Advertisements based on activities within a hospital's 42938
own web sites or online applications; 42939

(3) Advertisements based on the context of a user's 42940
current search query, visit to a web site, or online 42941
application; 42942

(4) Processing personal data solely for measuring or 42943
reporting advertising performance, reach, or frequency. 42944

(S) "Third-party payor" means an entity that is, by 42945
statute, contract, or agreement, legally responsible for payment 42946
of a claim for a hospital item or service. 42947

Sec. 3727.33. (A) A hospital shall maintain a list of all 42948
standard charges for all hospital items or services in 42949
accordance with this section. The hospital shall ensure that the 42950
list is available at all times to the public, including by 42951
posting the list electronically in the manner provided by this 42952
section. 42953

(B) The standard charges contained in the list shall 42954
reflect the standard charges applicable to that location of the 42955
hospital, regardless of whether the hospital operates in more 42956
than one location or operates under the same license as another 42957
hospital. 42958

(C) The list shall include the following information, as 42959
applicable: 42960

(1) A description of each hospital item or service 42961
provided by the hospital; 42962

(2) The following charges, expressed in dollar amounts, 42963
for each particular hospital item or service when provided in 42964

either an inpatient setting or an outpatient department setting,	42965
as applicable:	42966
(a) The gross charge;	42967
(b) The de-identified minimum negotiated charge;	42968
(c) The de-identified maximum negotiated charge;	42969
(d) The discounted cash price;	42970
(e) The payor-specific negotiated charge, listed by the	42971
name of the third-party payor and health plan associated with	42972
the charge and displayed in a manner that clearly associates the	42973
charge with each third-party payor and health plan;	42974
(f) Any code used by the hospital for purposes of	42975
accounting or billing for the hospital item or service,	42976
including the current procedural terminology (CPT) code,	42977
healthcare common procedure coding system (HCPCS) code,	42978
diagnosis related group (DRG) code, national drug code (NDC), or	42979
other common identifier.	42980
(D) The information contained in the list shall be	42981
published in a single digital file that is in a machine-readable	42982
format.	42983
(E) The list shall be displayed in a prominent location on	42984
the home page of the hospital's publicly accessible internet web	42985
site or be accessible by selecting a dedicated link that is	42986
prominently displayed on that home page. If the hospital	42987
operates multiple locations and maintains a single internet web	42988
site, a separate list shall be posted for each location the	42989
hospital operates and shall be displayed in a manner that	42990
clearly associates the list with the applicable location.	42991
(F) The list shall satisfy all of the following	42992

conditions: 42993

(1) Be available free of charge; without having to 42994
register or establish a user account or password; without having 42995
to submit personal identifying information, including any 42996
information pertaining to an individual's health care coverage 42997
or other benefits; and without having to overcome any other 42998
impediment in order to access the list, including such 42999
impediments as entering a code or completing any type of 43000
security measure known as challenge-response authentication; 43001

(2) Be accessible to a common commercial operator of an 43002
internet search engine to the extent necessary for the search 43003
engine to index the list and display the list as a result in 43004
response to a search query of a user of the search engine; 43005

(3) Be formatted in a manner prescribed by the template 43006
developed under division (G) of this section; 43007

(4) Be digitally searchable; 43008

(5) Use the following naming convention specified by the 43009
United States centers for medicare and medicaid services, 43010
specifically: 43011

"<ein>_<hospital-name>_standardcharges.[jsonxmlcsv]."
43012

(G) For purposes of division (F) (3) of this section, the 43013
director of health shall develop a template that each hospital 43014
shall use in formatting the list. In developing the template, 43015
the director shall do both of the following: 43016

(1) Consider any applicable federal guidelines for 43017
formatting similar lists required by federal statutes or 43018
regulations and ensure that the design of the template enables 43019
health care consumers or other researchers to compare the 43020

charges contained in the lists maintained by each hospital; 43021

(2) Design the template to be substantially similar to the 43022
template used by the United States centers for medicare and 43023
medicaid services for purposes similar to those of sections 43024
3727.31 to ~~3727.40~~3727.39 of the Revised Code, if the director 43025
determines that designing the template in that manner serves the 43026
purposes of this section and that the department of health 43027
benefits from the director developing and requiring that 43028
substantially similar design. 43029

(H) At least once each year, the hospital shall update the 43030
list it maintains under this section. The hospital shall clearly 43031
indicate the date on which the list was most recently updated, 43032
either on the list or in a manner that is clearly associated 43033
with the list. 43034

Sec. 3727.36. (A) No hospital shall do any of the 43035
following: 43036

(1) (a) Fail to comply with the requirement to make public 43037
the list described in section 3727.33 of the Revised Code; 43038

(b) Fail to comply with the requirements to make public 43039
~~the~~ either the list or the internet-based price estimator tool 43040
described in section 3727.34 of the Revised Code. 43041

(2) (a) Fail to maintain the list required by section 43042
3727.33 of the Revised Code in accordance with the requirements 43043
of that section; 43044

(b) Fail to maintain either the list or the internet-based 43045
price estimator tool required by section 3727.34 of the Revised 43046
Code in accordance with the requirements of that section. 43047

(3) Fail in any other manner to comply with the 43048

requirements that apply to a list and, if applicable, the 43049
internet-based price estimator tool, under sections 3727.31 to 43050
~~3727.40~~3727.39 of the Revised Code. 43051

(B) The director of health shall monitor each hospital's 43052
compliance with division (A) of this section. The monitoring may 43053
occur by any of the following methods: 43054

(1) Reviewing any credible analysis prepared regarding 43055
compliance or noncompliance by hospitals; 43056

(2) Auditing the internet web sites of hospitals for 43057
compliance; 43058

(3) Confirming that each hospital submits updated lists as 43059
required by section 3727.35 of the Revised Code. 43060

(C) (1) The director of health shall create and make 43061
publicly available a list that identifies each hospital that is 43062
not in compliance with division (A) of this section. The list of 43063
noncompliant hospitals shall include any hospital that has been 43064
sent a notice of violation under section 3727.37 of the Revised 43065
Code, is subject to an order imposing an administrative penalty 43066
under section 3727.38 of the Revised Code, has been sent any 43067
other written communication from the director regarding a 43068
violation of division (A) of this section, or otherwise has been 43069
determined by the director to be not in compliance with division 43070
(A) of this section. 43071

(2) The list of noncompliant hospitals is a public record, 43072
as defined in section 149.43 of the Revised Code. 43073

(3) After the director of health has determined that a 43074
hospital is not in compliance with division (A) of this section, 43075
the materials that consist of notices, orders, communications, 43076
and determinations under sections 3727.31 to ~~3727.40~~3727.39 of 43077

the Revised Code are public records, as defined in section 43078
149.43 of the Revised Code. 43079

(D) Not later than ninety days after ~~the effective date of~~ 43080
~~this section~~ April 3, 2025, the director of health shall create 43081
the initial list of noncompliant hospitals and include the list 43082
on the internet web site maintained by the department of health. 43083
The director shall update the list and web site at least every 43084
thirty days thereafter. 43085

Sec. 3727.38. (A) (1) Notwithstanding any conflicting 43086
provision of the Revised Code, the director of health shall 43087
impose an administrative penalty on a hospital if the hospital 43088
does both of the following: 43089

(a) Violates division (A) of section 3727.36 of the 43090
Revised Code; 43091

(b) Violates division (D) of section 3727.37 of the 43092
Revised Code. 43093

(2) Each day a violation continues is considered a 43094
separate violation. 43095

(B) In imposing an administrative penalty under this 43096
section, the director of health shall act in accordance with 43097
Chapter 119. of the Revised Code. The amount of the penalty to 43098
be imposed on a hospital shall be selected by the director, 43099
subject to the minimum amounts and considerations specified in 43100
division (C) of this section. For all penalties that are 43101
imposed, the director shall select amounts that are sufficient 43102
to ensure that hospitals comply with the requirements of 43103
sections 3727.31 to ~~3727.40~~ 3727.39 of the Revised Code. 43104

(C) (1) An administrative penalty imposed under this 43105
section shall not be less than the following: 43106

(a) In the case of a hospital with a bed count of thirty or fewer, three hundred dollars; 43107
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(b) In the case of a hospital with a bed count that is greater than thirty and equal to or fewer than five hundred fifty, ten dollars per bed; 43109
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(c) In the case of a hospital with a bed count that is greater than five hundred fifty, five thousand five hundred dollars. 43112
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(2) In setting the amount of the penalty to be imposed on a hospital, the director of health shall consider all of the following: 43115
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(a) Previous violations by the hospital's operator; 43118

(b) The seriousness of the violation; 43119

(c) The demonstrated good faith of the hospital's operator; 43120
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(d) Any other matters as justice may require. 43122

(D) An administrative penalty collected under this section shall be deposited into the state treasury to the credit of the hospital price transparency fund created by section 3727.381 of the Revised Code. 43123
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Sec. 3727.381. There is hereby created in the state treasury the hospital price transparency fund, consisting of administrative penalties collected under section 3727.38 of the Revised Code. The director of health shall administer the fund. The amounts deposited shall be used for purposes of administering and enforcing sections 3727.31 to ~~3727.40~~3727.39 of the Revised Code, except that the director may use a portion for purposes of informing the public about the availability of 43127
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hospital price information and other consumer rights under those sections. 43135
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Sec. 3727.39. The director of health shall prepare reports and submit them in accordance with all of the following: 43137
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(A) On an annual basis, the director shall prepare a report on hospitals that are in violation of division (A) of section 3727.36 or division (D) of section 3727.37 of the Revised Code. 43139
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(B) Within sixty days after any change to the federal price transparency law, the director shall prepare a report of the director's recommendations for conforming sections 3727.31 to ~~3727.40~~ 3727.39 of the Revised Code with the change or, alternatively, stating that no conforming changes are necessary. 43143
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(C) The director shall submit the reports required by divisions (A) and (B) of this section to the general assembly in accordance with section 101.68 of the Revised Code, the chairperson of the standing committee of the house of representatives with primary responsibility for health legislation, the chairperson of the standing committee of the senate with primary responsibility for health legislation, and the governor. 43148
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Sec. 3727.70. As used in this section and sections 3727.71 to ~~3727.79~~ 3727.78 of the Revised Code: 43156
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(A) "Admission" means a patient's admission to a hospital on an inpatient basis by a health care professional specified in division (B) (1) of section 3727.06 of the Revised Code. 43158
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(B) "After-care" means assistance provided by a lay caregiver to a patient in the patient's residence after the patient's discharge and includes only the caregiving needs of 43161
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the patient at the time of discharge. 43164

(C) "Discharge" means the discharge or release of a 43165
patient who has been admitted to a hospital on an inpatient 43166
basis from the hospital directly to the patient's residence. 43167
"Discharge" does not include the transfer of a patient to 43168
another facility or setting. 43169

(D) "Discharging health care professional" means a health 43170
care professional who is authorized by division (B) (1) of 43171
section 3727.06 of the Revised Code to admit a patient to a 43172
hospital and who has assumed responsibility for directing the 43173
creation of the patient's discharge plan under section 3727.75 43174
of the Revised Code. 43175

(E) "Guardian" has the same meaning as in section 2133.01 43176
of the Revised Code. 43177

(F) "Lay caregiver" means an adult designated under 43178
section 3727.71 of the Revised Code to provide after-care to a 43179
patient. 43180

(G) "Lay caregiver designation" means the designation of a 43181
lay caregiver for a patient as described in section 3727.71 of 43182
the Revised Code. 43183

(H) (1) "Patient's residence" means either of the 43184
following: 43185

(a) The dwelling that a patient or the patient's guardian 43186
considers to be the patient's home; 43187

(b) The dwelling of a relative or other individual who has 43188
agreed to temporarily house the patient following discharge and 43189
who has communicated this fact to hospital staff. 43190

(2) "Patient's residence" does not include any of the 43191

following:	43192
(a) A hospital;	43193
(b) A nursing home, residential care facility, county home, or district home, as defined in section 3721.01 of the Revised Code;	43194 43195 43196
(c) A veterans' home operated under Chapter 5907. of the Revised Code;	43197 43198
(d) A residential facility, as defined in section 5119.34 of the Revised Code;	43199 43200
(e) A residential facility, as defined in section 5123.19 of the Revised Code;	43201 43202
(f) A hospice care program, as defined in section 3712.01 of the Revised Code;	43203 43204
(g) A freestanding inpatient rehabilitation facility licensed under section 3702.30 of the Revised Code;	43205 43206
(h) Another facility similar to one specified in this division.	43207 43208
Sec. 3727.72. (A) If a patient or guardian makes a lay caregiver designation, the hospital shall do both of the following:	43209 43210 43211
(1) To the extent the information is available, record in the patient's medical record the lay caregiver's name, address, telephone number, electronic mail address, and relationship to the patient;	43212 43213 43214 43215
(2) Request from the patient or guardian consent to disclose the patient's medical information to the lay caregiver in accordance with hospital policy and state and federal law.	43216 43217 43218

(B) If a patient or guardian declines to make a lay caregiver designation, the hospital shall note that decision in the patient's medical record and have no other obligation under sections 3727.71 to ~~3727.79~~ 3727.78 of the Revised Code.

Sec. 3730.10. (A) The director of health shall adopt rules ~~in accordance with Chapter 119. of the Revised Code as necessary for the implementation and enforcement of this chapter. The rules shall that~~ include all of the following:

(1) Safety and sanitation standards and procedures to be followed to prevent the transmission of infectious diseases during the performance of tattooing and body piercing procedures;

(2) Standards and procedures to be followed for appropriate disinfection and sterilization of all invasive equipment or parts of equipment used in tattooing procedures, body piercing procedures, and ear piercing procedures performed with an ear piercing gun;

(3) Procedures for suspending and revoking approvals under section 3730.05 of the Revised Code.

(B) The rules adopted under division (A) (1) of this section shall establish universal blood and body fluid precautions to be used by any individual who performs tattooing or body piercing procedures. The precautions shall include all of the following:

(1) The appropriate use of hand washing;

(2) The handling and disposal of all needles and other sharp instruments used in tattooing or body piercing procedures;

(3) The wearing and disposal of gloves and other

protective garments and devices. 43247

(C) The rules adopted under division (A) of this section 43248
may include standards and procedures to be followed by a 43249
business that offers tattooing or body piercing services to 43250
ensure that the individuals who perform tattooing or body 43251
piercing procedures for the business are adequately trained to 43252
perform the procedures properly. 43253

Sec. 3731.02. (A) The state fire marshal shall make ~~such~~ 43254
~~rules as are necessary to carry out this chapter, which shall~~ 43255
~~include, but are not limited to,~~ rules establishing requirements 43256
to renew a license issued under this chapter and fees for 43257
licensure and renewal and for inspections of hotels. Except as 43258
provided in division (G) of section 3731.12 of the Revised Code, 43259
the state fire marshal and the assistant state fire marshals 43260
shall enforce this chapter. 43261

(B) Except as otherwise provided in this division and 43262
divisions (C) and (D) of this section, the board of building 43263
standards shall adopt, pursuant to section 3781.10 of the 43264
Revised Code, rules that specify that the building code 43265
standards for SRO facilities shall be use group R-2. Any 43266
facility operating prior to October 16, 1996, in the nature of 43267
an SRO facility that met the building code standards for an SRO 43268
facility prior to that date, whether previously licensed as a 43269
hotel or not, and after October 16, 1996, licensed as an SRO 43270
facility under section 3731.03 of the Revised Code, shall be 43271
permitted under the rules to have a building code standard of 43272
either use group R-1 or use group R-2 if the facility meets the 43273
requirements for those use groups as specified in the Ohio 43274
building code adopted pursuant to section 3781.10 of the Revised 43275
Code. The requirements of this division apply to an SRO facility 43276

that holds a license as an SRO facility on September 12, 2008, 43277
unless any of the following events occur on or after September 43278
12, 2008: 43279

(1) The owner of the SRO facility constructs or alters the 43280
facility. 43281

(2) The owner of the SRO facility surrenders the license 43282
issued to that facility. 43283

(3) The owner of the SRO facility changes the use or 43284
occupancy of that facility. 43285

(4) The license issued to that SRO facility under this 43286
chapter is revoked or is not renewed. 43287

(C) If any of the events described in divisions (B) (1) to 43288
(4) of this section occur, the owner of the structure shall 43289
comply with division (D) of this section to obtain a new license 43290
to operate as an SRO facility. 43291

(D) Beginning on September 12, 2008, the state fire 43292
marshal shall not issue a new license to operate a facility as 43293
an SRO facility, and shall not renew such a license issued under 43294
this division, unless the SRO facility is constructed providing 43295
individual sleeping rooms for each guest; has, on a per-room or 43296
a communal basis within each building to be licensed as an SRO 43297
facility, permanent provisions for living, eating, cooking, and 43298
sanitation; and is constructed in accordance with the 43299
requirements specified for SRO facilities and is approved by the 43300
building official having jurisdiction over that facility to be 43301
an SRO facility. An SRO facility subject to this division shall 43302
only operate with, and shall properly maintain, individual 43303
sleeping rooms for each guest and shall only operate with, and 43304
shall properly maintain, on a per-room or communal basis, 43305

permanent provisions available to all guests for living, eating, 43306
cooking, and sanitation. 43307

(E) The state fire marshal may, pursuant to division (A) 43308
of this section, adopt rules establishing a fire code and 43309
sanitary standards compliance incentive program for persons 43310
required to procure a license for a hotel under section 3731.03 43311
of the Revised Code. The rules may include provisions for the 43312
creation of a "Safe Stay Hotel" designation by the state fire 43313
marshal, the standards a licensed hotel must meet to achieve and 43314
maintain that designation, the procedures the state fire marshal 43315
shall use to publish and maintain a registry of hotels receiving 43316
that designation, and any monetary incentives offered by the 43317
state fire marshal to encourage a licensed hotel to achieve and 43318
maintain that designation. At a minimum, no hotel may be 43319
designated as a "Safe Stay Hotel" or maintain such a designation 43320
unless it meets the fire code and sanitary compliance standards 43321
established pursuant to this section for a continuous period of 43322
at least twenty-four months. 43323

Nothing in this division shall be construed to limit the 43324
power of this state, the department of commerce, the state fire 43325
marshal, or any other political subdivision of the state to 43326
administer and enforce any other sections of this chapter or any 43327
other applicable laws, rules, and regulations. Nothing in this 43328
division shall be construed to require the state fire marshal to 43329
designate a hotel as a "Safe Stay Hotel" or require the state 43330
fire marshal to award a monetary incentive to a hotel in any 43331
manner that is inconsistent or in conflict with the rules 43332
adopted under this section or any other applicable laws, rules, 43333
or regulations. 43334

Sec. 3731.03. (A) Every person in the business of 43335

conducting a hotel or an SRO facility shall procure, in 43336
accordance with the requirements specified in this chapter and 43337
the rules adopted pursuant to it, a license for each hotel or 43338
SRO facility conducted or proposed to be conducted. 43339

(B) No hotel or SRO facility shall be maintained, 43340
conducted, or advertised without a license. No person shall 43341
advertise, conduct, maintain, or operate any structure as a 43342
hotel or as an SRO facility without a license, and no person 43343
shall operate such a structure that is not equipped in the 43344
manner and conditions as required under this chapter. No person 43345
shall advertise, conduct, maintain, or operate a licensed hotel 43346
or licensed SRO facility in a manner that is inconsistent with 43347
the requirements of this chapter ~~or any rules adopted pursuant~~ 43348
~~to it.~~ 43349

(C) (1) A structure licensed as an extended stay hotel on 43350
~~the effective date of this amendment~~ September 12, 2008, may 43351
maintain that license by continuing to satisfy the requirements 43352
that were applicable to that extended stay hotel at the time the 43353
license was issued, unless any of the following events occur 43354
regarding that extended stay hotel: 43355

(a) The owner of the extended stay hotel constructs or 43356
alters the hotel. 43357

(b) The owner of the extended stay hotel surrenders the 43358
license issued to that hotel. 43359

(c) The owner of the extended stay hotel changes the use 43360
or occupancy of that hotel. 43361

(d) The license issued to that extended stay hotel under 43362
this chapter is revoked or is not renewed. 43363

(2) If any of the events described in divisions (C) (1) (a) 43364

to (d) of this section occur, the owner of the structure shall 43365
comply with division (C) (3) of this section to obtain a new 43366
license to operate as an extended stay hotel. 43367

(3) Beginning on ~~the effective date of this~~ 43368
~~amendment~~ September 12, 2008, the state fire marshal shall not 43369
issue a new license to operate a facility as an extended stay 43370
hotel, and shall not renew such a license issued under division 43371
(C) (3) of this section, unless the facility satisfies the 43372
requirements to be an extended stay hotel as specified in 43373
division (A) (3) of section 3731.01 of the Revised Code. 43374

(D) All licenses shall expire on the last day of December 43375
of each year and be renewed in accordance with the requirements 43376
for renewal established in rules adopted by the state fire 43377
marshal pursuant to division (A) of section 3731.02 of the 43378
Revised Code. 43379

(E) A person who has received a license, upon the sale or 43380
disposition of the hotel or SRO facility or its removal to a new 43381
location, may, upon obtaining consent of the state fire marshal, 43382
have the license transferred. No license shall be transferred 43383
without both an inspection conducted by and the consent of the 43384
state fire marshal, and the state fire marshal shall not 43385
unreasonably withhold consent. 43386

(F) A license to maintain and operate a hotel or an SRO 43387
facility shall not be issued to the keeper, owner, or lessee of 43388
any hotel or SRO facility where accommodations for assignation 43389
purposes are furnished, or to any keeper, owner, or lessee who 43390
has been convicted of keeping a place in violation of the law 43391
relating to houses of assignation or places of public nuisance. 43392

(G) (1) No person licensed to maintain and operate a hotel 43393

or SRO facility shall also maintain and operate an agricultural 43394
labor camp, apartment house, apartment, lodging house, rooming 43395
house, or hospital or college dormitory in the same structure as 43396
is located the licensed hotel or SRO facility, unless the 43397
agricultural labor camp, apartment house, apartment, lodging 43398
house, rooming house, or hospital or college dormitory has been 43399
constructed as, and been approved by the building official 43400
having jurisdiction as being, a separate building within the 43401
hotel or SRO facility structure in accordance with the 43402
requirements specified in the state nonresidential building code 43403
adopted pursuant to section 3781.10 of the Revised Code or is 43404
separated in a manner that satisfies the requirements for 43405
occupancy separation specified in that code. 43406

(2) All hotel and SRO facility uses shall continue in 43407
accordance with their approval under the license issued by the 43408
state fire marshal unless a change in use or occupancy has been 43409
approved by the building official having jurisdiction over the 43410
hotel or SRO facility and the license has been revised by the 43411
state fire marshal. 43412

(H) If an extended stay hotel license is revoked by the 43413
state fire marshal in accordance with section 3731.06 of the 43414
Revised Code, the owner of that structure shall not operate that 43415
structure in accordance with the use and occupancy 43416
classification for which the structure was approved or in 43417
accordance with the license issued under this chapter by the 43418
state fire marshal and shall not open that structure for use by 43419
the public until and unless the state fire marshal determines, 43420
in accordance with the requirements specified in the state 43421
nonresidential building code adopted pursuant to section 3781.10 43422
of the Revised Code and the state fire code adopted pursuant to 43423
section 3737.82 of the Revised Code, that it is safe for the 43424

structure to be operated. If, after the license is revoked, the 43425
owner wishes to operate that structure as a hotel, the owner 43426
shall comply with division (D) of section 3731.06 of the Revised 43427
Code. 43428

(I) A license to maintain and operate an SRO facility 43429
shall permit the facility to offer rooms for thirty days or less 43430
if less than fifty per cent of its rooms are occupied for a 43431
period of thirty days or less. 43432

Sec. 3734.02. (A) The director of environmental 43433
protection, in accordance with Chapter 119. of the Revised Code, 43434
shall adopt and may amend, suspend, or rescind rules having 43435
uniform application throughout the state governing ~~solid waste~~ 43436
~~facilities and~~ the inspections of and issuance of permits and 43437
licenses for all solid waste facilities in order to ensure that 43438
the facilities will be located, maintained, and operated, and 43439
will undergo closure and post-closure care, in a sanitary manner 43440
so as not to create a nuisance, cause or contribute to water 43441
pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 43442
or 40 C.F.R. 257.3-8, as amended. The rules may include, ~~without~~ 43443
~~limitation,~~ financial assurance requirements for closure and 43444
post-closure care and corrective action and requirements for 43445
taking corrective action in the event of the surface or 43446
subsurface discharge or migration of explosive gases or leachate 43447
from a solid waste facility, or of ground water contamination 43448
resulting from the transfer or disposal of solid wastes at a 43449
facility, beyond the boundaries of any area within a facility 43450
that is operating or is undergoing closure or post-closure care 43451
where solid wastes were disposed of or are being disposed of. 43452
The rules shall not concern or relate to personnel policies, 43453
salaries, wages, fringe benefits, or other conditions of 43454
employment of employees of persons owning or operating solid 43455

waste facilities. The director, in accordance with Chapter 119. 43456
of the Revised Code, shall adopt and may amend, suspend, or 43457
rescind rules governing the issuance, modification, revocation, 43458
suspension, or denial of variances from the director's solid 43459
waste rules, including, ~~without limitation,~~ rules adopted under 43460
this chapter governing the management of scrap tires. 43461

Variances shall be issued, modified, revoked, suspended, 43462
or rescinded in accordance with this division, rules adopted 43463
under it, and Chapter 3745. of the Revised Code. The director 43464
may order the person to whom a variance is issued to take such 43465
action within such time as the director may determine to be 43466
appropriate and reasonable to prevent the creation of a nuisance 43467
or a hazard to the public health or safety or the environment. 43468
Applications for variances shall contain such detail plans, 43469
specifications, and information regarding objectives, 43470
procedures, controls, and other pertinent data as the director 43471
may require. The director shall grant a variance only if the 43472
applicant demonstrates to the director's satisfaction that 43473
construction and operation of the solid waste facility in the 43474
manner allowed by the variance and any terms or conditions 43475
imposed as part of the variance will not create a nuisance or a 43476
hazard to the public health or safety or the environment. In 43477
granting any variance, the director shall state the specific 43478
provision or provisions whose terms are to be varied and also 43479
shall state specific terms or conditions imposed upon the 43480
applicant in place of the provision or provisions. 43481

The director may hold a public hearing on an application 43482
for a variance or renewal of a variance at a location in the 43483
county where the operations that are the subject of the 43484
application for the variance are conducted. The director shall 43485
give not less than twenty days' notice of the hearing to the 43486

applicant by certified mail or by another type of mail 43487
accompanied by a receipt. The director shall publish at least 43488
one notice of the hearing in a newspaper with general 43489
circulation in the county where the hearing is to be held or may 43490
instead provide public notice by publication on the 43491
environmental protection agency's web site. The director shall 43492
make available for public inspection at the principal office of 43493
the environmental protection agency a current list of pending 43494
applications for variances and a current schedule of pending 43495
variance hearings. The director shall make a complete 43496
stenographic record or electronic record of testimony and other 43497
evidence submitted at the hearing. 43498

Within ten days after the hearing, the director shall make 43499
a written determination to issue, renew, or deny the variance 43500
and shall enter the determination and the basis for it into the 43501
record of the hearing. The director shall issue, renew, or deny 43502
an application for a variance or renewal of a variance within 43503
six months of the date upon which the director receives a 43504
complete application with all pertinent information and data 43505
required. No variance shall be issued, revoked, modified, or 43506
denied until the director has considered the relative interests 43507
of the applicant, other persons and property affected by the 43508
variance, and the general public. Any variance granted under 43509
this division shall be for a period specified by the director 43510
and may be renewed from time to time on such terms and for such 43511
periods as the director determines to be appropriate. No 43512
application shall be denied and no variance shall be revoked or 43513
modified without a written order stating the findings upon which 43514
the denial, revocation, or modification is based. A copy of the 43515
order shall be sent to the applicant or variance holder by 43516
certified mail or by another type of mail accompanied by a 43517

receipt. 43518

(B) The director shall prescribe and furnish the forms 43519
necessary to administer and enforce this chapter. The director 43520
may cooperate with and enter into agreements with other state, 43521
local, or federal agencies to carry out the purposes of this 43522
chapter. The director may exercise all incidental powers 43523
necessary to carry out the purposes of this chapter. 43524

(C) Except as provided in this division and divisions (N) 43525
(2) and (3) of this section, no person shall establish a new 43526
solid waste facility or infectious waste treatment facility, or 43527
modify an existing solid waste facility or infectious waste 43528
treatment facility, without submitting an application for a 43529
permit with accompanying detail plans, specifications, and 43530
information regarding the facility and method of operation and 43531
receiving a permit issued by the director, except that no permit 43532
shall be required under this division to install or operate a 43533
solid waste facility for sewage sludge treatment or disposal 43534
when the treatment or disposal is authorized by a current permit 43535
issued under Chapter 3704. or 6111. of the Revised Code. 43536

No person shall continue to operate a solid waste facility 43537
for which the director has disapproved plans and specifications 43538
required to be filed by an order issued under division (A) (3) of 43539
section 3734.05 of the Revised Code, after the date prescribed 43540
for commencement of closure of the facility in the order issued 43541
under division (A) (4) of that section denying the permit 43542
application or approval. 43543

On and after the effective date of the rules adopted under 43544
division (A) of this section and division (D) of section 3734.12 43545
of the Revised Code governing solid waste transfer facilities, 43546
no person shall establish a new, or modify an existing, solid 43547

waste transfer facility without first submitting an application 43548
for a permit with accompanying engineering detail plans, 43549
specifications, and information regarding the facility and its 43550
method of operation to the director and receiving a permit 43551
issued by the director. 43552

No person shall establish a new compost facility or 43553
continue to operate an existing compost facility that accepts 43554
exclusively source separated yard wastes without submitting a 43555
completed registration for the facility to the director in 43556
accordance with rules adopted under divisions (A) and (N) (3) of 43557
this section. 43558

This division does not apply to a generator of infectious 43559
wastes that does any of the following: 43560

(1) Treats, by methods, techniques, and practices 43561
established by rules adopted under division (B) (2) (a) of section 43562
3734.021 of the Revised Code, any of the following: 43563

(a) Infectious wastes that are generated on any premises 43564
that are owned or operated by the generator; 43565

(b) Infectious wastes that are generated by a generator 43566
who has staff privileges at a hospital as defined in section 43567
3727.01 of the Revised Code; 43568

(c) Infectious wastes that are generated in providing care 43569
to a patient by an emergency medical services organization as 43570
defined in section 4765.01 of the Revised Code. 43571

(2) Holds a license or renewal of a license to operate a 43572
crematory facility issued under Chapter 4717. and a permit 43573
issued under Chapter 3704. of the Revised Code; 43574

(3) Treats or disposes of dead animals or parts thereof, 43575

or the blood of animals, and is subject to any of the following: 43576

(a) Inspection under the "Federal Meat Inspection Act," 81 43577
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 43578

(b) Chapter 918. of the Revised Code; 43579

(c) Chapter 953. of the Revised Code. 43580

(D) Neither this chapter nor any rules adopted under it 43581
apply to single-family residential premises; to infectious 43582
wastes generated by individuals for purposes of their own care 43583
or treatment; to the temporary storage of solid wastes, other 43584
than scrap tires, prior to their collection for disposal; to the 43585
storage of one hundred or fewer scrap tires unless they are 43586
stored in such a manner that, in the judgment of the director or 43587
the board of health of the health district in which the scrap 43588
tires are stored, the storage causes a nuisance, a hazard to 43589
public health or safety, or a fire hazard; or to the collection 43590
of solid wastes, other than scrap tires, by a political 43591
subdivision or a person holding a franchise or license from a 43592
political subdivision of the state; to composting, as defined in 43593
section 1511.01 of the Revised Code, conducted in accordance 43594
with section 1511.022 of the Revised Code; or to any person who 43595
is licensed to transport raw rendering material to a compost 43596
facility pursuant to section 953.23 of the Revised Code. 43597

(E) (1) As used in this division: 43598

(a) "On-site facility" means a facility that stores, 43599
treats, or disposes of hazardous waste that is generated on the 43600
premises of the facility. 43601

(b) "Off-site facility" means a facility that stores, 43602
treats, or disposes of hazardous waste that is generated off the 43603
premises of the facility and includes such a facility that is 43604

also an on-site facility. 43605

(c) "Satellite facility" means any of the following: 43606

(i) An on-site facility that also receives hazardous waste 43607
from other premises owned by the same person who generates the 43608
waste on the facility premises; 43609

(ii) An off-site facility operated so that all of the 43610
hazardous waste it receives is generated on one or more premises 43611
owned by the person who owns the facility; 43612

(iii) An on-site facility that also receives hazardous 43613
waste that is transported uninterruptedly and directly to the 43614
facility through a pipeline from a generator who is not the 43615
owner of the facility. 43616

(2) Except as provided in division (E) (3) of this section, 43617
no person shall establish or operate a hazardous waste facility, 43618
or use a solid waste facility for the storage, treatment, or 43619
disposal of any hazardous waste, without a hazardous waste 43620
facility installation and operation permit issued in accordance 43621
with section 3734.05 of the Revised Code and subject to the 43622
payment of an application fee not to exceed one thousand five 43623
hundred dollars, payable upon application for a hazardous waste 43624
facility installation and operation permit and upon application 43625
for a renewal permit issued under division (H) of section 43626
3734.05 of the Revised Code, to be credited to the hazardous 43627
waste facility management fund created in section 3734.18 of the 43628
Revised Code. The term of a hazardous waste facility 43629
installation and operation permit shall not exceed ten years. 43630

In addition to the application fee, there is hereby levied 43631
an annual permit fee to be paid by the permit holder upon the 43632
anniversaries of the date of issuance of the hazardous waste 43633

facility installation and operation permit and of any subsequent 43634
renewal permits and to be credited to the hazardous waste 43635
facility management fund. Annual permit fees totaling forty 43636
thousand dollars or more for any one facility may be paid on a 43637
quarterly basis with the first quarterly payment each year being 43638
due on the anniversary of the date of issuance of the hazardous 43639
waste facility installation and operation permit and of any 43640
subsequent renewal permits. The annual permit fee shall be 43641
determined for each permit holder by the director in accordance 43642
with the following schedule: 43643
43644

	1	2	3
A	TYPE OF BASIC MANAGEMENT UNIT	TYPE OF FACILITY	FEE
B	Storage facility using:		
C	Containers	On-site, off-site, and satellite	\$500
D	Tanks	On-site, off-site, and satellite	500
E	Waste pile	On-site, off-site, and satellite	3,000
F	Surface impoundment	On-site and satellite	8,000
G		Off-site	10,000
H	Disposal facility using:		
I	Deep well injection	On-site and satellite	15,000

J		Off-site	25,000
K	Landfill	On-site and satellite	25,000
L		Off-site	40,000
M	Land application	On-site and satellite	2,500
N		Off-site	5,000
O	Surface impoundment	On-site and satellite	10,000
P		Off-site	20,000
Q	Treatment facility using:		
R	Tanks	On-site, off-site, and satellite	700
S	Surface impoundment	On-site and satellite	8,000
T		Off-site	10,000
U	Incinerator	On-site and satellite	5,000
V		Off-site	10,000
W	Other forms of treatment	On-site, off-site, and satellite	1,000

A hazardous waste disposal facility that disposes of	43645
hazardous waste by deep well injection and that pays the annual	43646
permit fee established in section 6111.046 of the Revised Code	43647
is not subject to the permit fee established in this division	43648

for disposal facilities using deep well injection unless the 43649
director determines that the facility is not in compliance with 43650
applicable requirements established under this chapter and rules 43651
adopted under it. 43652

In determining the annual permit fee required by this 43653
section, the director shall not require additional payments for 43654
multiple units of the same method of storage, treatment, or 43655
disposal or for individual units that are used for both storage 43656
and treatment. A facility using more than one method of storage, 43657
treatment, or disposal shall pay the permit fee indicated by the 43658
schedule for each such method. 43659

The director shall not require the payment of that portion 43660
of an annual permit fee of any permit holder that would apply to 43661
a hazardous waste management unit for which a permit has been 43662
issued, but for which construction has not yet commenced. Once 43663
construction has commenced, the director shall require the 43664
payment of a part of the appropriate fee indicated by the 43665
schedule that bears the same relationship to the total fee that 43666
the number of days remaining until the next anniversary date at 43667
which payment of the annual permit fee is due bears to three 43668
hundred sixty-five. 43669

The director, by rules adopted in accordance with Chapters 43670
119. and 3745. of the Revised Code, shall prescribe procedures 43671
for collecting the annual permit fee established by this 43672
division ~~and may prescribe other requirements necessary to carry~~ 43673
~~out this division.~~ 43674

(3) The prohibition against establishing or operating a 43675
hazardous waste facility without a hazardous waste facility 43676
installation and operation permit does not apply to either of 43677
the following: 43678

(a) A facility that is operating in accordance with a permit renewal issued under division (H) of section 3734.05 of the Revised Code, a revision issued under division (I) of that section as it existed prior to August 20, 1996, or a modification issued by the director under division (I) of that section on and after August 20, 1996;

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E) (3) (b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in division (E) (3) (a) or (b) of this section, division (I) (7) of section 3734.05 of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

(1) A hazardous waste facility operating under a permit issued in accordance with this chapter;

(2) A facility in another state operating under a license 43709
or permit issued in accordance with the "Resource Conservation 43710
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 43711
amended; 43712

(3) A facility in another nation operating in accordance 43713
with the laws of that nation; 43714

(4) A facility holding a permit issued pursuant to Title I 43715
of the "Marine Protection, Research, and Sanctuaries Act of 43716
1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended; 43717

(5) A hazardous waste facility as described in division 43718
(E) (3) (a) or (b) of this section. 43719

(G) The director, by order, may exempt any person 43720
generating, collecting, storing, treating, disposing of, or 43721
transporting solid wastes, infectious wastes, or hazardous 43722
waste, or processing solid wastes that consist of scrap tires, 43723
in such quantities or under such circumstances that, in the 43724
determination of the director, are unlikely to adversely affect 43725
the public health or safety or the environment from any 43726
requirement to obtain a registration certificate, permit, or 43727
license or comply with the manifest system or other requirements 43728
of this chapter. Such an exemption shall be consistent with and 43729
equivalent to any regulations adopted by the administrator of 43730
the United States environmental protection agency under the 43731
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 43732
42 U.S.C.A. 6921, as amended, except as otherwise provided in 43733
this chapter. 43734

(H) No person shall engage in filling, grading, 43735
excavating, building, drilling, or mining on land where a 43736
hazardous waste facility, or a solid waste facility, was 43737

operated without prior authorization from the director, who 43738
shall establish the procedure for granting such authorization by 43739
rules adopted in accordance with Chapter 119. of the Revised 43740
Code. 43741

A public utility that has main or distribution lines above 43742
or below the land surface located on an easement or right-of-way 43743
across land where a solid waste facility was operated may engage 43744
in any such activity within the easement or right-of-way without 43745
prior authorization from the director for purposes of performing 43746
emergency repair or emergency replacement of its lines; of the 43747
poles, towers, foundations, or other structures supporting or 43748
sustaining any such lines; or of the appurtenances to those 43749
structures, necessary to restore or maintain existing public 43750
utility service. A public utility may enter upon any such 43751
easement or right-of-way without prior authorization from the 43752
director for purposes of performing necessary or routine 43753
maintenance of those portions of its existing lines; of the 43754
existing poles, towers, foundations, or other structures 43755
sustaining or supporting its lines; or of the appurtenances to 43756
any such supporting or sustaining structure, located on or above 43757
the land surface on any such easement or right-of-way. Within 43758
twenty-four hours after commencing any such emergency repair, 43759
replacement, or maintenance work, the public utility shall 43760
notify the director or the director's authorized representative 43761
of those activities and shall provide such information regarding 43762
those activities as the director or the director's 43763
representative may request. Upon completion of the emergency 43764
repair, replacement, or maintenance activities, the public 43765
utility shall restore any land of the solid waste facility 43766
disturbed by those activities to the condition existing prior to 43767
the commencement of those activities. 43768

(I) No owner or operator of a hazardous waste facility, in 43769
the operation of the facility, shall cause, permit, or allow the 43770
emission therefrom of any particulate matter, dust, fumes, gas, 43771
mist, smoke, vapor, or odorous substance that, in the opinion of 43772
the director, unreasonably interferes with the comfortable 43773
enjoyment of life or property by persons living or working in 43774
the vicinity of the facility, or that is injurious to public 43775
health. Any such action is hereby declared to be a public 43776
nuisance. 43777

(J) Notwithstanding any other provision of this chapter, 43778
in the event the director finds an imminent and substantial 43779
danger to public health or safety or the environment that 43780
creates an emergency situation requiring the immediate 43781
treatment, storage, or disposal of hazardous waste, the director 43782
may issue a temporary emergency permit to allow the treatment, 43783
storage, or disposal of the hazardous waste at a facility that 43784
is not otherwise authorized by a hazardous waste facility 43785
installation and operation permit to treat, store, or dispose of 43786
the waste. The emergency permit shall not exceed ninety days in 43787
duration and shall not be renewed. The director shall adopt, and 43788
may amend, suspend, or rescind, rules in accordance with Chapter 43789
119. of the Revised Code governing the issuance, modification, 43790
revocation, and denial of emergency permits. 43791

(K) Except for infectious wastes generated by a person who 43792
produces fewer than fifty pounds of infectious wastes at a 43793
premises during any one month, no owner or operator of a 43794
sanitary landfill shall knowingly accept for disposal, or 43795
dispose of, any infectious wastes that have not been treated to 43796
render them noninfectious. 43797

(L) The director, in accordance with Chapter 119. of the 43798

Revised Code, shall adopt, and may amend, suspend, or rescind, 43799
rules having uniform application throughout the state 43800
establishing a training and certification program that shall be 43801
required for employees of boards of health who are responsible 43802
for enforcing the solid waste and infectious waste provisions of 43803
this chapter and rules adopted under them and for persons who 43804
are responsible for the operation of solid waste facilities or 43805
infectious waste treatment facilities. The rules shall provide 43806
all of the following, without limitation: 43807

(1) The program shall be administered by the director and 43808
shall consist of a course on new solid waste and infectious 43809
waste technologies, enforcement procedures, and rules; 43810

(2) The course shall be offered on an annual basis; 43811

(3) Those persons who are required to take the course 43812
under division (L) of this section shall do so triennially; 43813

(4) Persons who successfully complete the course shall be 43814
certified by the director; 43815

(5) Certification shall be required for all employees of 43816
boards of health who are responsible for enforcing the solid 43817
waste or infectious waste provisions of this chapter and rules 43818
adopted under them and for all persons who are responsible for 43819
the operation of solid waste facilities or infectious waste 43820
treatment facilities; 43821

(6) (a) All employees of a board of health who, on the 43822
effective date of the rules adopted under this division, are 43823
responsible for enforcing the solid waste or infectious waste 43824
provisions of this chapter and the rules adopted under them 43825
shall complete the course and be certified by the director not 43826
later than January 1, 1995; 43827

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.

No person shall fail to obtain the certification required under this division.

(M) The director shall not issue a permit under section 3734.05 of the Revised Code to establish a solid waste facility, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter 1546. of the Revised Code, a state park purchase area established under section 1546.06 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the

facility or proposed facility will not degrade any of the 43859
natural or cultural resources of the park or recreation area. 43860
The director shall not issue a variance under division (A) of 43861
this section and rules adopted under it, or issue an exemption 43862
order under division (G) of this section, that would authorize 43863
any such establishment or expansion of a solid waste facility 43864
within the boundaries of any such park or recreation area, state 43865
park purchase area, or candidate area, other than a solid waste 43866
facility exclusively for the disposal of solid wastes generated 43867
within the park or recreation area when the director determines 43868
that the facility will not degrade any of the natural or 43869
cultural resources of the park or recreation area. 43870

(N) (1) The rules adopted under division (A) of this 43871
section, other than those governing variances, do not apply to 43872
scrap tire collection, storage, monocell, monofill, and recovery 43873
facilities. Those facilities are subject to and governed by 43874
rules adopted under sections 3734.70 to 3734.73 of the Revised 43875
Code, as applicable. 43876

(2) Division (C) of this section does not apply to scrap 43877
tire collection, storage, monocell, monofill, and recovery 43878
facilities. The establishment and modification of those 43879
facilities are subject to sections 3734.75 to 3734.78 and 43880
section 3734.81 of the Revised Code, as applicable. 43881

(3) The director may adopt, amend, suspend, or rescind 43882
rules under division (A) of this section creating an alternative 43883
system for authorizing the establishment, operation, or 43884
modification of a solid waste compost facility in lieu of the 43885
requirement that a person seeking to establish, operate, or 43886
modify a solid waste compost facility apply for and receive a 43887
permit under division (C) of this section and section 3734.05 of 43888

the Revised Code and a license under division (A) (1) of that 43889
section. The rules may include requirements governing, without 43890
limitation, the classification of solid waste compost 43891
facilities, the submittal of operating records for solid waste 43892
compost facilities, and the creation of a registration or 43893
notification system in lieu of the issuance of permits and 43894
licenses for solid waste compost facilities. The rules shall 43895
specify the applicability of divisions (A) (1) and (2) (a) of 43896
section 3734.05 of the Revised Code to a solid waste compost 43897
facility. 43898

(O) (1) As used in this division, "secondary aluminum 43899
waste" means waste material or byproducts, when disposed of, 43900
containing aluminum generated from secondary aluminum smelting 43901
operations and consisting of dross, salt cake, baghouse dust 43902
associated with aluminum recycling furnace operations, or dry- 43903
milled wastes. 43904

(2) The owner or operator of a sanitary landfill shall not 43905
dispose of municipal solid waste that has been commingled with 43906
secondary aluminum waste. 43907

(3) The owner or operator of a sanitary landfill may 43908
dispose of secondary aluminum waste, but only in a monocell or 43909
monofill that has been permitted for that purpose in accordance 43910
with this chapter and rules adopted under it. 43911

(P) (1) As used in divisions (P) and (Q) of this section: 43912

(a) "Natural background" means two picocuries per gram or 43913
the actual number of picocuries per gram as measured at an 43914
individual solid waste facility, subject to verification by the 43915
director of health. 43916

(b) "Drilling operation" includes a production operation 43917

as defined in section 1509.01 of the Revised Code. 43918

(2) The owner or operator of a solid waste facility shall 43919
not accept for transfer or disposal technologically enhanced 43920
naturally occurring radioactive material if that material 43921
contains or is contaminated with radium-226, radium-228, or any 43922
combination of radium-226 and radium-228 at concentrations equal 43923
to or greater than five picocuries per gram above natural 43924
background. 43925

(3) The owner or operator of a solid waste facility may 43926
receive and process for purposes other than transfer or disposal 43927
technologically enhanced naturally occurring radioactive 43928
material that contains or is contaminated with radium-226, 43929
radium-228, or any combination of radium-226 and radium-228 at 43930
concentrations equal to or greater than five picocuries per gram 43931
above natural background, provided that the owner or operator 43932
has obtained and maintains all other necessary authorizations, 43933
including any authorization required by rules adopted by the 43934
director of health under section 3748.04 of the Revised Code. 43935

(4) The director of environmental protection may adopt 43936
rules in accordance with Chapter 119. of the Revised Code 43937
governing the receipt, acceptance, processing, handling, 43938
management, and disposal by solid waste facilities of material 43939
that contains or is contaminated with radioactive material, 43940
including, without limitation, technologically enhanced 43941
naturally occurring radioactive material that contains or is 43942
contaminated with radium-226, radium-228, or any combination of 43943
radium-226 and radium-228 at concentrations less than five 43944
picocuries per gram above natural background. Rules adopted by 43945
the director may include at a minimum both of the following: 43946

(a) Requirements in accordance with which the owner or 43947

operator of a solid waste facility must monitor leachate and 43948
ground water for radium-226, radium-228, and other 43949
radionuclides; 43950

(b) Requirements in accordance with which the owner or 43951
operator of a solid waste facility must develop procedures to 43952
ensure that technologically enhanced naturally occurring 43953
radioactive material accepted at the facility neither contains 43954
nor is contaminated with radium-226, radium-228, or any 43955
combination of radium-226 and radium-228 at concentrations equal 43956
to or greater than five picocuries per gram above natural 43957
background. 43958

(Q) Notwithstanding any other provision of this section, 43959
the owner or operator of a solid waste facility shall not 43960
receive, accept, process, handle, manage, or dispose of 43961
technologically enhanced naturally occurring radioactive 43962
material associated with drilling operations without first 43963
obtaining representative analytical results to determine 43964
compliance with divisions (P) (2) and (3) of this section and 43965
rules adopted under it. 43966

Sec. 3734.021. (A) Infectious wastes shall be segregated, 43967
managed, treated, and disposed of in accordance with rules 43968
adopted under this section. 43969

(B) The director of environmental protection, in 43970
accordance with Chapter 119. of the Revised Code, shall adopt 43971
rules ~~necessary or appropriate to protect human health or safety~~ 43972
~~or the environment~~ that do both of the following: 43973

(1) Establish standards for generators of infectious 43974
wastes that include, without limitation, the following 43975
requirements and authorizations that: 43976

- (a) All generators of infectious wastes: 43977
- (i) Either treat all specimen cultures and cultures of 43978
viable infectious agents on the premises where they are 43979
generated to render them noninfectious by methods, techniques, 43980
or practices prescribed by rules adopted under division (B) (2) 43981
(a) of this section before they are transported off that 43982
premises for disposal or ensure that such wastes are treated to 43983
render them noninfectious at an infectious waste treatment 43984
facility off that premises prior to disposal of the wastes; 43985
- (ii) Transport and dispose of infectious wastes, if a 43986
generator produces fewer than fifty pounds of infectious wastes 43987
during any one month that are subject to and packaged and 43988
labeled in accordance with federal requirements, in the same 43989
manner as solid wastes. Such generators who treat specimen 43990
cultures and cultures of viable infectious agents on the 43991
premises where they are generated shall not be considered 43992
treatment facilities as "treatment" and "facility" are defined 43993
in section 3734.01 of the Revised Code. 43994
- (iii) Dispose of infectious wastes subject to and treated 43995
in accordance with rules adopted under division (B) (1) (a) (i) of 43996
this section in the same manner as solid wastes; 43997
- (iv) May take wastes generated in providing care to a 43998
patient by an emergency medical services organization, as 43999
defined in section 4765.01 of the Revised Code, to and leave 44000
them at a hospital, as defined in section 3727.01 of the Revised 44001
Code, for treatment at a treatment facility owned or operated by 44002
the hospital or, in conjunction with infectious wastes generated 44003
by the hospital, at another treatment facility regardless of 44004
whether the wastes were generated in providing care to the 44005
patient at the scene of an emergency or during the 44006

transportation of the patient to a hospital; 44007

(v) May take wastes generated by an individual for 44008
purposes of the individual's own care or treatment to and leave 44009
them at a hospital, as defined in section 3727.01 of the Revised 44010
Code, for treatment at a treatment facility owned or operated by 44011
the hospital or, in conjunction with infectious wastes generated 44012
by the hospital, at another treatment facility. 44013

(b) Each generator of fifty pounds or more of infectious 44014
wastes during any one month: 44015

(i) Register with the environmental protection agency as a 44016
generator of infectious wastes and obtain a registration 44017
certificate. The registration certificate applies to all the 44018
premises owned or operated by the generator in this state where 44019
infectious wastes are generated and shall list the address of 44020
each such premises. If a generator owns or operates facilities 44021
for the treatment of infectious wastes it generates, the 44022
certificate shall list the address and method of treatment used 44023
at each such facility. 44024

A generator registration certificate is valid for three 44025
years from the date of issuance and shall be renewed for a term 44026
of three years upon the generator's submission of an application 44027
for renewal. 44028

The rules may establish a system of staggered renewal 44029
dates with approximately one-third of such certificates subject 44030
to renewal each year. The applicable renewal date shall be 44031
prescribed on each registration certificate. 44032

(ii) Segregate infectious wastes from other wastes at the 44033
point of generation. Nothing in this section and rules adopted 44034
under it prohibits a generator of infectious wastes from 44035

designating and managing any wastes, in addition to those 44036
defined as infectious wastes under section 3734.01 of the 44037
Revised Code, as infectious wastes. After designating any such 44038
other wastes as infectious, the generator shall manage those 44039
wastes in compliance with the requirements of this chapter and 44040
rules adopted under it applicable to the management of 44041
infectious wastes. 44042

(iii) Either treat the infectious wastes that it generates 44043
at a facility owned or operated by the generator by methods, 44044
techniques, or practices prescribed by rules adopted under 44045
division (B) (2) (a) of this section to render them noninfectious, 44046
or designate the wastes for treatment off that premises at an 44047
infectious waste treatment facility holding a license issued 44048
under division (B) of section 3734.05 of the Revised Code, at an 44049
infectious waste treatment facility that is located in another 44050
state that is in compliance with applicable state and federal 44051
laws, or at a treatment facility authorized by rules adopted 44052
under division (B) (2) (d) of this section, prior to disposal of 44053
the wastes. After being treated to render them noninfectious, 44054
the wastes shall be disposed of at a solid waste disposal 44055
facility holding a license issued under division (A) of section 44056
3734.05 of the Revised Code or at a disposal facility in another 44057
state that is in compliance with applicable state and federal 44058
laws. 44059

(iv) Not compact or grind any type of infectious wastes 44060
prior to treatment in accordance with rules adopted under 44061
division (B) (2) (a) of this section; 44062

(v) May discharge untreated liquid or semiliquid 44063
infectious wastes consisting of blood, blood products, body 44064
fluids, and excreta into a disposal system, as defined in 44065

section 6111.01 of the Revised Code, unless the discharge of 44066
those wastes into a disposal system is inconsistent with the 44067
terms and conditions of the permit for the system issued under 44068
Chapter 6111. of the Revised Code; 44069

(vi) May transport or cause to be transported infectious 44070
wastes that have been treated to render them noninfectious in 44071
the same manner as solid wastes are transported. 44072

(2) Establish standards for owners and operators of 44073
infectious waste treatment facilities that include, without 44074
limitation, the following requirements and authorizations that: 44075

(a) Require treatment of all wastes received to be 44076
performed in accordance with methods, techniques, and practices 44077
approved by the director; 44078

(b) Govern the location, design, construction, and 44079
operation of infectious waste treatment facilities. The rules 44080
adopted under division (B) (2) (b) of this section shall require 44081
that a new infectious waste incineration facility be located so 44082
that the incinerator unit and all areas where infectious wastes 44083
are handled on the premises where the facility is proposed to be 44084
located are at least three hundred feet inside the property line 44085
of the tract of land on which the facility is proposed to be 44086
located and are at least one thousand feet from any domicile, 44087
school, prison, or jail that is in existence on the date on 44088
which the application for the permit to establish the 44089
incinerator is submitted under division (B) (2) (b) of section 44090
3734.05 of the Revised Code. 44091

(c) Establish quality control and testing procedures to 44092
ensure compliance with the rules adopted under division (B) (2) 44093
(b) of this section; 44094

(d) Authorize infectious wastes to be treated at a 44095
facility that holds a license or renewal of a license to operate 44096
a crematory facility issued under Chapter 4717., and a permit 44097
issued under Chapter 3704., of the Revised Code to the extent 44098
that the treatment of those wastes is consistent with that 44099
permit and its terms and conditions. The rules adopted under 44100
divisions (B) (2) (b) and (c) of this section do not apply to a 44101
facility holding such a license and permit. 44102

In adopting the rules required by divisions (B) (2) (a) to 44103
(d) of this section, the director shall consider and, to the 44104
maximum feasible extent, utilize existing standards and 44105
guidelines established by professional and governmental 44106
organizations having expertise in the fields of infection 44107
control and infectious wastes management. 44108

(e) Require shipping papers to accompany shipments of 44109
wastes that have been treated to render them noninfectious. The 44110
shipping papers shall include only the following elements: 44111

(i) The name of the owner or operator of the facility 44112
where the wastes were treated and the address of the treatment 44113
facility; 44114

(ii) A certification by the owner or operator of the 44115
treatment facility where the wastes were treated indicating that 44116
the wastes have been treated by the methods, techniques, and 44117
practices prescribed in rules adopted under division (B) (2) (a) 44118
of this section. 44119

(C) This section and rules adopted under it do not apply 44120
to the treatment or disposal of wastes consisting of dead 44121
animals or parts thereof, or the blood of animals: 44122

(1) By the owner of the animal after slaughter by the 44123

owner on the owner's premises to obtain meat for consumption by 44124
the owner and the members of the owner's household; 44125

(2) In accordance with Chapter 941. of the Revised Code; 44126
or 44127

(3) By persons who are subject to any of the following: 44128

(a) Inspection under the "Federal Meat Inspection Act," 81 44129
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 44130

(b) Chapter 918. of the Revised Code; 44131

(c) Chapter 953. of the Revised Code. 44132

(D) As used in this section, "generator" means a person 44133
who produces infectious wastes at a specific premises. 44134

(E) Rules adopted under this section shall not concern or 44135
relate to personnel policies, salaries, wages, fringe benefits, 44136
or other conditions of employment of employees of persons owning 44137
or operating infectious waste treatment facilities. 44138

(F) (1) The director, in accordance with Chapter 119. of 44139
the Revised Code, shall adopt rules governing the issuance, 44140
modification, revocation, suspension, and denial of variances 44141
from the rules adopted under division (B) of this section. 44142
Variances shall be issued, modified, revoked, suspended, or 44143
denied in accordance with division (F) of this section, rules 44144
adopted under it, and Chapter 3745. of the Revised Code. 44145

(2) A person who desires to obtain a variance or renew a 44146
variance from the rules adopted under division (B) of this 44147
section shall submit to the director an application as 44148
prescribed by the director. The application shall contain detail 44149
plans, specifications, and information regarding objectives, 44150
procedures, controls, and any other information that the 44151

director may require. The director shall issue, renew, or deny a 44152
variance or renewal of a variance within six months of the date 44153
on which the director receives a complete application with all 44154
required information and data. 44155

(3) The director may hold a public hearing on an 44156
application submitted under division (F) of this section for a 44157
variance at a location in the county in which the operations 44158
that are the subject of the application for a variance or 44159
renewal of variance are conducted. Not less than twenty days 44160
before the hearing, the director shall provide to the applicant 44161
notice of the hearing by certified mail or by another type of 44162
mail that is accompanied by a receipt and shall publish notice 44163
of the hearing at least one time in a newspaper of general 44164
circulation in the county in which the hearing is to be held or 44165
may instead provide public notice by publication on the 44166
environmental protection agency's web site. The director shall 44167
make a complete stenographic record or electronic record of 44168
testimony and other evidence submitted at the hearing. Not later 44169
than ten days after the hearing, the director shall make a 44170
written determination to issue, renew, or deny the variance and 44171
shall enter the determination and the basis for it into the 44172
record of the hearing. 44173

(4) A variance shall not be issued, modified, revoked, or 44174
denied under division (F) of this section until the director has 44175
considered the relative interests of the applicant, other 44176
persons and property that will be affected by the variance, and 44177
the general public. The director shall grant a variance only if 44178
the applicant demonstrates to the director's satisfaction that 44179
the requested action will not create a nuisance or a hazard to 44180
the health or safety of the public or to the environment. In 44181
granting a variance, the director shall state the specific 44182

provision or provisions whose terms are to be varied and also 44183
shall state specific terms or conditions imposed on the 44184
applicant in place of the provision or provisions. 44185

(5) A variance granted under division (F) of this section 44186
shall be for a period specified by the director and may be 44187
renewed from time to time on terms and for periods that the 44188
director determines to be appropriate. The director may order 44189
the person to whom a variance has been issued to take action 44190
within the time that the director determines to be appropriate 44191
and reasonable to prevent the creation of a nuisance or a hazard 44192
to the health or safety of the public or to the environment. 44193

(6) An application submitted under division (F) of this 44194
section shall not be denied and a variance shall not be revoked 44195
or modified under that division without a written order of the 44196
director stating the findings on which the denial, revocation, 44197
or modification is based. A copy of the order shall be sent to 44198
the applicant or holder of a variance by certified mail or by 44199
another type of mail that is accompanied by a receipt. 44200

(7) The director shall make available for public 44201
inspection at the principal office of the environmental 44202
protection agency a current list of pending applications for 44203
variances submitted under division (F) of this section and a 44204
current schedule of pending variance hearings under it. 44205

Sec. 3734.026. The director of environmental protection 44206
shall adopt rules in accordance with Chapter 119. of the Revised 44207
Code establishing procedures for remitting fees levied under 44208
section 3734.024 of the Revised Code to the treasurers or other 44209
appropriate fiscal officers of municipal corporations and to the 44210
fiscal officers of townships. The rules also shall establish the 44211
dates for remitting the fees to those officers ~~and may establish~~ 44212

~~any other requirements that the director considers necessary or~~ 44213
~~appropriate to implement or administer sections 3734.024 and~~ 44214
~~3734.025 of the Revised Code.~~ 44215

Sec. 3734.05. (A) (1) Except as provided in divisions (A) 44216
(6) and (7) of this section, no person shall operate or maintain 44217
a solid waste facility without a license issued under this 44218
division by the board of health of the health district in which 44219
the facility is located or by the director of environmental 44220
protection when the health district in which the facility is 44221
located is not on the approved list under section 3734.08 of the 44222
Revised Code. 44223

During the month of December, but before the first day of 44224
January of the next year, every person proposing to continue to 44225
operate an existing solid waste facility shall procure a license 44226
under this division to operate the facility for that year from 44227
the board of health of the health district in which the facility 44228
is located or, if the health district is not on the approved 44229
list under section 3734.08 of the Revised Code, from the 44230
director. The application for such a license shall be submitted 44231
to the board of health or to the director, as appropriate, on or 44232
before the last day of September of the year preceding that for 44233
which the license is sought. In addition to the application fee 44234
prescribed in division (A) (2) of this section, a person who 44235
submits an application after that date shall pay an additional 44236
ten per cent of the amount of the application fee for each week 44237
that the application is late. Late payment fees accompanying an 44238
application submitted to the board of health shall be credited 44239
to the special fund of the health district created in division 44240
(B) of section 3734.06 of the Revised Code, and late payment 44241
fees accompanying an application submitted to the director shall 44242
be credited to the general revenue fund. A person who has 44243

received a license, upon sale or disposition of a solid waste 44244
facility, and upon consent of the board of health and the 44245
director, may have the license transferred to another person. 44246
The board of health or the director may include such terms and 44247
conditions in a license or revision to a license as are 44248
appropriate to ensure compliance with this chapter and rules 44249
adopted under it. The terms and conditions may establish the 44250
authorized maximum daily waste receipts for the facility. 44251
Limitations on maximum daily waste receipts shall be specified 44252
in cubic yards of volume for the purpose of regulating the 44253
design, construction, and operation of solid waste facilities. 44254
Terms and conditions included in a license or revision to a 44255
license by a board of health shall be consistent with, and 44256
pertain only to the subjects addressed in, the rules adopted 44257
under division (A) of section 3734.02 and division (D) of 44258
section 3734.12 of the Revised Code. 44259

(2) (a) Except as provided in divisions (A) (2) (b), (6), and 44260
(7) of this section, each person proposing to open a new solid 44261
waste facility or to modify an existing solid waste facility 44262
shall submit an application for a permit with accompanying 44263
detail plans and specifications to the environmental protection 44264
agency for required approval under the rules adopted by the 44265
director pursuant to division (A) of section 3734.02 of the 44266
Revised Code and applicable rules adopted under division (D) of 44267
section 3734.12 of the Revised Code at least two hundred seventy 44268
days before proposed operation of the facility and shall 44269
concurrently make application for the issuance of a license 44270
under division (A) (1) of this section with the board of health 44271
of the health district in which the proposed facility is to be 44272
located. 44273

(b) On and after the effective date of the rules adopted 44274

under division (A) of section 3734.02 of the Revised Code and 44275
division (D) of section 3734.12 of the Revised Code governing 44276
solid waste transfer facilities, each person proposing to open a 44277
new solid waste transfer facility or to modify an existing solid 44278
waste transfer facility shall submit an application for a permit 44279
with accompanying engineering detail plans, specifications, and 44280
information regarding the facility and its method of operation 44281
to the environmental protection agency for required approval 44282
under those rules at least two hundred seventy days before 44283
commencing proposed operation of the facility and concurrently 44284
shall make application for the issuance of a license under 44285
division (A)(1) of this section with the board of health of the 44286
health district in which the facility is located or proposed. 44287

(c) Each application for a permit under division (A)(2)(a) 44288
or (b) of this section shall be accompanied by a nonrefundable 44289
application fee of four hundred dollars that shall be credited 44290
to the general revenue fund. Each application for an annual 44291
license under division (A)(1) or (2) of this section shall be 44292
accompanied by a nonrefundable application fee of one hundred 44293
dollars. If the application for an annual license is submitted 44294
to a board of health on the approved list under section 3734.08 44295
of the Revised Code, the application fee shall be credited to 44296
the special fund of the health district created in division (B) 44297
of section 3734.06 of the Revised Code. If the application for 44298
an annual license is submitted to the director, the application 44299
fee shall be credited to the general revenue fund. If a permit 44300
or license is issued, the amount of the application fee paid 44301
shall be deducted from the amount of the permit fee due under 44302
division (P) of section 3745.11 of the Revised Code or the 44303
amount of the license fee due under division (A)(1), (2), (3), 44304
(4), or (5) of section 3734.06 of the Revised Code. 44305

(d) As used in divisions (A) (2) (d), (e), and (f) of this section, "modify" means any of the following:

(i) Any increase of more than ten per cent in the total capacity of a solid waste facility;

(ii) Any expansion of the limits of solid waste placement at a solid waste facility;

(iii) Any increase in the depth of excavation at a solid waste facility;

(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than forty-five days after submitting an application under division (A) (2) (a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county.

Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified

facility. 44335

Not later than five days after publishing the notice, the 44336
applicant shall send by certified mail a copy of the notice and 44337
the date the notice was published to the director and the 44338
legislative authority of each municipal corporation, township, 44339
and county, and to the chief executive officer of each municipal 44340
corporation, in which the facility is or is proposed to be 44341
located. 44342

At the public meeting, the applicant shall provide 44343
information and describe the application and respond to comments 44344
or questions concerning the application, and the officer or 44345
employee of the agency shall describe the permit application 44346
process. At the public meeting, any person may submit written or 44347
oral comments on or objections to the application. 44348

Not more than thirty days after the public meeting, the 44349
applicant shall provide the director with a copy of a transcript 44350
of the full meeting, copies of any exhibits, displays, or other 44351
materials presented by the applicant at the meeting, and the 44352
original copy of any written comments submitted at the meeting. 44353

(e) Except as provided in division (A) (2) (f) of this 44354
section, prior to taking an action, other than a proposed or 44355
final denial, upon an application submitted under division (A) 44356
(2) (a) of this section for a permit to open a new or modify an 44357
existing solid waste facility, the director shall hold a public 44358
information session and a public hearing on the application 44359
within the county in which the new or modified solid waste 44360
facility is or is proposed to be located or within a contiguous 44361
county. If the application is for a permit to open a new solid 44362
waste facility, the director shall hold the hearing not less 44363
than fourteen days after the information session. If the 44364

application is for a permit to modify an existing solid waste 44365
facility, the director may hold both the information session and 44366
the hearing on the same day unless any individual affected by 44367
the application requests in writing that the information session 44368
and the hearing not be held on the same day, in which case the 44369
director shall hold the hearing not less than fourteen days 44370
after the information session. The director shall publish notice 44371
of the public information session or public hearing not less 44372
than thirty days before holding the information session or 44373
hearing, as applicable. The notice shall be published in each 44374
newspaper of general circulation that is published in the county 44375
in which the facility is or is proposed to be located or by 44376
publication on the environmental protection agency's official 44377
web site. The notice shall contain the date, time, and location 44378
of the information session or hearing, as applicable, and a 44379
general description of the proposed new or modified facility. At 44380
the public information session, an officer or employee of the 44381
environmental protection agency shall describe the status of the 44382
permit application and be available to respond to comments or 44383
questions concerning the application. At the public hearing, any 44384
person may submit written or oral comments on or objections to 44385
the approval of the application. The applicant, or a 44386
representative of the applicant who has knowledge of the 44387
location, construction, and operation of the facility, shall 44388
attend the information session and public hearing to respond to 44389
comments or questions concerning the facility directed to the 44390
applicant or representative by the officer or employee of the 44391
environmental protection agency presiding at the information 44392
session and hearing. 44393

(f) The solid waste management policy committee of a 44394
county or joint solid waste management district may adopt a 44395

resolution requesting expeditious consideration of a specific 44396
application submitted under division (A) (2) (a) of this section 44397
for a permit to modify an existing solid waste facility within 44398
the district. The resolution shall make the finding that 44399
expedited consideration of the application without the public 44400
information session and public hearing under division (A) (2) (e) 44401
of this section is in the public interest and will not endanger 44402
human health, as determined by the director by rules adopted in 44403
accordance with Chapter 119. of the Revised Code. Upon receiving 44404
such a resolution, the director, at the director's discretion, 44405
may issue a final action upon the application without holding a 44406
public information session or public hearing pursuant to 44407
division (A) (2) (e) of this section. 44408

(3) The director may issue an order in accordance with 44409
Chapter 3745. of the Revised Code to the owner or operator of a 44410
solid waste facility requiring the person to submit to the 44411
director updated engineering detail plans, specifications, and 44412
information regarding the facility and its method of operation 44413
for approval under rules adopted under division (A) of section 44414
3734.02 of the Revised Code and applicable rules adopted under 44415
division (D) of section 3734.12 of the Revised Code if, in the 44416
director's judgment, conditions at the facility constitute a 44417
substantial threat to public health or safety or are causing or 44418
contributing to or threatening to cause or contribute to air or 44419
water pollution or soil contamination. Any person who receives 44420
such an order shall submit the updated engineering detail plans, 44421
specifications, and information to the director within one 44422
hundred eighty days after the effective date of the order. 44423

(4) The director shall act upon any updated engineering 44424
plans, specifications, and information submitted under division 44425
(A) (3) of this section within one hundred eighty days after 44426

receiving them. If the director issues an order disapproving the 44427
plans, specifications, and information submitted under division 44428
(A) (3) of this section, the order shall include all of the 44429
following requirements: 44430

(a) That the owner or operator submit a plan for closure 44431
and post-closure care of the facility to the director for 44432
approval within six months after issuance of the order; 44433

(b) That the owner or operator cease accepting solid 44434
wastes for disposal or transfer at the facility; and 44435

(c) The owner or operator commence closure of the facility 44436
not later than one year after issuance of the order. 44437

If the director determines that closure of the facility 44438
within that one-year period would result in the unavailability 44439
of sufficient solid waste management facility capacity within 44440
the county or joint solid waste management district in which the 44441
facility is located to dispose of or transfer the solid waste 44442
generated within the district, the director in the order of 44443
disapproval may postpone commencement of closure of the facility 44444
for such period of time as the director finds necessary for the 44445
board of county commissioners or directors of the district to 44446
secure access to or for there to be constructed within the 44447
district sufficient solid waste management facility capacity to 44448
meet the needs of the district, provided that the director shall 44449
certify in the director's order that postponing the date for 44450
commencement of closure will not endanger ground water or any 44451
property surrounding the facility, allow methane gas migration 44452
to occur, or cause or contribute to any other type of 44453
environmental damage. 44454

If an emergency need for disposal capacity that may affect 44455

public health and safety exists as a result of closure of a 44456
facility under division (A) (4) of this section, the director may 44457
issue an order designating another solid waste facility to 44458
accept the wastes that would have been disposed of at the 44459
facility to be closed. 44460

(5) If the director determines that standards more 44461
stringent than those applicable in rules adopted under division 44462
(A) of section 3734.02 of the Revised Code and division (D) of 44463
section 3734.12 of the Revised Code, or standards pertaining to 44464
subjects not specifically addressed by those rules, are 44465
necessary to ensure that a solid waste facility constructed at 44466
the proposed location will not cause a nuisance, cause or 44467
contribute to water pollution, or endanger public health or 44468
safety, the director may issue a permit for the facility with 44469
such terms and conditions as the director finds necessary to 44470
protect public health and safety and the environment. If a 44471
permit is issued, the director shall state in the order issuing 44472
it the specific findings supporting each such term or condition. 44473

(6) Divisions (A) (1) and (2) (a) of this section do not 44474
apply to a solid waste compost facility that accepts exclusively 44475
source separated yard wastes and that is registered under 44476
division (C) of section 3734.02 of the Revised Code or, unless 44477
otherwise provided in rules adopted under division (N) (3) of 44478
section 3734.02 of the Revised Code, to a solid waste compost 44479
facility if the director has adopted rules establishing an 44480
alternative system for authorizing the establishment, operation, 44481
or modification of a solid waste compost facility under that 44482
division. 44483

(7) Divisions (A) (1) to (5) of this section do not apply 44484
to scrap tire collection, storage, monocell, monofill, and 44485

recovery facilities. The approval of plans and specifications, 44486
as applicable, and the issuance of registration certificates, 44487
permits, and licenses for those facilities are subject to 44488
sections 3734.75 to 3734.78 of the Revised Code, as applicable, 44489
and section 3734.81 of the Revised Code. 44490

(B) (1) No person shall operate or maintain an infectious 44491
waste treatment facility without a license issued by the board 44492
of health of the health district in which the facility is 44493
located or by the director when the health district in which the 44494
facility is located is not on the approved list under section 44495
3734.08 of the Revised Code. 44496

(2) (a) During the month of December, but before the first 44497
day of January of the next year, every person proposing to 44498
continue to operate an existing infectious waste treatment 44499
facility shall procure a license to operate the facility for 44500
that year from the board of health of the health district in 44501
which the facility is located or, if the health district is not 44502
on the approved list under section 3734.08 of the Revised Code, 44503
from the director. The application for such a license shall be 44504
submitted to the board of health or to the director, as 44505
appropriate, on or before the last day of September of the year 44506
preceding that for which the license is sought. In addition to 44507
the application fee prescribed in division (B) (2) (c) of this 44508
section, a person who submits an application after that date 44509
shall pay an additional ten per cent of the amount of the 44510
application fee for each week that the application is late. Late 44511
payment fees accompanying an application submitted to the board 44512
of health shall be credited to the special infectious waste fund 44513
of the health district created in division (C) of section 44514
3734.06 of the Revised Code, and late payment fees accompanying 44515
an application submitted to the director shall be credited to 44516

the general revenue fund. A person who has received a license, 44517
upon sale or disposition of an infectious waste treatment 44518
facility and upon consent of the board of health and the 44519
director, may have the license transferred to another person. 44520
The board of health or the director may include such terms and 44521
conditions in a license or revision to a license as are 44522
appropriate to ensure compliance with the infectious waste 44523
provisions of this chapter and rules adopted under them. 44524

(b) Each person proposing to open a new infectious waste 44525
treatment facility or to modify an existing infectious waste 44526
treatment facility shall submit an application for a permit with 44527
accompanying detail plans and specifications to the 44528
environmental protection agency for required approval under the 44529
rules adopted by the director pursuant to section 3734.021 of 44530
the Revised Code two hundred seventy days before proposed 44531
operation of the facility and concurrently shall make 44532
application for a license with the board of health of the health 44533
district in which the facility is or is proposed to be located. 44534
Not later than ninety days after receiving a complete 44535
application under division (B) (2) (b) of this section for a 44536
permit to open a new infectious waste treatment facility or 44537
modify an existing infectious waste treatment facility to expand 44538
its treatment capacity, or receiving a complete application 44539
under division (A) (2) (a) of this section for a permit to open a 44540
new solid waste incineration facility, or modify an existing 44541
solid waste incineration facility to also treat infectious 44542
wastes or to increase its infectious waste treatment capacity, 44543
that pertains to a facility for which a notation authorizing 44544
infectious waste treatment is included or proposed to be 44545
included in the solid waste incineration facility's license 44546
pursuant to division (B) (3) of this section, the director shall 44547

hold a public hearing on the application within the county in 44548
which the new or modified infectious waste or solid waste 44549
facility is or is proposed to be located or within a contiguous 44550
county. Not less than thirty days before holding the public 44551
hearing on the application, the director shall publish notice of 44552
the hearing in each newspaper that has general circulation and 44553
that is published in the county in which the facility is or is 44554
proposed to be located or by publication on the environmental 44555
protection agency's official web site. The notice shall contain 44556
the date, time, and location of the public hearing and a general 44557
description of the proposed new or modified facility. At the 44558
public hearing, any person may submit written or oral comments 44559
on or objections to the approval or disapproval of the 44560
application. The applicant, or a representative of the applicant 44561
who has knowledge of the location, construction, and operation 44562
of the facility, shall attend the public hearing to respond to 44563
comments or questions concerning the facility directed to the 44564
applicant or representative by the officer or employee of the 44565
environmental protection agency presiding at the hearing. 44566

(c) Each application for a permit under division (B) (2) (b) 44567
of this section shall be accompanied by a nonrefundable 44568
application fee of four hundred dollars that shall be credited 44569
to the general revenue fund. Each application for an annual 44570
license under division (B) (2) (a) of this section shall be 44571
accompanied by a nonrefundable application fee of one hundred 44572
dollars. If the application for an annual license is submitted 44573
to a board of health on the approved list under section 3734.08 44574
of the Revised Code, the application fee shall be credited to 44575
the special infectious waste fund of the health district created 44576
in division (C) of section 3734.06 of the Revised Code. If the 44577
application for an annual license is submitted to the director, 44578

the application fee shall be credited to the general revenue 44579
fund. If a permit or license is issued, the amount of the 44580
application fee paid shall be deducted from the amount of the 44581
permit fee due under division (P) of section 3745.11 of the 44582
Revised Code or the amount of the license fee due under division 44583
(C) of section 3734.06 of the Revised Code. 44584

(d) The director may issue an order in accordance with 44585
Chapter 3745. of the Revised Code to the owner or operator of an 44586
infectious waste treatment facility requiring the person to 44587
submit to the director updated engineering detail plans, 44588
specifications, and information regarding the facility and its 44589
method of operation for approval under rules adopted under 44590
section 3734.021 of the Revised Code if, in the director's 44591
judgment, conditions at the facility constitute a substantial 44592
threat to public health or safety or are causing or contributing 44593
to or threatening to cause or contribute to air or water 44594
pollution or soil contamination. Any person who receives such an 44595
order shall submit the updated engineering detail plans, 44596
specifications, and information to the director within one 44597
hundred eighty days after the effective date of the order. 44598

(e) The director shall act on any updated engineering 44599
plans, specifications, and information submitted under division 44600
(B) (2) (d) of this section within one hundred eighty days after 44601
receiving them. If the director disapproves any such updated 44602
engineering plans, specifications, and information, the director 44603
shall include in the order disapproving the plans the 44604
requirement that the owner or operator cease accepting 44605
infectious wastes for treatment at the facility. 44606

(3) Division (B) of this section does not apply to a 44607
generator of infectious wastes that meets any of the following 44608

conditions: 44609

(a) Treats, by methods, techniques, and practices 44610
established by rules adopted under division (B) (2) (a) of section 44611
3734.021 of the Revised Code, any of the following wastes: 44612

(i) Infectious wastes that are generated on any premises 44613
that are owned or operated by the generator; 44614

(ii) Infectious wastes that are generated by a generator 44615
who has staff privileges at a hospital as defined in section 44616
3727.01 of the Revised Code; 44617

(iii) Infectious wastes that are generated in providing 44618
care to a patient by an emergency medical services organization 44619
as defined in section 4765.01 of the Revised Code. 44620

(b) Holds a license or renewal of a license to operate a 44621
crematory facility issued under Chapter 4717. and a permit 44622
issued under Chapter 3704. of the Revised Code; 44623

(c) Treats or disposes of dead animals or parts thereof, 44624
or the blood of animals, and is subject to any of the following: 44625

(i) Inspection under the "Federal Meat Inspection Act," 81 44626
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 44627

(ii) Chapter 918. of the Revised Code; 44628

(iii) Chapter 953. of the Revised Code. 44629

Nothing in division (B) of this section requires a 44630
facility that holds a license issued under division (A) of this 44631
section as a solid waste facility and that also treats 44632
infectious wastes by the same method, technique, or process to 44633
obtain a license under division (B) of this section as an 44634
infectious waste treatment facility. However, the solid waste 44635

facility license for the facility shall include the notation 44636
that the facility also treats infectious wastes. 44637

The director shall not issue a permit to open a new solid 44638
waste incineration facility unless the proposed facility 44639
complies with the requirements for the location of new 44640
infectious waste incineration facilities established in rules 44641
adopted under division (B) (2) (b) of section 3734.021 of the 44642
Revised Code. 44643

(C) Except for a facility or activity described in 44644
division (E) (3) of section 3734.02 of the Revised Code, a person 44645
who proposes to establish or operate a hazardous waste facility 44646
shall submit a complete application for a hazardous waste 44647
facility installation and operation permit and accompanying 44648
detail plans, specifications, and such information as the 44649
director may require to the environmental protection agency at 44650
least one hundred eighty days before the proposed beginning of 44651
operation of the facility. The applicant shall notify by 44652
certified mail the legislative authority of each municipal 44653
corporation, township, and county in which the facility is 44654
proposed to be located of the submission of the application 44655
within ten days after the submission or at such earlier time as 44656
the director may establish by rule. If the application is for a 44657
proposed new hazardous waste disposal or thermal treatment 44658
facility, the applicant also shall give actual notice of the 44659
general design and purpose of the facility to the legislative 44660
authority of each municipal corporation, township, and county in 44661
which the facility is proposed to be located at least ninety 44662
days before the permit application is submitted to the 44663
environmental protection agency. 44664

In accordance with rules adopted under section 3734.12 of 44665

the Revised Code, prior to the submission of a complete 44666
application for a hazardous waste facility installation and 44667
operation permit, the applicant shall hold at least one meeting 44668
in the township or municipal corporation in which the facility 44669
is proposed to be located, whichever is geographically closer to 44670
the proposed location of the facility. The meeting shall be open 44671
to the public and shall be held to inform the community of the 44672
proposed hazardous waste management activities and to solicit 44673
questions from the community concerning the activities. 44674

(D) (1) Except as provided in section 3734.123 of the 44675
Revised Code, upon receipt of a complete application for a 44676
hazardous waste facility installation and operation permit under 44677
division (C) of this section, the director shall consider the 44678
application and accompanying information to determine whether 44679
the application complies with agency rules and the requirements 44680
of division (D) (2) of this section. After making a 44681
determination, the director shall issue either a draft permit or 44682
a notice of intent to deny the permit. The director, in 44683
accordance with rules adopted under section 3734.12 of the 44684
Revised Code or with rules adopted to implement Chapter 3745. of 44685
the Revised Code, shall provide public notice of the application 44686
and the draft permit or the notice of intent to deny the permit, 44687
provide an opportunity for public comments, and, if significant 44688
interest is shown, schedule a public meeting in the county in 44689
which the facility is proposed to be located and give public 44690
notice of the date, time, and location of the public meeting in 44691
a newspaper of general circulation in that county. 44692

(2) The director shall not approve an application for a 44693
hazardous waste facility installation and operation permit or an 44694
application for a modification under division (I) (3) of this 44695
section unless the director finds and determines as follows: 44696

(a) The nature and volume of the waste to be treated, 44697
stored, or disposed of at the facility; 44698

(b) That the facility complies with the director's 44699
hazardous waste standards adopted pursuant to section 3734.12 of 44700
the Revised Code; 44701

(c) That the facility represents the minimum adverse 44702
environmental impact, considering the state of available 44703
technology and the nature and economics of various alternatives, 44704
and other pertinent considerations; 44705

(d) That the facility represents the minimum risk of all 44706
of the following: 44707

(i) Fires or explosions from treatment, storage, or 44708
disposal methods; 44709

(ii) Release of hazardous waste during transportation of 44710
hazardous waste to or from the facility; 44711

(iii) Adverse impact on the public health and safety. 44712

(e) That the facility will comply with this chapter and 44713
Chapters 3704. and 6111. of the Revised Code and all rules and 44714
standards adopted under them; 44715

(f) That if the owner of the facility, the operator of the 44716
facility, or any other person in a position with the facility 44717
from which the person may influence the installation and 44718
operation of the facility has been involved in any prior 44719
activity involving transportation, treatment, storage, or 44720
disposal of hazardous waste, that person has a history of 44721
compliance with this chapter and Chapters 3704. and 6111. of the 44722
Revised Code and all rules and standards adopted under them, the 44723
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 44724

42 U.S.C.A. 6921, as amended, and all regulations adopted under 44725
it, and similar laws and rules of other states if any such prior 44726
operation was located in another state that demonstrates 44727
sufficient reliability, expertise, and competency to operate a 44728
hazardous waste facility under the applicable provisions of this 44729
chapter and Chapters 3704. and 6111. of the Revised Code, the 44730
applicable rules and standards adopted under them, and terms and 44731
conditions of a hazardous waste facility installation and 44732
operation permit, given the potential for harm to the public 44733
health and safety and the environment that could result from the 44734
irresponsible operation of the facility. For off-site 44735
facilities, as defined in section 3734.41 of the Revised Code, 44736
the director may use the investigative reports of the attorney 44737
general prepared pursuant to section 3734.42 of the Revised Code 44738
as a basis for making a finding and determination under division 44739
(D) (2) (f) of this section. 44740

(g) That the active areas within a new hazardous waste 44741
facility where acute hazardous waste as listed in 40 C.F.R. 44742
261.33 (e), as amended, or organic waste that is toxic and is 44743
listed under 40 C.F.R. 261, as amended, is being stored, 44744
treated, or disposed of and where the aggregate of the storage 44745
design capacity and the disposal design capacity of all 44746
hazardous waste in those areas is greater than two hundred fifty 44747
thousand gallons, are not located or operated within any of the 44748
following: 44749

(i) Two thousand feet of any residence, school, hospital, 44750
jail, or prison; 44751

(ii) Any naturally occurring wetland; 44752

(iii) Any flood hazard area if the applicant cannot show 44753
that the facility will be designed, constructed, operated, and 44754

maintained to prevent washout by a one-hundred-year flood. 44755

Division (D) (2) (g) of this section does not apply to the 44756
facility of any applicant who demonstrates to the director that 44757
the limitations specified in that division are not necessary 44758
because of the nature or volume of the waste and the manner of 44759
management applied, the facility will impose no substantial 44760
danger to the health and safety of persons occupying the 44761
structures listed in division (D) (2) (g) (i) of this section, and 44762
the facility is to be located or operated in an area where the 44763
proposed hazardous waste activities will not be incompatible 44764
with existing land uses in the area. 44765

(h) That the facility will not be located within the 44766
boundaries of a state park established or dedicated under 44767
Chapter 1546. of the Revised Code, a state park purchase area 44768
established under section 1546.06 of the Revised Code, any unit 44769
of the national park system, or any property that lies within 44770
the boundaries of a national park or recreation area, but that 44771
has not been acquired or is not administered by the secretary of 44772
the United States department of the interior, located in this 44773
state, or any candidate area located in this state identified 44774
for potential inclusion in the national park system in the 44775
edition of the "national park system plan" submitted under 44776
paragraph (b) of section 8 of "The Act of August 18, 1970," 84 44777
Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of 44778
filing of the application for the permit, unless the facility 44779
will be used exclusively for the storage of hazardous waste 44780
generated within the park or recreation area in conjunction with 44781
the operation of the park or recreation area. Division (D) (2) (h) 44782
of this section does not apply to the facility of any applicant 44783
for modification of a permit unless the modification application 44784
proposes to increase the land area included in the facility or 44785

to increase the quantity of hazardous waste that will be 44786
treated, stored, or disposed of at the facility. 44787

(3) Not later than one hundred eighty days after the end 44788
of the public comment period, the director, without prior 44789
hearing, shall issue or deny the permit in accordance with 44790
Chapter 3745. of the Revised Code. If the director approves an 44791
application for a hazardous waste facility installation and 44792
operation permit, the director shall issue the permit, upon such 44793
terms and conditions as the director finds are necessary to 44794
ensure the construction and operation of the hazardous waste 44795
facility in accordance with the standards of this section. 44796

(E) No political subdivision of this state shall require 44797
any additional zoning or other approval, consent, permit, 44798
certificate, or condition for the construction or operation of a 44799
hazardous waste facility authorized by a hazardous waste 44800
facility installation and operation permit issued pursuant to 44801
this chapter, nor shall any political subdivision adopt or 44802
enforce any law, ordinance, or rule that in any way alters, 44803
impairs, or limits the authority granted in the permit. 44804

(F) The director may issue a single hazardous waste 44805
facility installation and operation permit to a person who 44806
operates two or more adjoining facilities where hazardous waste 44807
is stored, treated, or disposed of if the application includes 44808
detail plans, specifications, and information on all facilities. 44809
For the purposes of this section, "adjoining" means sharing a 44810
common boundary, separated only by a public road, or in such 44811
proximity that the director determines that the issuance of a 44812
single permit will not create a hazard to the public health or 44813
safety or the environment. 44814

(G) No person shall falsify or fail to keep or submit any 44815

plans, specifications, data, reports, records, manifests, or 44816
other information required to be kept or submitted to the 44817
director by this chapter or the rules adopted under it. 44818

(H) (1) Each person who holds an installation and operation 44819
permit issued under this section and who wishes to obtain a 44820
permit renewal shall submit a completed application for an 44821
installation and operation permit renewal and any necessary 44822
accompanying general plans, detail plans, specifications, and 44823
such information as the director may require to the director no 44824
later than one hundred eighty days prior to the expiration date 44825
of the existing permit or upon a later date prior to the 44826
expiration of the existing permit if the permittee can 44827
demonstrate good cause for the late submittal. The director 44828
shall consider the application and accompanying information, 44829
inspection reports of the facility, results of performance 44830
tests, a report regarding the facility's compliance or 44831
noncompliance with the terms and conditions of its permit and 44832
rules adopted by the director under this chapter, and such other 44833
information as is relevant to the operation of the facility and 44834
shall issue a draft renewal permit or a notice of intent to deny 44835
the renewal permit. The director, in accordance with rules 44836
adopted under this section or with rules adopted to implement 44837
Chapter 3745. of the Revised Code, shall give public notice of 44838
the application and draft renewal permit or notice of intent to 44839
deny the renewal permit, provide for the opportunity for public 44840
comments within a specified time period, schedule a public 44841
meeting in the county in which the facility is located if 44842
significant interest is shown, and give public notice of the 44843
public meeting. 44844

(2) Within sixty days after the public meeting or close of 44845
the public comment period, the director, without prior hearing, 44846

shall issue or deny the renewal permit in accordance with 44847
Chapter 3745. of the Revised Code. The director shall not issue 44848
a renewal permit unless the director determines that the 44849
facility under the existing permit has a history of compliance 44850
with this chapter, rules adopted under it, the existing permit, 44851
or orders entered to enforce such requirements that demonstrates 44852
sufficient reliability, expertise, and competency to operate the 44853
facility henceforth under this chapter, rules adopted under it, 44854
and the renewal permit. If the director approves an application 44855
for a renewal permit, the director shall issue the permit 44856
subject to the payment of the annual permit fee required under 44857
division (E) of section 3734.02 of the Revised Code and upon 44858
such terms and conditions as the director finds are reasonable 44859
to ensure that continued operation, maintenance, closure, and 44860
post-closure care of the hazardous waste facility are in 44861
accordance with the rules adopted under section 3734.12 of the 44862
Revised Code. 44863

(3) An installation and operation permit renewal 44864
application submitted to the director that also contains or 44865
would constitute an application for a modification shall be 44866
acted upon by the director in accordance with division (I) of 44867
this section in the same manner as an application for a 44868
modification. In approving or disapproving the renewal portion 44869
of a permit renewal application containing an application for a 44870
modification, the director shall apply the criteria established 44871
under division (H) (2) of this section. 44872

(4) An application for renewal or modification of a permit 44873
that does not contain an application for a modification as 44874
described in divisions (I) (3) (a) to (d) of this section shall 44875
not be subject to division (D) (2) of this section. 44876

(I) (1) As used in this section, "modification" means a 44877
change or alteration to a hazardous waste facility or its 44878
operations that is inconsistent with or not authorized by its 44879
existing permit or authorization to operate. Modifications shall 44880
be classified as Class 1, 2, or 3 modifications ~~in accordance~~ 44881
~~with rules adopted under division (K) of this section.~~ 44882
Modifications classified as Class 3 modifications, ~~in accordance~~ 44883
~~with rules adopted under that division,~~ shall be further 44884
classified by the director as either Class 3 modifications that 44885
are to be approved or disapproved by the director under 44886
divisions (I) (3) (a) to (d) of this section or as Class 3 44887
modifications that are to be approved or disapproved by the 44888
director under division (I) (5) of this section. Not later than 44889
thirty days after receiving a request for a modification under 44890
division (I) (4) of this section that is not listed in Appendix I 44891
to 40 C.F.R. 270.42 ~~or in rules adopted under division (K) of~~ 44892
~~this section,~~ the director shall classify the modification and 44893
shall notify the owner or operator of the facility requesting 44894
the modification of the classification. Notwithstanding any 44895
other law to the contrary, a modification that involves the 44896
transfer of a hazardous waste facility installation and 44897
operation permit to a new owner or operator for any off-site 44898
facility as defined in section 3734.41 of the Revised Code shall 44899
be classified as a Class 3 modification. The transfer of a 44900
hazardous waste facility installation and operation permit to a 44901
new owner or operator for a facility that is not an off-site 44902
facility shall be classified as a Class 1 modification requiring 44903
prior approval of the director. 44904

(2) Except as provided in section 3734.123 of the Revised 44905
Code, a hazardous waste facility installation and operation 44906
permit may be modified at the request of the director or upon 44907

the written request of the permittee only if any of the 44908
following applies: 44909

(a) The permittee desires to accomplish alterations, 44910
additions, or deletions to the permitted facility or to 44911
undertake alterations, additions, deletions, or activities that 44912
are inconsistent with or not authorized by the existing permit; 44913

(b) New information or data justify permit conditions in 44914
addition to or different from those in the existing permit; 44915

(c) The standards, criteria, or rules upon which the 44916
existing permit is based have been changed by new, amended, or 44917
rescinded standards, criteria, or rules, or by judicial decision 44918
after the existing permit was issued, and the change justifies 44919
permit conditions in addition to or different from those in the 44920
existing permit; 44921

(d) The permittee proposes to transfer the permit to 44922
another person. 44923

(3) The director shall approve or disapprove an 44924
application for a modification in accordance with division (D) 44925
(2) of this section ~~and rules adopted under division (K) of this~~ 44926
~~section~~ for all of the following categories of Class 3 44927
modifications: 44928

(a) Authority to conduct treatment, storage, or disposal 44929
at a site, location, or tract of land that has not been 44930
authorized for the proposed category of treatment, storage, or 44931
disposal activity by the facility's permit; 44932

(b) Modification or addition of a hazardous waste 44933
management unit, as defined in rules adopted under section 44934
3734.12 of the Revised Code, that results in an increase in a 44935
facility's storage capacity of more than twenty-five per cent 44936

over the capacity authorized by the facility's permit, an 44937
increase in a facility's treatment rate of more than twenty-five 44938
per cent over the rate so authorized, or an increase in a 44939
facility's disposal capacity over the capacity so authorized. 44940
The authorized disposal capacity for a facility shall be 44941
calculated from the approved design plans for the disposal units 44942
at that facility. In no case during a five-year period shall a 44943
facility's storage capacity or treatment rate be modified to 44944
increase by more than twenty-five per cent in the aggregate 44945
without the director's approval in accordance with division (D) 44946
(2) of this section. Notwithstanding any provision of division 44947
(I) of this section to the contrary, a request for modification 44948
of a facility's annual total waste receipt limit shall be 44949
classified and approved or disapproved by the director under 44950
division (I) (5) of this section. 44951

(c) Authority to add any of the following categories of 44952
regulated activities not previously authorized at a facility by 44953
the facility's permit: storage at a facility not previously 44954
authorized to store hazardous waste, treatment at a facility not 44955
previously authorized to treat hazardous waste, or disposal at a 44956
facility not previously authorized to dispose of hazardous 44957
waste; or authority to add a category of hazardous waste 44958
management unit not previously authorized at the facility by the 44959
facility's permit. Notwithstanding any provision of division (I) 44960
of this section to the contrary, a request for authority to add 44961
or to modify an activity or a hazardous waste management unit 44962
for the purposes of performing a corrective action shall be 44963
classified and approved or disapproved by the director under 44964
division (I) (5) of this section. 44965

(d) Authority to treat, store, or dispose of waste types 44966
listed or characterized as reactive or explosive, in rules 44967

adopted under section 3734.12 of the Revised Code, or any acute hazardous waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not previously authorized to treat, store, or dispose of those types of wastes by the facility's permit unless the requested authority is limited to wastes that no longer exhibit characteristics meeting the criteria for listing or characterization as reactive or explosive wastes, or for listing as acute hazardous waste, but still are required to carry those waste codes as established in rules adopted under section 3734.12 of the Revised Code because of the requirements established in 40 C.F.R. 261(a) and (e), as amended, that is, the "mixture," "derived-from," or "contained-in" regulations.

(4) A written request for a modification from the permittee shall be submitted to the director and shall contain such information as is necessary to support the request. Requests for modifications shall be acted upon by the director in accordance with this section and rules adopted under it.

(5) Class 1 modification applications that require prior approval of the director, as provided in division (I)(1) of this section ~~or as determined in accordance with rules adopted under division (K) of this section~~, Class 2 modification applications, and Class 3 modification applications that are not described in divisions (I)(3)(a) to (d) of this section shall be approved or disapproved by the director ~~in accordance with rules adopted under division (K) of this section~~. The board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located shall receive notification of any application for a modification for that facility and shall be considered as interested persons with respect to the director's consideration of the application.

As used in division (I) of this section: 44999

(a) "Owner" means the person who owns a majority or 45000
controlling interest in a facility. 45001

(b) "Operator" means the person who is responsible for the 45002
overall operation of a facility. 45003

The director shall approve or disapprove an application 45004
for a Class 1 modification that requires the director's approval 45005
within sixty days after receiving the request for modification. 45006
The director shall approve or disapprove an application for a 45007
Class 2 modification within three hundred days after receiving 45008
the request for modification. The director shall approve or 45009
disapprove an application for a Class 3 modification within 45010
three hundred sixty-five days after receiving the request for 45011
modification. 45012

(6) The approval or disapproval by the director of a Class 45013
1 modification application is not a final action that is 45014
appealable under Chapter 3745. of the Revised Code. The approval 45015
or disapproval by the director of a Class 2 modification or a 45016
Class 3 modification is a final action that is appealable under 45017
that chapter. In approving or disapproving a request for a 45018
modification, the director shall consider all comments 45019
pertaining to the request that are received during the public 45020
comment period and the public meetings. The administrative 45021
record for appeal of a final action by the director in approving 45022
or disapproving a request for a modification shall include all 45023
comments received during the public comment period relating to 45024
the request for modification, written materials submitted at the 45025
public meetings relating to the request, and any other documents 45026
related to the director's action. 45027

(7) Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E) (3) (a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I) (1) to (6) of this section in the same manner as a modification to a hazardous waste facility installation and operation permit.

(J) (1) Except as provided in division (J) (2) of this section, an owner or operator of a hazardous waste facility that is operating in accordance with a permit by rule under rules adopted by the director under division (E) (3) (b) of section 3734.02 of the Revised Code shall submit either a hazardous waste facility installation and operation permit application for the facility or a modification application, whichever is required under division (J) (1) (a) or (b) of this section, within one hundred eighty days after the director has requested the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal.

(a) If the owner or operator does not have a hazardous waste facility installation and operation permit for any hazardous waste treatment, storage, or disposal activities at the facility, the owner or operator shall submit an application for such a permit to the director for the activities authorized by the permit by rule. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the application for the permit in accordance with the procedures governing the approval or disapproval of permit renewals under division (H) of this section.

(b) If the owner or operator has a hazardous waste facility installation and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance with division (I) of this section. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the modification application in accordance with division (I)(5) of this section.

(2) The owner or operator of a boiler or industrial furnace that is conducting thermal treatment activities in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit a hazardous waste facility installation and operation permit application if the owner or operator does not have such a permit for any hazardous waste treatment, storage, or disposal activities at the facility or, if the owner or operator has such a permit for hazardous waste treatment, storage, or disposal activities at the facility other than thermal treatment activities authorized by the permit by rule, a modification application to add those activities authorized by the permit by rule, whichever is applicable, within one hundred eighty days after the director has requested the submission of the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal. The application shall be accompanied by information necessary to support the request. The director shall approve or disapprove an application for a hazardous waste facility installation and operation permit in accordance with division (D) of this section and approve or disapprove an application for a modification in accordance with division (I)

(3) of this section, except that the director shall not 45089
disapprove an application for the thermal treatment activities 45090
on the basis of the criteria set forth in division (D) (2) (g) or 45091
(h) of this section. 45092

(3) As used in division (J) of this section: 45093

(a) "Modification application" means a request for a 45094
modification submitted in accordance with division (I) of this 45095
section. 45096

(b) "Thermal treatment," "boiler," and "industrial 45097
furnace" have the same meanings as in rules adopted under 45098
section 3734.12 of the Revised Code. 45099

~~(K) The director shall adopt, and may amend, suspend, or 45100
rescind, rules in accordance with Chapter 119. of the Revised- 45101
Code in order to implement divisions (H) and (I) of this- 45102
section. Except when in actual conflict with this section, rules 45103
governing the classification of and procedures for the- 45104
modification of hazardous waste facility installation and 45105
operation permits shall be substantively and procedurally- 45106
identical to the regulations governing hazardous waste facility- 45107
permitting and permit modifications adopted under the "Resource- 45108
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42- 45109
U.S.C.A. 6921, as amended. 45110~~

Sec. 3734.058. (A) Except as provided in division (B) of 45111
this section, no political subdivision of this state shall 45112
require any additional zoning or other approval, consent, 45113
permit, certificate, or condition for the operation of a 45114
byproduct disposal facility authorized by a byproduct disposal 45115
facility permit to install or modify issued under division (B) 45116
of former section 3734.054, division (B) or (C) (3) of former 45117

section 3734.055, or division (B) of former section 3734.057 of 45118
the Revised Code, nor shall any political subdivision adopt or 45119
enforce any law, ordinance, resolution, or rule that in any way 45120
alters, impairs, or limits the authority granted in the permit. 45121

(B) (1) Division (A) of this section does not apply to the 45122
issuance of an annual license for a byproduct disposal facility 45123
under division (A) (1) of section 3734.05 of the Revised Code; 45124
the issuance of orders under section 3709.20 or 3709.21 of the 45125
Revised Code to enforce the solid waste provisions of this 45126
chapter or rules adopted or terms and conditions of permits, 45127
licenses, or orders issued under those provisions; the 45128
inspection of any such facility for compliance with those 45129
provisions, any such terms and conditions, or any orders issued 45130
under section 3709.20 or 3709.21 of the Revised Code to enforce 45131
those provisions or any such terms and conditions; or the 45132
enforcement of those provisions, any such terms and conditions, 45133
or any orders issued under section 3709.20 or 3709.21 of the 45134
Revised Code to enforce those provisions or any such terms and 45135
conditions, by a board of health on the approved list under 45136
section 3734.08 of the Revised Code. 45137

(2) Division (A) of this section does not alter, impair, 45138
or limit the authority of a board of health or political 45139
subdivision of this state that has been delegated any of the 45140
powers and duties of the director of environmental protection 45141
under Chapter 3704. of the Revised Code pursuant to division ~~(P)~~ 45142
(O) of section 3704.03 of the Revised Code to exercise the 45143
authority and perform the duties conferred upon the board or 45144
political subdivision by that delegation. 45145

(C) As used in this section: 45146

(1) "Byproduct disposal facility" means a solid waste 45147

disposal facility that exclusively disposes of coal combustion wastes. "Byproduct disposal facility" does not include a coal mining and reclamation operation where coal combustion wastes are used in conducting the operation, or are disposed of, in compliance with Chapter 1513. of the Revised Code and rules adopted under it.

(2) "Coal combustion wastes" includes all of the following:

(a) Air pollution control wastes that are solid wastes, that result from the combustion of coal at a coal-fired electric generating facility owned, operated, or leased by an electric light company or a municipal power agency, and that are generated by air pollution control equipment installed or used at the electric generating facility for the purpose of complying with applicable emission standards or emission limitations established under the "Air Quality Act of 1967," 81 Stat. 485, 42 U.S.C.A. 1857, as amended, and regulations adopted under it or Chapter 3704. of the Revised Code and rules adopted under it;

(b) Air pollution control wastes that are solid wastes and that are generated in the operation of air pollution control equipment installed at a byproduct disposal facility for the purpose of complying with Chapter 3704. of the Revised Code and rules adopted under it;

(c) Water pollution control wastes that are solid wastes and that are generated in the operation of a disposal system or treatment works installed at a byproduct disposal facility for the purpose of complying with Chapter 6111. of the Revised Code and rules adopted under it;

(d) Any other similar types of solid wastes that are

produced in the operation of a coal-fired electric generating 45177
facility or in the operation of air pollution control equipment, 45178
disposal systems, or treatment works installed or used at such a 45179
facility and that are identified in rules adopted under division 45180
(A) of section 3734.02 of the Revised Code. 45181

(3) "Disposal system" and "treatment works" have the same 45182
meanings as in section 6111.01 of the Revised Code. 45183

(4) "Electric light company" has the same meaning as in 45184
section 4905.03 of the Revised Code. 45185

(5) "Municipal power agency" means any Ohio nonprofit 45186
corporation, the members of which are municipal corporations 45187
that own and operate electric utility systems, that sells 45188
electricity to its members for resale. 45189

Sec. 3734.123. (A) As used in this section and section 45190
3734.124 of the Revised Code, "commercial hazardous waste 45191
incinerator" means an enclosed device that treats hazardous 45192
waste by means of controlled flame combustion and that accepts 45193
for treatment hazardous waste that is generated off the premises 45194
on which the device is located by any person other than the one 45195
who owns or operates the device or one who controls, is 45196
controlled by, or is under common control with the person who 45197
owns or operates the device. "Commercial hazardous waste 45198
incinerator" does not include any "boiler" or "industrial 45199
furnace" as those terms are defined in rules adopted under 45200
section 3734.12 of the Revised Code. 45201

(B) Not sooner than three years after April 15, 1993, and 45202
triennially thereafter, the director of environmental protection 45203
shall prepare, publish, and issue as a final action an 45204
assessment of commercial hazardous waste incinerator capacity in 45205

this state. However, after the issuance as a final action of a 45206
determination under division (A) of section 3734.124 of the 45207
Revised Code that terminates the restrictions established in 45208
division (C) of this section, the director shall cease 45209
preparing, publishing, and issuing the periodic assessments 45210
required under this division. The assessment shall determine the 45211
amount of commercial hazardous waste incinerator capacity needed 45212
to manage the hazardous waste expected to be generated in this 45213
state and imported into this state for incineration at 45214
commercial hazardous waste incinerators during the next 45215
succeeding twenty calendar years. The assessment shall include 45216
at least all of the following: 45217

(1) A determination of the aggregate treatment capacity 45218
authorized at commercial hazardous waste incinerators located in 45219
this state; 45220

(2) A determination of the quantity of hazardous waste 45221
generated in this state that is being treated at commercial 45222
hazardous waste incinerators located in this state and 45223
projections of the quantity of hazardous waste generated in this 45224
state that will be treated at those facilities; 45225

(3) A determination of the quantity of hazardous waste 45226
generated outside this state that is being treated at commercial 45227
hazardous waste incinerators located in this state and 45228
projections of the quantity of hazardous waste generated outside 45229
this state that will be treated at those facilities; 45230

(4) A determination of the quantity of hazardous waste 45231
generated in this state that is being treated at commercial 45232
hazardous waste incinerators located outside this state, and 45233
projections of the quantity of hazardous waste generated in this 45234
state that will be treated at those facilities; 45235

(5) The amount of commercial hazardous waste incinerator capacity that the director reasonably anticipates will be needed during the first three years of the planning period to treat hazardous waste generated from the remediation of sites in this state that are on the national priority list required under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a result of corrective actions implemented under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; and as a result of clean-up activities conducted at sites listed on the master sites list prepared by the environmental protection agency;

(6) Based upon available data, provided that the data are reliable and are compatible with the data base of the environmental protection agency, an identification of any hazardous waste first listed as a hazardous waste in regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after April 15, 1993, and of any hazardous waste that has been proposed for such listing by publication of a notice in the federal register on or before December 1 of the year immediately preceding the triennial assessment;

(7) An analysis of other factors that may result in capacity changes over the period addressed by the assessment.

(C) Except as otherwise provided in section 3734.124 of the Revised Code, none of the following shall occur on or after April 15, 1993:

(1) The director shall not do any of the following:

(a) Issue any hazardous waste facility installation and

operation permit under division (D) of section 3734.05 of the Revised Code for the establishment of a new commercial hazardous waste incinerator, or issue any modified hazardous waste facility installation and operation permit under division (I) of that section that would authorize an increase in either the treatment capacity of a commercial hazardous waste incinerator or the quantity of hazardous waste authorized to be treated by it;

(b) Issue any permit pursuant to rules adopted under division ~~(F)~~(E) of section 3704.03 of the Revised Code, division (J) of section 6111.03 of the Revised Code, or the solid waste provisions of this chapter and rules adopted under those provisions, that is necessary for the establishment, modification, or operation of any appurtenant facility or equipment that is necessary for the operation of a new commercial hazardous waste incinerator, or the modification of such an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it. Upon determining that an application for any permit pertains to the establishment, modification, or operation of any appurtenant facility or equipment, the director shall cease reviewing the application and return the application and accompanying materials to the applicant along with a written notice that division (C) (1) (b) of this section precludes the director from reviewing and acting upon the application.

(c) Issue any exemption order under division (G) of section 3734.02 of the Revised Code exempting the establishment of a new commercial hazardous waste incinerator; the modification of an existing facility to increase either the treatment capacity of the incinerator or the quantity of

hazardous waste that is authorized to be treated by it; or the 45296
establishment, modification, or operation of any facility or 45297
equipment appurtenant to a new or modified commercial hazardous 45298
waste incinerator, from divisions (C) (1) (a) or (b) or (C) (2) of 45299
this section. 45300

(2) If the director determines that an application for a 45301
hazardous waste facility installation and operation permit 45302
submitted under division (D) of section 3734.05 of the Revised 45303
Code pertains to the establishment of a new commercial hazardous 45304
waste incinerator, or a request for a modification of an 45305
existing incinerator submitted under division (I) of that 45306
section pertains to an increase of either the treatment capacity 45307
of the incinerator or the quantity of hazardous waste that is 45308
authorized to be treated by it, the director shall cease 45309
reviewing the application or request and shall return it and the 45310
accompanying materials to the applicant along with a written 45311
notice that division (C) (2) of this section precludes the review 45312
of the application or request. 45313

(D) Division (C) of this section does not apply to an 45314
application for a modified hazardous waste facility installation 45315
and operation permit under division (I) of section 3734.05 of 45316
the Revised Code for any hazardous waste incinerator in 45317
operation before April 15, 1993, if both of the following apply 45318
to the application: 45319

(1) The application seeks to install an improved air 45320
emission control system designed to achieve compliance with 40 45321
C.F.R. 63, Subpart EEE. 45322

(2) The application does not seek to increase the 45323
treatment capacity of the hazardous waste incinerator or the 45324
quantity of waste to be treated by it. 45325

(E) Division (C) of this section does not apply to an application for a modified hazardous waste facility installation and operation permit under division (I) of section 3734.05 of the Revised Code for any hazardous waste incinerator in operation before April 15, 1993, if all of the following apply to the application:

(1) The application seeks to increase the treatment capacity of the hazardous waste incineration operations or the quantity of waste to be treated by it.

(2) The hazardous waste incinerator is at or near its actual maximum operating capacity ~~on the effective date of this amendment~~ April 4, 2023.

(3) The application seeks to install an improved air emission control system designed to achieve compliance with 40 C.F.R. 63, Subpart EEE.

(4) The owner or operator of the hazardous waste incinerator has not been issued any other permit allowing for the expansion of the hazardous waste incinerator or construction of a new hazardous waste incinerator prior to ~~the effective date of this amendment~~ April 4, 2023.

Sec. 3734.124. (A) Promptly after issuing a periodic assessment under division (B) of section 3734.123 of the Revised Code, the director of environmental protection shall make a determination as to whether it is necessary or appropriate to continue the restrictions established in division (C) of section 3734.123 of the Revised Code during the period of time between the issuance of the assessment and the issuance of the next succeeding periodic assessment or as to whether it is necessary or appropriate to terminate the restrictions. The director shall

consider all of the following when making a determination under 45355
this division: 45356

(1) The findings of the assessment; 45357

(2) The findings of an evaluation conducted by the 45358
director, in consultation with the chairperson of the state 45359
emergency response commission created in section 3750.02 of the 45360
Revised Code, regarding the capability of this state to respond 45361
to the types and frequencies of releases of hazardous waste that 45362
are likely to occur at commercial hazardous waste incinerators; 45363

(3) The effect that a new commercial hazardous waste 45364
incinerator may have on ambient air quality in this state; 45365

(4) The findings of a review of relevant information 45366
regarding the impacts of commercial hazardous waste incinerators 45367
on human health and the environment, such as health studies and 45368
risk assessments; 45369

(5) The findings of a review of the operational records of 45370
commercial hazardous waste incinerators operating in this state; 45371

(6) The findings of any review of relevant information 45372
concerning the following: 45373

(a) The cost of and access to commercial hazardous waste 45374
incinerator capacity; 45375

(b) The length of time and the regulatory review process 45376
necessary to fully permit a commercial hazardous waste 45377
incinerator; 45378

(c) Access to long-term capital investment to fund the 45379
building of a commercial hazardous waste incinerator in this 45380
state; 45381

(d) Efforts by generators of hazardous waste accepted by commercial hazardous waste incinerators to reduce the amount of hazardous waste that they generate.

(7) Regulatory and legislative concerns that may include, without limitation, the provisions of paragraphs (a) and (b) of 40 C.F.R. 271.4, as they existed on April 15, 1993.

If, after considering all of the information and concerns that the director is required to consider under divisions (A) (1) to (7) of this section, the director determines that it is necessary or appropriate to terminate the restrictions established in division (C) of section 3734.123 of the Revised Code in order to protect human health or safety or the environment, the director shall issue as a final action a written determination to that effect. If the director determines that it is necessary or appropriate for those purposes to continue the restrictions until the issuance of the next succeeding periodic assessment under division (B) of section 3734.123 of the Revised Code, the director shall issue as a final action a written determination to that effect. After the issuance as a final action of a determination under this division that it is necessary or appropriate to terminate the restrictions established in division (C) of section 3734.123 of the Revised Code, the director shall cease making the periodic determinations required under this division.

(B) Beginning three years after April 15, 1993, but only on and after the date of issuance as final actions of an assessment under division (B) of section 3734.123 of the Revised Code and a determination under division (A) of this section that it is necessary or appropriate to terminate the restrictions established in division (C) of section 3734.123 of the Revised

Code, the director may do any of the following: 45412

(1) To the extent otherwise authorized thereunder, issue 45413
any permit pursuant to rules adopted under division ~~(F)~~(E) of 45414
section 3704.03 of the Revised Code, division (J) of section 45415
6111.03 of the Revised Code, or the solid waste provisions of 45416
this chapter and rules adopted under those provisions, that is 45417
necessary for the establishment, modification, or operation of 45418
any appurtenant facility or equipment that is necessary for the 45419
operation of a new commercial hazardous waste incinerator, or 45420
for the modification of an existing incinerator to increase 45421
either the treatment capacity of the incinerator or the quantity 45422
of hazardous waste authorized to be treated by it; 45423

(2) To the extent otherwise authorized in division (G) of 45424
section 3734.02 of the Revised Code, issue an order exempting 45425
the establishment of a new commercial hazardous waste 45426
incinerator; the modification of an existing incinerator to 45427
increase either the treatment capacity of the incinerator or the 45428
quantity of hazardous waste that is authorized to be treated by 45429
it; or the establishment, modification, or operation of any 45430
facility or equipment appurtenant to a new or modified 45431
commercial hazardous waste incinerator, from division (C) (1) (a) 45432
or (b) or (C) (2) of section 3734.123 of the Revised Code; 45433

(3) Approve or disapprove an application for a hazardous 45434
waste facility installation and operation permit, and issue a 45435
permit, under division (D) of section 3734.05 of the Revised 45436
Code for a new commercial hazardous waste incinerator; 45437

(4) Approve or disapprove under division (I) of section 45438
3734.05 of the Revised Code a request to modify the permit of an 45439
existing commercial hazardous waste incinerator to increase 45440
either the treatment capacity of the incinerator or the quantity 45441

of hazardous waste authorized to be treated by it. 45442

Sec. 3734.40. The general assembly hereby finds and 45443
declares the following to be the public policy of this state: 45444

(A) That the off-site treatment, storage, and disposal of 45445
hazardous waste and the off-site disposal of solid wastes, 45446
including incineration, and transfer of solid wastes are 45447
critical components of the economic structure of this state and, 45448
when properly controlled and regulated, make substantial 45449
contributions to the general welfare, health, and prosperity of 45450
the state and its inhabitants by minimizing the serious health 45451
and environmental threats inherent in the management of these 45452
wastes; 45453

(B) That the regulatory provisions of this chapter are 45454
designed to extend strict state regulation to those persons 45455
involved in the operations of these permitted activities so as 45456
to foster and justify the public confidence and trust in the 45457
credibility and integrity of the conduct of these activities; 45458

(C) That the solid and hazardous waste management 45459
industries in this state can attain, maintain, and retain 45460
integrity, public confidence, and trust, and promote the general 45461
public interest, only under a system of control and regulation 45462
that precludes the participation therein of persons with known 45463
criminal records and excludes or removes from any position of 45464
authority or responsibility any person known to be so deficient 45465
in reliability, expertise, or competence with specific reference 45466
to the solid or hazardous waste management industries that 45467
~~his~~ the person's participation in them would create or enhance 45468
the danger of unsound, unfair, or illegal practices, methods, 45469
and activities in the conduct of the business of the industries; 45470

(D) That strict licensing standards will help ensure that 45471
members of the waste management industry in this state will 45472
continue to maintain standards of professionalism and 45473
responsibility; 45474

(E) That it therefore is vital to the interests of this 45475
state to prevent either direct or indirect entry into the 45476
operations of the off-site solid waste disposal and transfer and 45477
the off-site hazardous waste treatment, storage, and disposal, 45478
industries of persons who are not competent and reliable or who 45479
have pursued economic gains in an occupational manner or context 45480
violative of the criminal code or civil public policies of this 45481
state, and it is to the end of excluding such persons from those 45482
industries that the regulatory and investigatory powers and 45483
duties provided in sections 3734.41 to ~~3734.47~~3734.46 of the 45484
Revised Code shall be exercised to the fullest extent consistent 45485
with law. 45486

Sec. 3734.41. As used in sections 3734.41 to ~~3734.47~~ 45487
3734.46 of the Revised Code: 45488

(A) "Applicant" means any person seeking a permit or 45489
license for an off-site facility and any person or business 45490
concern operating such a facility for an applicant. 45491

(B) "Application" means the forms and accompanying 45492
documents filed in connection with the applicant's request for a 45493
permit. 45494

(C) "Business concern" means any corporation, association, 45495
firm, partnership, trust, or other form of commercial 45496
organization. 45497

(D) "Disclosure statement" means a statement submitted to 45498
the director of environmental protection and the attorney 45499

general by an applicant. The statement shall include all of the 45500
following: 45501

(1) The full name, business address, and social security 45502
number of the applicant or, if the applicant is a business 45503
concern, of all officers, directors, partners, or key employees 45504
thereof and all individuals or business concerns holding any 45505
equity in or debt liability of that business concern or, if the 45506
business concern is a publicly traded corporation, all 45507
individuals or business concerns holding more than five per cent 45508
of the equity in or debt liability of that business concern, 45509
except that when the debt liability is held by a chartered 45510
lending institution, the applicant need supply only the name and 45511
business address of the lending institution; 45512

(2) The full name, business address, and social security 45513
number of all officers, directors, or partners of any business 45514
concern disclosed in the statement and the names and addresses 45515
of all persons holding any equity in or debt liability of any 45516
business concern so disclosed or, if the business concern is a 45517
publicly traded corporation, all individuals or business 45518
concerns holding more than five per cent of the equity in or 45519
debt liability of that business concern, except that when the 45520
debt liability is held by a chartered lending institution, the 45521
applicant need supply only the name and business address of the 45522
lending institution; 45523

(3) The full name and business address of any company in 45524
which the applicant holds an equity interest and that collects, 45525
transfers, transports, treats, stores, or disposes of solid 45526
wastes, infectious wastes, or hazardous waste or processes solid 45527
wastes that consist of scrap tires; 45528

(4) A description of the experience and credentials, 45529

including any past or present permits or licenses, for the 45530
collection, transfer, transportation, treatment, storage, or 45531
disposal of solid wastes, infectious wastes, or hazardous waste, 45532
or the processing of solid wastes that consist of scrap tires, 45533
possessed by the applicant or, if the applicant is a business 45534
concern, by the officers, directors, partners, or key employees 45535
thereof; 45536

(5) A listing and explanation of any civil or criminal 45537
prosecution by government agencies, administrative enforcement 45538
actions resulting in the imposition of sanctions, or license 45539
revocations or denials issued by any state or federal authority 45540
in the ten years immediately preceding the filing of the 45541
application, that are pending or have resulted in a finding or a 45542
settlement of a violation of any law or rule or regulation 45543
relating to the collection, transfer, transportation, treatment, 45544
storage, or disposal of solid wastes, infectious wastes, or 45545
hazardous waste, or the processing of solid wastes that consist 45546
of scrap tires, or of any other environmental protection 45547
statute, by the applicant or, if the applicant is a business 45548
concern, by the business concern or any officer, director, 45549
partner, or key employee thereof. For the purposes of division 45550
(D) (5) of this section, violations of any law or rule relating 45551
to the transportation of solid wastes, infectious wastes, or 45552
hazardous waste do not include violations that also apply to the 45553
transportation of commodities that are not wastes. 45554

(6) A listing and explanation of any judgment of liability 45555
or conviction that was rendered pursuant to any state or federal 45556
law or local ordinance resulting in the imposition of a sanction 45557
against the applicant or, if the applicant is a business 45558
concern, against the business concern or any officer, director, 45559
partner, or key employee thereof; 45560

(7) A listing of any agency outside this state that has or
has had regulatory responsibility over the applicant in
connection with its collection, transfer, transportation,
treatment, storage, or disposal of solid wastes, infectious
wastes, or hazardous waste or processing of solid wastes that
consist of scrap tires.

(E) "Key employee" means any individual, other than a
public official or employee as defined in division (B) of
section 102.01 of the Revised Code who is required to file a
statement under section 102.02 of the Revised Code, employed by
the applicant or the licensee in a supervisory capacity or
empowered to make discretionary decisions with respect to the
solid waste, infectious waste, or hazardous waste operations of
the business concern, but does not include any employee
exclusively engaged in the physical or mechanical collection,
transfer, transportation, treatment, storage, or disposal of
solid wastes, infectious wastes, or hazardous waste or
processing of solid wastes that consist of scrap tires. If the
applicant or permittee has entered into a contract with another
person to operate the facility that is the subject of the permit
or license or application for a permit or license, "key
employee" also includes those employees of the contractor who
act in a supervisory capacity, or are empowered to make
discretionary decisions, with respect to the operation of the
solid, infectious, or hazardous waste facility. An officer or
director of a business concern required to file a disclosure
statement under section 3734.42 of the Revised Code who meets
the definition of "key employee" shall be considered a key
employee for purposes of the filing and disclosure requirements
of sections 3734.42 to ~~3734.47~~3734.46 of the Revised Code.

(F) "License" means the annual license required by section

3734.05 of the Revised Code for an off-site solid waste disposal 45592
or transfer facility or an off-site infectious waste treatment 45593
facility. 45594

(G) "Off-site facility" means a facility that is located 45595
off the premises where the solid wastes, infectious wastes, or 45596
hazardous waste is generated, but does not include any such 45597
facility that exclusively disposes of wastes that are generated 45598
from the combustion of coal, or from the combustion of primarily 45599
coal in combination with scrap tires, that is not combined in 45600
any way with garbage or any such facility that is owned and 45601
operated by the generator of the waste and that exclusively 45602
stores, processes, or disposes of or transfers solid wastes, 45603
exclusively treats infectious wastes, or exclusively disposes of 45604
hazardous waste, generated at one or more premises owned by the 45605
generator. 45606

(H) "Permit" means a permit to install a new off-site 45607
solid waste disposal facility, including an incineration 45608
facility, or a new transfer facility issued under section 45609
3734.05 of the Revised Code; a permit to install a new off-site 45610
solid waste facility that is a scrap tire storage, monocell, 45611
monofill, or recovery facility issued under section 3734.76, 45612
3734.77, or 3734.78 of the Revised Code, as applicable; a permit 45613
to install a new off-site infectious waste treatment facility 45614
issued under section 3734.05 of the Revised Code; and a permit 45615
to install and operate a new off-site hazardous waste treatment, 45616
storage, or disposal facility issued under section 3734.05 of 45617
the Revised Code. 45618

(I) "Permittee" means any person who has received a permit 45619
or license for an off-site facility. 45620

Sec. 3734.42. (A) (1) Every applicant for a permit shall 45621

file a disclosure statement, on a form developed by the attorney 45622
general, with the director of environmental protection and the 45623
attorney general at the same time the applicant files an 45624
application for the permit with the director. 45625

(2) Any individual required to be listed in the disclosure 45626
statement shall be fingerprinted for identification and 45627
investigation purposes in accordance with procedures established 45628
by the attorney general. An individual required to be 45629
fingerprinted under this section shall not be required to be 45630
fingerprinted more than once under this section. 45631

(3) The attorney general, within one hundred eighty days 45632
after receipt of the disclosure statement from an applicant for 45633
a permit, shall prepare and transmit to the director an 45634
investigative report on the applicant, based in part upon the 45635
disclosure statement, except that this deadline may be extended 45636
for a reasonable period of time, for good cause, by the director 45637
or the attorney general. In preparing this report, the attorney 45638
general may request and receive criminal history information 45639
from the federal bureau of investigation and any other law 45640
enforcement agency or organization. The attorney general may 45641
provide such confidentiality regarding the information received 45642
from a law enforcement agency as may be imposed by that agency 45643
as a condition for providing that information to the attorney 45644
general. 45645

(4) The review of the application by the director shall 45646
include a review of the disclosure statement and investigative 45647
report. 45648

(B) All applicants and permittees shall provide any 45649
assistance or information requested by the director or the 45650
attorney general and shall cooperate in any inquiry or 45651

investigation conducted by the attorney general and any inquiry, 45652
investigation, or hearing conducted by the director. If, upon 45653
issuance of a formal request to answer any inquiry or produce 45654
information, evidence, or testimony, any applicant or permittee, 45655
any officer, director, or partner of any business concern, or 45656
any key employee of the applicant or permittee refuses to 45657
comply, the permit of the applicant or permittee may be denied 45658
or revoked by the director. 45659

(C) The attorney general may charge and collect such fees 45660
from applicants and permittees as are necessary to cover the 45661
costs of administering and enforcing the investigative 45662
procedures authorized in sections 3734.41 to ~~3734.47~~3734.46 of 45663
the Revised Code. The attorney general shall transmit moneys 45664
collected under this division to the treasurer of state to be 45665
credited to the solid and hazardous waste background 45666
investigations fund, which is hereby created in the state 45667
treasury. Moneys in the fund shall be used solely for paying the 45668
attorney general's costs of administering and enforcing the 45669
investigative procedures authorized in sections 3734.41 to 45670
~~3734.47~~3734.46 of the Revised Code. 45671

(D) An appropriate applicant, a permittee, or a 45672
prospective owner shall submit to the attorney general, on a 45673
form provided by the attorney general, the following information 45674
within the periods specified: 45675

(1) Information required to be included in the disclosure 45676
statement for any new officer, director, partner, or key 45677
employee, to be submitted within ninety days from the addition 45678
of the officer, director, partner, or key employee; 45679

(2) Information required to be included in a disclosure 45680
statement regarding the addition of any new business concern to 45681

be submitted within ninety days from the addition of the new 45682
business concern. 45683

(E) (1) The attorney general shall enter in the database 45684
established under section 109.5721 of the Revised Code the name, 45685
the fingerprints, and other relevant information concerning each 45686
officer, director, partner, or key employee of an applicant, 45687
permittee, or prospective owner. 45688

(2) For purposes of section 109.5721 of the Revised Code, 45689
annually on a date assigned by the attorney general, an 45690
applicant, permittee, or prospective owner shall provide the 45691
attorney general with a list of both of the following: 45692

(a) Each officer, director, partner, or key employee of 45693
the applicant, permittee, or prospective owner and the person's 45694
address and social security number; 45695

(b) Any officer, director, partner, or key employee of the 45696
applicant, permittee, or prospective owner who has left a 45697
position previously held with the applicant, permittee, or 45698
prospective owner during the previous one-year period and the 45699
person's social security number. 45700

(3) Annually, the attorney general shall update the 45701
database established under section 109.5721 of the Revised Code 45702
to reflect the information provided by an applicant, permittee, 45703
or prospective owner under divisions (E) (2) (a) and (b) of this 45704
section. 45705

(4) Notwithstanding division (C) of this section, the 45706
attorney general shall charge and collect fees from an 45707
applicant, permittee, or prospective owner that is required to 45708
submit information under this division in accordance with rules 45709
adopted under section 109.5721 of the Revised Code. The fees 45710

shall not exceed fees that are charged to any other person who 45711
is charged fees for purposes of the database established under 45712
that section and who is not an officer, director, partner, or 45713
key employee of an applicant, permittee, or prospective owner 45714
under this section. 45715

(F) (1) Every five years, the attorney general shall 45716
request from the federal bureau of investigation any information 45717
regarding a criminal conviction with respect to each officer, 45718
director, partner, or key employee of an applicant, permittee, 45719
or prospective owner. The attorney general may take any actions 45720
necessary for purposes of this division, including, as 45721
necessary, requesting the submission of any necessary documents 45722
authorizing the release of information. 45723

(2) Every five years, an applicant, permittee, or 45724
prospective owner shall submit an affidavit listing all of the 45725
following regarding a business concern required to be listed in 45726
the applicant's, permittee's, or prospective owner's disclosure 45727
statement: 45728

(a) Any administrative enforcement order issued to the 45729
business concern in connection with any violation of any federal 45730
or state environmental protection laws, rules, or regulations 45731
during the previous five-year period; 45732

(b) Any civil action in which the business concern was 45733
determined to be liable or was the subject of injunctive relief 45734
or another type of civil relief in connection with any violation 45735
of any federal or state environmental protection laws, rules, or 45736
regulations during the previous five-year period; 45737

(c) Any criminal conviction for a violation of any federal 45738
or state environmental protection laws, rules, or regulations 45739

that has been committed knowingly or recklessly by the business 45740
concern during the previous five-year period. 45741

(G) With respect to an applicant, permittee, or 45742
prospective owner, the attorney general shall notify the 45743
director of environmental protection of any crime ascertained 45744
under division (E) or (F) of this section that is a 45745
disqualifying offense under section 9.79 of the Revised Code. 45746
The attorney general shall provide the notification not later 45747
than thirty days after the crime was ascertained. 45748

(H) The failure to provide information under this section 45749
may constitute the basis for the revocation of a permit or 45750
license, the denial of a permit or license application, the 45751
denial of a renewal of a permit or license, or the disapproval 45752
of a change in ownership as described in division (I) of this 45753
section. Prior to a denial, revocation, or disapproval, the 45754
director shall notify the applicant, permittee, or prospective 45755
owner of the director's intention to do so. The director shall 45756
give the applicant, permittee, or prospective owner fourteen 45757
days from the date of the notice to explain why the information 45758
was not provided. The director shall consider the explanation 45759
when determining whether to revoke the permit or license, deny 45760
the permit or license application or renewal, or disapprove the 45761
change in ownership. 45762

Nothing in this section affects the rights of the director 45763
or the attorney general granted under sections 3734.40 to 45764
~~3734.47~~ 3734.46 of the Revised Code to request information from 45765
a person at any other time. 45766

(I) (1) Whenever there is a change in ownership of any 45767
operating off-site solid waste facility, any operating off-site 45768
infectious waste facility, or any operating off-site hazardous 45769

waste facility, the prospective owner shall file a disclosure statement with the attorney general and the director at least one hundred eighty days prior to the proposed change in ownership. In addition, whenever there is a change in ownership of any operating on-site solid waste facility, any operating on-site infectious waste facility, or any operating on-site hazardous waste facility and the prospective owner intends to operate the facility as an off-site facility by accepting wastes other than wastes generated by the facility owner, the prospective owner shall file a disclosure statement with the attorney general and the director. The prospective owner shall file the disclosure statement at least one hundred eighty days prior to the proposed change in ownership.

Upon receipt of the disclosure statement, the attorney general shall prepare an investigative report and transmit it to the director. The director shall review the disclosure statement and investigative report to determine whether the statement or report contains information that if submitted with a permit application would require a denial of the permit pursuant to section 3734.44 of the Revised Code. If the director determines that the statement or report contains such information, the director shall disapprove the change in ownership.

(2) If the parties to a change in ownership decide to proceed with the change prior to the action of the director on the disclosure statement and investigative report, the parties shall include in all contracts or other documents reflecting the change in ownership language expressly making the change in ownership subject to the approval of the director and expressly negating the change if it is disapproved by the director pursuant to division (I)(1) of this section.

(3) As used in this section, "change in ownership" 45800
includes a change of the individuals or entities who own a solid 45801
waste facility, infectious waste facility, or hazardous waste 45802
facility. "Change in ownership" does not include a legal change 45803
in a business concern's name when its ownership otherwise 45804
remains the same. "Change in ownership" also does not include a 45805
personal name change of officers, directors, partners, or key 45806
employees contained in a disclosure statement. 45807

Sec. 3734.43. (A) As used in this section, "documentary 45808
material" means the original or any copy of any writings, 45809
drawings, graphs, charts, photographs, phonorecords, and other 45810
data compilation from which intelligence, relevant to any 45811
investigation conducted to determine if any person is or has 45812
been engaged in a violation of this chapter, may be perceived 45813
with or without the use of detection devices. 45814

(B) Whenever the attorney general has reasonable cause to 45815
believe that any individual or business concern may be in 45816
possession, custody, or control of any documentary material or 45817
may have knowledge of any fact relevant to any investigation of 45818
an applicant or permittee authorized in sections 3734.41 to 45819
~~3734.47~~ 3734.46 of the Revised Code, the attorney general or 45820
~~his~~ the attorney general's designated representative may issue in 45821
writing and cause to be served upon any individual or business 45822
concern or the representative or agent of the individual or 45823
business concern an investigative demand requiring the 45824
individual or business concern to produce the documentary 45825
material for inspection and copying or reproduction, to answer 45826
under oath and in writing written interrogatories, or to appear 45827
and testify under oath before the attorney general or ~~his~~ the 45828
attorney general's duly authorized representative, or requiring 45829
the individual or business concern to do any combination of 45830

these three demands.	45831
(C) Each investigative demand shall:	45832
(1) Describe the conduct under investigation and state the provisions of law applicable thereto;	45833 45834
(2) If it is a demand for production of documentary material:	45835 45836
(a) Describe with reasonable particularity the documentary material to be produced;	45837 45838
(b) Prescribe a return date that will provide a reasonable period of time within which the material may be assembled and made available for inspection and copying or reproduction;	45839 45840 45841
(c) Identify the custodian to whom the material shall be made available and the location at which the material is to be produced.	45842 45843 45844
(3) If it is a demand for answers to written interrogatories:	45845 45846
(a) Identify the representative of the attorney general to whom such answers shall be made;	45847 45848
(b) Prescribe a date by which the answers shall be presented.	45849 45850
(4) If it is a demand for the giving of oral testimony:	45851
(a) Prescribe a date, time, and place at which oral testimony will be taken;	45852 45853
(b) Identify the representative of the attorney general who will conduct the oral examination.	45854 45855
(D) No investigative demand shall:	45856

(1) Contain any requirement that would be unreasonable if 45857
contained in a subpoena or subpoena duces tecum issued by a 45858
court in aid of a grand jury investigation; 45859

(2) Except as provided in division (H) of this section, 45860
require any answers to written interrogatories, the giving of 45861
any oral testimony, or the production of any documentary 45862
material that would be privileged from disclosure if demanded by 45863
a subpoena or subpoena duces tecum issued by a court in aid of a 45864
grand jury investigation. 45865

(E) Service of any investigative demand may be made and is 45866
complete by either of the following: 45867

(1) Mailing a copy of the demand by certified mail 45868
addressed to the individual or business concern to be served at 45869
~~his~~the individual's or ~~its~~business concern's principal office, 45870
place of business, or residence; 45871

(2) Delivering a copy of the demand to the individual or 45872
business concern or the representative or agent of the 45873
individual or business concern. 45874

(F) Any individual or business concern served with a 45875
demand under this section may be represented by counsel at the 45876
taking of that individual's or business concern's testimony. 45877

(G) Except as otherwise provided in this section, the 45878
taking of oral testimony, answering of written interrogatories, 45879
and production of documentary material under this section shall 45880
in all respects follow the procedures established by the 45881
discovery provisions of the Rules of Civil Procedure. 45882

(H) (1) Whenever an individual or business concern served 45883
with a demand under this section refuses on the basis of the 45884
individual's privilege against self-incrimination to provide any 45885

oral testimony, to answer any written interrogatories, or to 45886
produce any documentary material, the attorney general or ~~his~~the 45887
attorney general's designated representative may file a written 45888
request with a court of common pleas, and the court, unless it 45889
finds that to do so would not further the administration of 45890
justice, shall compel that individual to provide the oral 45891
testimony, to answer the written interrogatories, or to produce 45892
the documentary material if all of the following apply: 45893

(a) The attorney general or ~~his~~the attorney general's 45894
designated representative makes a written request to the court 45895
of common pleas to order the individual to provide oral 45896
testimony, to answer written interrogatories, or produce 45897
documentary material, notwithstanding ~~his~~the individual's claim 45898
of privilege; 45899

(b) The written request is made to a court of common pleas 45900
in the county in which the individual resides, transacts 45901
business, or is otherwise found, except that if the individual 45902
transacts business in more than one county, the request shall be 45903
made in the county in which the individual maintains ~~his~~the 45904
individual's principal place of business; 45905

(c) The court of common pleas informs the individual that 45906
by providing oral testimony, answering written interrogatories, 45907
or producing documentary material ~~he~~the individual will receive 45908
immunity under division (H)(2) of this section. 45909

(2) If, but for division (H) of this section, the 45910
individual would have been privileged to withhold any oral 45911
testimony, answers to written interrogatories, or documentary 45912
material given in these proceedings and ~~he~~the individual 45913
complies with an order under division (H)(1) of this section 45914
compelling ~~him~~the individual to provide testimony, answers, or 45915

material, that answer, testimony, or evidence or any evidence 45916
directly or indirectly derived therefrom may not be used against 45917
~~him~~the individual in any prosecution for a crime or offense 45918
concerning which ~~he~~the individual gave the answer, testified, or 45919
produced evidence if the answer, testimony, or evidence is 45920
responsive to the question propounded. 45921

(3) An individual granted immunity under division (H) of 45922
this section may be subjected to a criminal penalty for any 45923
violation of section 2921.11, 2921.12, or 2921.13 of the Revised 45924
Code, or for contempt committed in providing oral testimony, 45925
answers to written interrogatories, or documentary material in 45926
compliance with the order. 45927

(I) Within twenty days after service of an investigative 45928
demand upon any individual or business concern under this 45929
section or at any time before the compliance date specified in 45930
the demand, whichever period is shorter, the individual or 45931
business concern may file in the court of common pleas in the 45932
county in which ~~he~~the individual or business concern resides, 45933
transacts business, or is otherwise found, and serve upon the 45934
attorney general, a request for an order of the court modifying 45935
or setting aside the demand, except that if the individual or 45936
business concern transacts business in more than one county, the 45937
request shall be filed in the county in which the individual or 45938
business concern maintains ~~his~~the individual's or business 45939
concern's principal place of business or in any other county 45940
that may be agreed upon by the individual or business concern 45941
and the attorney general or ~~his~~the attorney general's designated 45942
representative. If the court finds that the noncompliance was in 45943
bad faith or for the purpose of delay, it may order the 45944
individual or business concern to pay to the attorney general 45945
the reasonable expenses incurred in defending the investigative 45946

demand, including attorneys' fees, and may invoke the sanctions 45947
provided by Civil Rule 37. 45948

(J) No individual or business concern shall, with intent 45949
to avoid, evade, prevent, or obstruct compliance in whole or in 45950
part by any individual or business concern with any 45951
investigative demand made under this section, remove from any 45952
place, conceal, withhold, destroy, mutilate, alter, or by any 45953
other means falsify any documentary material that is the subject 45954
of any investigative demand served upon any individual or 45955
business concern. 45956

(K) The attorney general is responsible for the custody, 45957
use, and necessary preservation of the documentary material made 45958
available pursuant to a demand and for its return as provided by 45959
this section. 45960

(L) All documentary material, answers to written 45961
interrogatories, and transcripts of oral testimony that are 45962
provided pursuant to any investigative demand are compiled as if 45963
in reasonable anticipation of a civil or criminal action or 45964
proceeding and shall be confidential and not subject to 45965
disclosure. Unless otherwise ordered by a court of common pleas, 45966
no such documentary material, answers to written 45967
interrogatories, or transcripts of oral testimony shall be 45968
available for examination or copying by, nor shall the contents 45969
thereof be disclosed to, any individual other than an authorized 45970
representative of the attorney general without the consent of 45971
the individual or business concern that provided the material, 45972
answers, or testimony, except that the documentary material, 45973
answers to written interrogatories, or oral testimony may be 45974
used in any grand jury investigation or in the conduct of any 45975
case or other official proceeding involving the issuance of a 45976

license or permit required under this chapter or involving an 45977
alleged violation of this chapter. Materials compiled pursuant 45978
to investigative procedures under this section are discoverable 45979
only to the extent authorized by the rules of any administrative 45980
or judicial tribunal in which any proceeding under this chapter 45981
is pending. No employee of the office of the attorney general 45982
shall purposely make available for examination or copying 45983
documentary material, answers to written interrogatories, or 45984
transcripts of oral testimony provided pursuant to an 45985
investigative demand, nor disclose the contents thereof, except 45986
as provided by this section. 45987

(M) When copies of documentary material made available 45988
pursuant to an investigative demand are no longer required for 45989
use in a pending proceeding or, absent any pending proceeding, 45990
are no longer required in connection with the investigation for 45991
which they were demanded, or at the end of twenty-four months 45992
after the date when the material was made available, whichever 45993
is earlier, all copies of the material shall be returned unless 45994
a request to extend the period beyond twenty-four months has 45995
been filed in the court of common pleas in which a request for 45996
an order compelling compliance pursuant to division (H) of this 45997
section could be filed. This division does not require the 45998
return of any copies of the documentary material that have 45999
passed into the control of any court or grand jury. 46000

(N) Notwithstanding any provision of the Revised Code, 46001
public officers and their deputies, assistants, clerks, 46002
subordinates, and employees shall render and furnish to the 46003
attorney general or ~~his~~the attorney general's designated 46004
representatives when so requested all information and assistance 46005
in their possession or within their power. The attorney general 46006
or ~~his~~the attorney general's authorized representatives shall 46007

provide the same degree of confidentiality for any information 46008
received under this section as the public officer or employee 46009
from whom it is obtained is required by law to provide with 46010
respect to the information. 46011

(O) When any request is filed in any court of common pleas 46012
under this section, the court shall have jurisdiction to hear 46013
and determine the matter presented. In any proceeding brought 46014
pursuant to this section, upon a showing by the attorney general 46015
that the information sought is potentially relevant to an 46016
investigation authorized herein, the court shall order the 46017
individual or business concern to provide the information 46018
requested by the attorney general. 46019

(P) Nothing in this section impairs the authority of the 46020
attorney general to file any complaint alleging a violation of 46021
this chapter that is not described in the demand, nor prevents 46022
the use of any evidence obtained through this section or 46023
otherwise in such an action. 46024

(Q) Nothing in this section impairs the authority of the 46025
attorney general or ~~his~~the attorney general's representatives to 46026
lay before any grand jury impaneled in this state any evidence 46027
obtained through this section or otherwise concerning any 46028
alleged violation of this chapter, to invoke the power of the 46029
courts to compel the production of any evidence before any such 46030
grand jury, to institute any proceeding for the enforcement of 46031
any order or process issued in execution of such power, or to 46032
punish disobedience of any such order or process by any person. 46033

(R) Any judicial proceeding to challenge or enforce an 46034
investigative demand made by the attorney general against an 46035
individual or business concern who neither resides in nor 46036
transacts business in this state shall be initiated in the court 46037

of common pleas of Franklin county. 46038

Sec. 3734.57. (A) The following fees are hereby levied on 46039
the transfer or disposal of solid wastes in this state: 46040

(1) Seventy-one cents per ton through June 30, 2028, 46041
eleven cents of the proceeds of which shall be deposited in the 46042
state treasury to the credit of the hazardous waste facility 46043
management fund created in section 3734.18 of the Revised Code 46044
and sixty cents of the proceeds of which shall be deposited in 46045
the state treasury to the credit of the hazardous waste clean-up 46046
fund created in section 3734.28 of the Revised Code; 46047

(2) An additional ninety cents per ton through June 30, 46048
2028, the proceeds of which shall be deposited in the state 46049
treasury to the credit of the waste management fund created in 46050
section 3734.061 of the Revised Code; 46051

(3) An additional two dollars and eighty-one cents per ton 46052
through June 30, 2028, the proceeds of which shall be deposited 46053
in the state treasury to the credit of the environmental 46054
protection fund created in section 3745.015 of the Revised Code; 46055

(4) An additional twenty-five cents per ton through June 46056
30, 2028, the proceeds of which shall be deposited in the state 46057
treasury to the credit of the soil and water conservation 46058
district assistance fund created in section 940.15 of the 46059
Revised Code; 46060

(5) An additional eight cents per ton through June 30, 46061
2028, the proceeds of which shall be deposited in the state 46062
treasury to the credit of the national priority list remedial 46063
support fund created in section 3734.579 of the Revised Code. 46064

In the case of solid wastes that are taken to a solid 46065
waste transfer facility located in this state prior to being 46066

transported for disposal at a solid waste disposal facility 46067
located in this state or outside of this state, the fees levied 46068
under this division shall be collected by the owner or operator 46069
of the transfer facility as a trustee for the state. The amount 46070
of fees required to be collected under this division at such a 46071
transfer facility shall equal the total tonnage of solid wastes 46072
received at the facility multiplied by the fees levied under 46073
this division. In the case of solid wastes that are not taken to 46074
a solid waste transfer facility located in this state prior to 46075
being transported to a solid waste disposal facility, the fees 46076
shall be collected by the owner or operator of the solid waste 46077
disposal facility as a trustee for the state. The amount of fees 46078
required to be collected under this division at such a disposal 46079
facility shall equal the total tonnage of solid wastes received 46080
at the facility that was not previously taken to a solid waste 46081
transfer facility located in this state multiplied by the fees 46082
levied under this division. Fees levied under this division do 46083
not apply to materials separated from a mixed waste stream for 46084
recycling by a generator or materials removed from the solid 46085
waste stream through recycling, as "recycling" is defined in 46086
rules adopted under section 3734.02 of the Revised Code. 46087

The owner or operator of a solid waste transfer facility 46088
or disposal facility, as applicable, shall prepare and file with 46089
the director of environmental protection each month a return 46090
indicating the total tonnage of solid wastes received at the 46091
facility during that month and the total amount of the fees 46092
required to be collected under this division during that month. 46093
In addition, the owner or operator of a solid waste disposal 46094
facility shall indicate on the return the total tonnage of solid 46095
wastes received from transfer facilities located in this state 46096
during that month for which the fees were required to be 46097

collected by the transfer facilities. The monthly returns shall 46098
be filed on a form prescribed by the director. Not later than 46099
thirty days after the last day of the month to which a return 46100
applies, the owner or operator shall mail to the director the 46101
return for that month together with the fees required to be 46102
collected under this division during that month as indicated on 46103
the return or may submit the return and fees electronically in a 46104
manner approved by the director. If the return is filed and the 46105
amount of the fees due is paid in a timely manner as required in 46106
this division, the owner or operator may retain a discount of 46107
three-fourths of one per cent of the total amount of the fees 46108
that are required to be paid as indicated on the return. 46109

The owner or operator may request an extension of not more 46110
than thirty days for filing the return and remitting the fees, 46111
provided that the owner or operator has submitted such a request 46112
in writing to the director together with a detailed description 46113
of why the extension is requested, the director has received the 46114
request not later than the day on which the return is required 46115
to be filed, and the director has approved the request. If the 46116
fees are not remitted within thirty days after the last day of 46117
the month to which the return applies or are not remitted by the 46118
last day of an extension approved by the director, the owner or 46119
operator shall not retain the three-fourths of one per cent 46120
discount and shall pay an additional ten per cent of the amount 46121
of the fees for each month that they are late. For purposes of 46122
calculating the late fee, the first month in which fees are late 46123
begins on the first day after the deadline has passed for timely 46124
submitting the return and fees, and one additional month shall 46125
be counted every thirty days thereafter. 46126

The owner or operator of a solid waste facility may 46127
request a refund or credit of fees levied under this division 46128

and remitted to the director that have not been paid to the 46129
owner or operator. Such a request shall be made only if the fees 46130
have not been collected by the owner or operator, have become a 46131
debt that has become worthless or uncollectable for a period of 46132
six months or more, and may be claimed as a deduction, including 46133
a deduction claimed if the owner or operator keeps accounts on 46134
an accrual basis, under the "Internal Revenue Code of 1954," 68A 46135
Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted 46136
under it. Prior to making a request for a refund or credit, an 46137
owner or operator shall make reasonable efforts to collect the 46138
applicable fees. A request for a refund or credit shall not 46139
include any costs resulting from those efforts to collect unpaid 46140
fees. 46141

A request for a refund or credit of fees shall be made in 46142
writing, on a form prescribed by the director, and shall be 46143
supported by evidence that may be required in rules adopted by 46144
the director under this chapter. After reviewing the request, 46145
and if the request and evidence submitted with the request 46146
indicate that a refund or credit is warranted, the director 46147
shall grant a refund to the owner or operator or shall permit a 46148
credit to be taken by the owner or operator on a subsequent 46149
monthly return submitted by the owner or operator. The amount of 46150
a refund or credit shall not exceed an amount that is equal to 46151
ninety days' worth of fees owed to an owner or operator by a 46152
particular debtor of the owner or operator. A refund or credit 46153
shall not be granted by the director to an owner or operator 46154
more than once in any twelve-month period for fees owed to the 46155
owner or operator by a particular debtor. 46156

If, after receiving a refund or credit from the director, 46157
an owner or operator receives payment of all or part of the 46158
fees, the owner or operator shall remit the fees with the next 46159

monthly return submitted to the director together with a written 46160
explanation of the reason for the submittal. 46161

For purposes of computing the fees levied under this 46162
division or division (B) of this section, any solid waste 46163
transfer or disposal facility that does not use scales as a 46164
means of determining gate receipts shall use a conversion factor 46165
of three cubic yards per ton of solid waste or one cubic yard 46166
per ton for baled waste, as applicable. 46167

The fees levied under this division and divisions (B) and 46168
(C) of this section are in addition to all other applicable fees 46169
and taxes and shall be paid by the customer or a political 46170
subdivision to the owner or operator of a solid waste transfer 46171
or disposal facility. In the alternative, the fees shall be paid 46172
by a customer or political subdivision to a transporter of waste 46173
who subsequently transfers the fees to the owner or operator of 46174
such a facility. The fees shall be paid notwithstanding the 46175
existence of any provision in a contract that the customer or a 46176
political subdivision may have with the owner or operator or 46177
with a transporter of waste to the facility that would not 46178
require or allow such payment regardless of whether the contract 46179
was entered prior to or after October 16, 2009. For those 46180
purposes, "customer" means a person who contracts with, or 46181
utilizes the solid waste services of, the owner or operator of a 46182
solid waste transfer or disposal facility or a transporter of 46183
solid waste to such a facility. 46184

(B) For the purposes specified in division (G) of this 46185
section, the solid waste management policy committee of a county 46186
or joint solid waste management district may levy fees upon the 46187
following activities: 46188

(1) The disposal at a solid waste disposal facility 46189

located in the district of solid wastes generated within the 46190
district; 46191

(2) The disposal at a solid waste disposal facility within 46192
the district of solid wastes generated outside the boundaries of 46193
the district, but inside this state; 46194

(3) The disposal at a solid waste disposal facility within 46195
the district of solid wastes generated outside the boundaries of 46196
this state. 46197

The solid waste management plan of the county or joint 46198
district approved under section 3734.521 or 3734.55 of the 46199
Revised Code and any amendments to it, or the resolution adopted 46200
under this division, as appropriate, shall establish the rates 46201
of the fees levied under divisions (B) (1), (2), and (3) of this 46202
section, if any, and shall specify whether the fees are levied 46203
on the basis of tons or cubic yards as the unit of measurement. 46204
A solid waste management district that levies fees under this 46205
division on the basis of cubic yards shall do so in accordance 46206
with division (A) of this section. 46207

The fee levied under division (B) (1) of this section shall 46208
be not less than one dollar per ton nor more than two dollars 46209
per ton, the fee levied under division (B) (2) of this section 46210
shall be not less than two dollars per ton nor more than four 46211
dollars per ton, and the fee levied under division (B) (3) of 46212
this section shall be not more than the fee levied under 46213
division (B) (1) of this section. 46214

Prior to the approval of the solid waste management plan 46215
of a district under section 3734.55 of the Revised Code, the 46216
solid waste management policy committee of a district may levy 46217
fees under this division by adopting a resolution establishing 46218

the proposed amount of the fees. Upon adopting the resolution, 46219
the committee shall deliver a copy of the resolution to the 46220
board of county commissioners of each county forming the 46221
district and to the legislative authority of each municipal 46222
corporation and township under the jurisdiction of the district 46223
and shall prepare and publish the resolution and a notice of the 46224
time and location where a public hearing on the fees will be 46225
held. Upon adopting the resolution, the committee shall deliver 46226
written notice of the adoption of the resolution; of the amount 46227
of the proposed fees; and of the date, time, and location of the 46228
public hearing to the director and to the fifty industrial, 46229
commercial, or institutional generators of solid wastes within 46230
the district that generate the largest quantities of solid 46231
wastes, as determined by the committee, and to their local trade 46232
associations. The committee shall make good faith efforts to 46233
identify those generators within the district and their local 46234
trade associations, but the nonprovision of notice under this 46235
division to a particular generator or local trade association 46236
does not invalidate the proceedings under this division. The 46237
publication shall occur at least thirty days before the hearing. 46238
After the hearing, the committee may make such revisions to the 46239
proposed fees as it considers appropriate and thereafter, by 46240
resolution, shall adopt the revised fee schedule. Upon adopting 46241
the revised fee schedule, the committee shall deliver a copy of 46242
the resolution doing so to the board of county commissioners of 46243
each county forming the district and to the legislative 46244
authority of each municipal corporation and township under the 46245
jurisdiction of the district. Within sixty days after the 46246
delivery of a copy of the resolution adopting the proposed 46247
revised fees by the policy committee, each such board and 46248
legislative authority, by ordinance or resolution, shall approve 46249
or disapprove the revised fees and deliver a copy of the 46250

ordinance or resolution to the committee. If any such board or 46251
legislative authority fails to adopt and deliver to the policy 46252
committee an ordinance or resolution approving or disapproving 46253
the revised fees within sixty days after the policy committee 46254
delivered its resolution adopting the proposed revised fees, it 46255
shall be conclusively presumed that the board or legislative 46256
authority has approved the proposed revised fees. The committee 46257
shall determine if the resolution has been ratified in the same 46258
manner in which it determines if a draft solid waste management 46259
plan has been ratified under division (B) of section 3734.55 of 46260
the Revised Code. 46261

The committee may amend the schedule of fees levied 46262
pursuant to a resolution adopted and ratified under this 46263
division by adopting a resolution establishing the proposed 46264
amount of the amended fees. The committee may repeal the fees 46265
levied pursuant to such a resolution by adopting a resolution 46266
proposing to repeal them. Upon adopting such a resolution, the 46267
committee shall proceed to obtain ratification of the resolution 46268
in accordance with this division. 46269

Not later than fourteen days after declaring the new fees 46270
to be ratified or the fees to be repealed under this division, 46271
the committee shall notify by certified mail the owner or 46272
operator of each solid waste disposal facility that is required 46273
to collect the fees of the ratification and the amount of the 46274
fees or of the repeal of the fees. Collection of any fees shall 46275
commence or collection of repealed fees shall cease on the first 46276
day of the second month following the month in which 46277
notification is sent to the owner or operator. 46278

Fees levied under this division also may be established, 46279
amended, or repealed by a solid waste management policy 46280

committee through the adoption of a new district solid waste 46281
management plan, the adoption of an amended plan, or the 46282
amendment of the plan or amended plan in accordance with 46283
sections 3734.55 and 3734.56 of the Revised Code or the adoption 46284
or amendment of a district plan in connection with a change in 46285
district composition under section 3734.521 of the Revised Code. 46286

Not later than fourteen days after the director issues an 46287
order approving a district's solid waste management plan, 46288
amended plan, or amendment to a plan or amended plan that 46289
establishes, amends, or repeals a schedule of fees levied by the 46290
district, the committee shall notify by certified mail the owner 46291
or operator of each solid waste disposal facility that is 46292
required to collect the fees of the approval of the plan or 46293
amended plan, or the amendment to the plan, as appropriate, and 46294
the amount of the fees, if any. In the case of an initial or 46295
amended plan approved under section 3734.521 of the Revised Code 46296
in connection with a change in district composition, other than 46297
one involving the withdrawal of a county from a joint district, 46298
the committee, within fourteen days after the change takes 46299
effect pursuant to division (E) of that section, shall notify by 46300
certified mail the owner or operator of each solid waste 46301
disposal facility that is required to collect the fees that the 46302
change has taken effect and of the amount of the fees, if any. 46303
Collection of any fees shall commence or collection of repealed 46304
fees shall cease on the first day of the second month following 46305
the month in which notification is sent to the owner or 46306
operator. 46307

If, in the case of a change in district composition 46308
involving the withdrawal of a county from a joint district, the 46309
director completes the actions required under section 3734.522 46310
of the Revised Code, forty-five days or more before the 46311

beginning of a calendar year, the policy committee of each of 46312
the districts resulting from the change that obtained the 46313
director's approval of an initial or amended plan in connection 46314
with the change, within fourteen days after the director's 46315
completion of the required actions, shall notify by certified 46316
mail the owner or operator of each solid waste disposal facility 46317
that is required to collect the district's fees that the change 46318
is to take effect on the first day of January immediately 46319
following the issuance of the notice and of the amount of the 46320
fees or amended fees levied under divisions (B) (1) to (3) of 46321
this section pursuant to the district's initial or amended plan 46322
as so approved or, if appropriate, the repeal of the district's 46323
fees by that initial or amended plan. Collection of any fees set 46324
forth in such a plan or amended plan shall commence on the first 46325
day of January immediately following the issuance of the notice. 46326
If such an initial or amended plan repeals a schedule of fees, 46327
collection of the fees shall cease on that first day of January. 46328

If, in the case of a change in district composition 46329
involving the withdrawal of a county from a joint district, the 46330
director completes the actions required under section 3734.522 46331
of the Revised Code, less than forty-five days before the 46332
beginning of a calendar year, the director, on behalf of each of 46333
the districts resulting from the change that obtained the 46334
director's approval of an initial or amended plan in connection 46335
with the change proceedings, shall notify by certified mail the 46336
owner or operator of each solid waste disposal facility that is 46337
required to collect the district's fees that the change is to 46338
take effect on the first day of January immediately following 46339
the mailing of the notice and of the amount of the fees or 46340
amended fees levied under divisions (B) (1) to (3) of this 46341
section pursuant to the district's initial or amended plan as so 46342

approved or, if appropriate, the repeal of the district's fees 46343
by that initial or amended plan. Collection of any fees set 46344
forth in such a plan or amended plan shall commence on the first 46345
day of the second month following the month in which 46346
notification is sent to the owner or operator. If such an 46347
initial or amended plan repeals a schedule of fees, collection 46348
of the fees shall cease on the first day of the second month 46349
following the month in which notification is sent to the owner 46350
or operator. 46351

If the schedule of fees that a solid waste management 46352
district is levying under divisions (B) (1) to (3) of this 46353
section is amended or repealed, the fees in effect immediately 46354
prior to the amendment or repeal shall continue to be collected 46355
until collection of the amended fees commences or collection of 46356
the repealed fees ceases, as applicable, as specified in this 46357
division. In the case of a change in district composition, money 46358
so received from the collection of the fees of the former 46359
districts shall be divided among the resulting districts in 46360
accordance with section 3734.522 of the Revised Code and the 46361
agreements entered into under division (B) of section 343.01 of 46362
the Revised Code to establish the former and resulting districts 46363
and any amendments to those agreements. 46364

For the purposes of the provisions of division (B) of this 46365
section establishing the times when newly established or amended 46366
fees levied by a district are required to commence and the 46367
collection of fees that have been amended or repealed is 46368
required to cease, "fees" or "schedule of fees" includes, in 46369
addition to fees levied under divisions (B) (1) to (3) of this 46370
section, those levied under section 3734.573 or 3734.574 of the 46371
Revised Code. 46372

(C) For the purposes of defraying the added costs to a 46373
municipal corporation or township of maintaining roads and other 46374
public facilities and of providing emergency and other public 46375
services, and compensating a municipal corporation or township 46376
for reductions in real property tax revenues due to reductions 46377
in real property valuations resulting from the location and 46378
operation of a solid waste disposal facility within the 46379
municipal corporation or township, a municipal corporation or 46380
township in which such a solid waste disposal facility is 46381
located may levy a fee of not more than twenty-five cents per 46382
ton on the disposal of solid wastes at a solid waste disposal 46383
facility located within the boundaries of the municipal 46384
corporation or township regardless of where the wastes were 46385
generated. 46386

The legislative authority of a municipal corporation or 46387
township may levy fees under this division by enacting an 46388
ordinance or adopting a resolution establishing the amount of 46389
the fees. Upon so doing the legislative authority shall mail a 46390
certified copy of the ordinance or resolution to the board of 46391
county commissioners or directors of the county or joint solid 46392
waste management district in which the municipal corporation or 46393
township is located or, if a regional solid waste management 46394
authority has been formed under section 343.011 of the Revised 46395
Code, to the board of trustees of that regional authority, the 46396
owner or operator of each solid waste disposal facility in the 46397
municipal corporation or township that is required to collect 46398
the fee by the ordinance or resolution, and the director of 46399
environmental protection. Although the fees levied under this 46400
division are levied on the basis of tons as the unit of 46401
measurement, the legislative authority, in its ordinance or 46402
resolution levying the fees under this division, may direct that 46403

the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D) (1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are generated from the combustion of coal, or from the combustion of primarily coal, regardless of whether the disposal facility is located on the premises where the wastes are generated;

(c) Are asbestos or asbestos-containing materials or products disposed of at a construction and demolition debris facility that is licensed under Chapter 3714. of the Revised Code or at a solid waste facility that is licensed under this chapter.

(2) Except as provided in section 3734.571 of the Revised

Code, any fees levied under division (B) (1) of this section 46433
apply to solid wastes originating outside the boundaries of a 46434
county or joint district that are covered by an agreement for 46435
the joint use of solid waste facilities entered into under 46436
section 343.02 of the Revised Code by the board of county 46437
commissioners or board of directors of the county or joint 46438
district where the wastes are generated and disposed of. 46439

(3) When solid wastes, other than solid wastes that 46440
consist of scrap tires, are burned in a disposal facility that 46441
is an incinerator or energy recovery facility, the fees levied 46442
under divisions (A), (B), and (C) of this section shall be 46443
levied upon the disposal of the fly ash and bottom ash remaining 46444
after burning of the solid wastes and shall be collected by the 46445
owner or operator of the sanitary landfill where the ash is 46446
disposed of. 46447

(4) When solid wastes are delivered to a solid waste 46448
transfer facility, the fees levied under divisions (B) and (C) 46449
of this section shall be levied upon the disposal of solid 46450
wastes transported off the premises of the transfer facility for 46451
disposal and shall be collected by the owner or operator of the 46452
solid waste disposal facility where the wastes are disposed of. 46453

(5) The fees levied under divisions (A), (B), and (C) of 46454
this section do not apply to sewage sludge that is generated by 46455
a waste water treatment facility holding a national pollutant 46456
discharge elimination system permit and that is disposed of 46457
through incineration, land application, or composting or at 46458
another resource recovery or disposal facility that is not a 46459
landfill. 46460

(6) The fees levied under divisions (A), (B), and (C) of 46461
this section do not apply to solid wastes delivered to a solid 46462

waste composting facility for processing. When any unprocessed 46463
solid waste or compost product is transported off the premises 46464
of a composting facility and disposed of at a landfill, the fees 46465
levied under divisions (A), (B), and (C) of this section shall 46466
be collected by the owner or operator of the landfill where the 46467
unprocessed waste or compost product is disposed of. 46468

(7) When solid wastes that consist of scrap tires are 46469
processed at a scrap tire recovery facility, the fees levied 46470
under divisions (A), (B), and (C) of this section shall be 46471
levied upon the disposal of the fly ash and bottom ash or other 46472
solid wastes remaining after the processing of the scrap tires 46473
and shall be collected by the owner or operator of the solid 46474
waste disposal facility where the ash or other solid wastes are 46475
disposed of. 46476

(8) The director of environmental protection may issue an 46477
order exempting from the fees levied under this section solid 46478
wastes, including, but not limited to, scrap tires, that are 46479
generated, transferred, or disposed of as a result of a contract 46480
providing for the expenditure of public funds entered into by 46481
the administrator or regional administrator of the United States 46482
environmental protection agency, the director of environmental 46483
protection, or the director of administrative services on behalf 46484
of the director of environmental protection for the purpose of 46485
remediating conditions at a hazardous waste facility, solid 46486
waste facility, or other location at which the administrator or 46487
regional administrator or the director of environmental 46488
protection has reason to believe that there is a substantial 46489
threat to public health or safety or the environment or that the 46490
conditions are causing or contributing to air or water pollution 46491
or soil contamination. An order issued by the director of 46492
environmental protection under division (D) (8) of this section 46493

shall include a determination that the amount of the fees not 46494
received by a solid waste management district as a result of the 46495
order will not adversely impact the implementation and financing 46496
of the district's approved solid waste management plan and any 46497
approved amendments to the plan. Such an order is a final action 46498
of the director of environmental protection. 46499

(E) The fees levied under divisions (B) and (C) of this 46500
section shall be collected by the owner or operator of the solid 46501
waste disposal facility where the wastes are disposed of as a 46502
trustee for the county or joint district and municipal 46503
corporation or township where the wastes are disposed of. Moneys 46504
from the fees levied under division (B) of this section shall be 46505
forwarded to the board of county commissioners or board of 46506
directors of the district in accordance with rules adopted under 46507
division (H) of this section. Moneys from the fees levied under 46508
division (C) of this section shall be forwarded to the treasurer 46509
or such other officer of the municipal corporation as, by virtue 46510
of the charter, has the duties of the treasurer or to the fiscal 46511
officer of the township, as appropriate, in accordance with 46512
those rules. 46513

(F) Moneys received by the treasurer or other officer of 46514
the municipal corporation under division (E) of this section 46515
shall be paid into the general fund of the municipal 46516
corporation. Moneys received by the fiscal officer of the 46517
township under that division shall be paid into the general fund 46518
of the township. The treasurer or other officer of the municipal 46519
corporation or the township fiscal officer, as appropriate, 46520
shall maintain separate records of the moneys received from the 46521
fees levied under division (C) of this section. 46522

(G) Moneys received by the board of county commissioners 46523

or board of directors under division (E) of this section or 46524
section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised 46525
Code shall be paid to the county treasurer, or other official 46526
acting in a similar capacity under a county charter, in a county 46527
district or to the county treasurer or other official designated 46528
by the board of directors in a joint district and kept in a 46529
separate and distinct fund to the credit of the district. If a 46530
regional solid waste management authority has been formed under 46531
section 343.011 of the Revised Code, moneys received by the 46532
board of trustees of that regional authority under division (E) 46533
of this section shall be kept by the board in a separate and 46534
distinct fund to the credit of the district. Moneys in the 46535
special fund of the county or joint district arising from the 46536
fees levied under division (B) of this section and the fee 46537
levied under division (A) of section 3734.573 of the Revised 46538
Code shall be expended by the board of county commissioners or 46539
directors of the district in accordance with the district's 46540
solid waste management plan or amended plan approved under 46541
section 3734.521, 3734.55, or 3734.56 of the Revised Code 46542
exclusively for the following purposes: 46543

(1) Preparation of the solid waste management plan of the 46544
district under section 3734.54 of the Revised Code, monitoring 46545
implementation of the plan, and conducting the periodic review 46546
and amendment of the plan required by section 3734.56 of the 46547
Revised Code by the solid waste management policy committee; 46548

(2) Implementation of the approved solid waste management 46549
plan or amended plan of the district, including, without 46550
limitation, the development and implementation of solid waste 46551
recycling or reduction programs; 46552

(3) Providing financial assistance to boards of health 46553

within the district, if solid waste facilities are located 46554
within the district, for enforcement of this chapter and rules, 46555
orders, and terms and conditions of permits, licenses, and 46556
variances adopted or issued under it, other than the hazardous 46557
waste provisions of this chapter and rules adopted and orders 46558
and terms and conditions of permits issued under those 46559
provisions; 46560

(4) Providing financial assistance to each county within 46561
the district to defray the added costs of maintaining roads and 46562
other public facilities and of providing emergency and other 46563
public services resulting from the location and operation of a 46564
solid waste facility within the county under the district's 46565
approved solid waste management plan or amended plan; 46566

(5) Pursuant to contracts entered into with boards of 46567
health within the district, if solid waste facilities contained 46568
in the district's approved plan or amended plan are located 46569
within the district, for paying the costs incurred by those 46570
boards of health for collecting and analyzing samples from 46571
public or private water wells on lands adjacent to those 46572
facilities; 46573

(6) Developing and implementing a program for the 46574
inspection of solid wastes generated outside the boundaries of 46575
this state that are disposed of at solid waste facilities 46576
included in the district's approved solid waste management plan 46577
or amended plan; 46578

(7) Providing financial assistance to boards of health 46579
within the district for the enforcement of section 3734.03 of 46580
the Revised Code or to local law enforcement agencies having 46581
jurisdiction within the district for enforcing anti-littering 46582
laws and ordinances; 46583

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

(11) Providing financial assistance to individual

counties, boards of health, municipal corporations, and 46614
townships for the costs of mitigating impacts to public health, 46615
safety, and welfare of solid waste disposal or transfer 46616
facilities within the applicable political subdivision. 46617

Prior to the approval of the district's solid waste 46618
management plan under section 3734.55 of the Revised Code, 46619
moneys in the special fund of the district arising from the fees 46620
shall be expended for those purposes in the manner prescribed by 46621
the solid waste management policy committee by resolution. 46622

(H) The director shall adopt rules in accordance with 46623
Chapter 119. of the Revised Code prescribing procedures for 46624
collecting and forwarding the fees levied under divisions (B) 46625
and (C) of this section to the boards of county commissioners or 46626
directors of county or joint solid waste management districts 46627
and to the treasurers or other officers of municipal 46628
corporations and the fiscal officers of townships. The rules 46629
also shall prescribe the dates for forwarding the fees to the 46630
boards and officials ~~and may prescribe any other requirements~~ 46631
~~the director considers necessary or appropriate to implement and~~ 46632
~~administer divisions (A), (B), and (C) of this section.~~ 46633

Sec. 3734.574. (A) (1) A county or joint solid waste 46634
management district that is levying fees under division (B) of 46635
section 3734.57 of the Revised Code on October 29, 1993, 46636
pursuant to a resolution adopted under that division and former 46637
Section 25 of Am. Sub. S.B. 359 of the 119th general assembly, 46638
or one that is levying those fees pursuant to such a resolution 46639
and for which the director of environmental protection 46640
disapproves the initial solid waste management plan of the 46641
district under section 3734.55 of the Revised Code on or after 46642
October 29, 1993, may continue to levy those fees until the 46643

district abolishes them under division (D) of this section, the 46644
director issues an order under division (F) of this section 46645
requiring the district to cease levying the fees, or the 46646
district obtains approval of its own plan under section 3734.521 46647
or 3734.56 of the Revised Code and collection of the fees 46648
established in the approved plan commences in accordance with 46649
division (B) of section 3734.57 of the Revised Code. 46650

(2) A county or joint solid waste management district that 46651
is levying fees under division (B) of section 3734.57 of the 46652
Revised Code or division (A) of section 3734.573 of the Revised 46653
Code under an initial or amended solid waste management plan 46654
approved under section 3734.521, 3734.55, or 3734.56 of the 46655
Revised Code when the director issues an order under division 46656
(D) of section 3734.521 of the Revised Code or division (A) or 46657
(B) of section 3734.56 of the Revised Code requiring the 46658
district to implement an amended plan prepared by the director, 46659
may continue to levy those fees until the district abolishes 46660
them under division (D) of this section, the director issues an 46661
order under division (F) of this section requiring the district 46662
to cease levying the fees, or the district obtains approval of 46663
its own plan or amended plan under section 3734.521 or 3734.56 46664
of the Revised Code and collection of the fees established in 46665
the approved plan or amended plan commences in accordance with 46666
division (B) of section 3734.57 of the Revised Code. 46667

(B) The solid waste management policy committee of a 46668
county or joint district described in division (A)(1) of this 46669
section may levy a fee under division (A) of section 3734.573 of 46670
the Revised Code by adopting and obtaining ratification of a 46671
resolution establishing the amount of the fee. The policy 46672
committee of such a district that, after December 1, 1993, 46673
concurrently proposes to levy a fee under division (A) of 46674

section 3734.573 of the Revised Code and to amend the fees that 46675
the district is levying under division (B) of section 3734.57 of 46676
the Revised Code may adopt and obtain ratification of one 46677
resolution to do both. A county or joint district that is 46678
ordered under division (D) of section 3734.521 of the Revised 46679
Code to implement an initial plan prepared by the director may 46680
levy fees under division (B) of section 3734.57 of the Revised 46681
Code or division (A) of section 3734.573 of the Revised Code by 46682
adopting and obtaining ratification of a resolution specifying 46683
which of the fees are to be levied and their amounts. The 46684
requirements and procedures set forth in division (B) of section 46685
3734.57 of the Revised Code governing the adoption of 46686
resolutions levying fees under that division, the ratification 46687
of those resolutions, and the notification of owners and 46688
operators of solid waste facilities required to collect fees 46689
under those divisions govern the adoption and ratification of 46690
resolutions levying fees under this division and the 46691
notification of owners and operators required to collect the 46692
fees levied under this division, except as otherwise 46693
specifically provided in division (C) of this section. Any such 46694
district may levy fees under this division until the district 46695
abolishes the fees under division (D) of this section, the 46696
director issues an order under division (F) of this section 46697
requiring the district to cease levying the fees, or the 46698
district obtains approval of its own plan or amended plan under 46699
section 3734.521 or 3734.56 of the Revised Code and collection 46700
of the fees established in the approved plan or amended plan 46701
commences in accordance with division (B) of section 3734.57 of 46702
the Revised Code. 46703

(C) Any resolution adopted under division (B) of this 46704
section that proposes to levy a fee under division (A) of 46705

section 3734.573 of the Revised Code that exceeds five dollars 46706
per ton shall be ratified in accordance with the provisions of 46707
division (B) of section 3734.57 of the Revised Code, except that 46708
such a resolution shall be approved by a combination of 46709
municipal corporations and townships with a combined population 46710
within the boundaries of the district comprising at least 46711
seventy-five per cent, rather than at least sixty per cent, of 46712
the total population of the district. 46713

(D) The policy committee of a county or joint district may 46714
amend fees levied by the district under division (A) or (B) of 46715
this section by adopting and obtaining ratification of a 46716
resolution establishing the proposed amount of the amended fees. 46717
The committee may abolish any of those fees or any amended fees 46718
established under this division by adopting and obtaining 46719
ratification of a resolution repealing them. A district that is 46720
proposing at the same time to amend or abolish the fees levied 46721
under divisions (A) and (B) of this section may adopt one 46722
resolution proposing the amendment or repeal of all of the fees. 46723
The requirements and procedures under division (B) and, if 46724
applicable, division (C) of this section govern the adoption and 46725
ratification of a resolution authorized to be adopted under this 46726
division and the notification of owners and operators of solid 46727
waste facilities required to collect the fees. Collection of the 46728
fees so amended or abolished commences or ceases in accordance 46729
with division (B) of section 3734.57 of the Revised Code. 46730

(E) Not later than thirty days before the beginning of 46731
each calendar quarter, the board of county commissioners or 46732
board of directors of a district that is levying fees under 46733
division (A) or (B) of this section shall submit to the director 46734
a proposed budget for the expenditure of moneys from the special 46735
fund of the district created under division (G) of section 46736

3734.57 of the Revised Code. The proposed budget shall be 46737
submitted on a form prescribed by the director. 46738

The director may disapprove in whole or in part such a 46739
proposed quarterly budget for any of the following reasons: 46740

(1) The proposed budget includes expenditures for any 46741
purpose other than those authorized under division (G) of 46742
section 3734.57 of the Revised Code; 46743

(2) The director reasonably estimates that there will be 46744
insufficient moneys in the special fund created to meet the 46745
proposed expenditures; 46746

(3) The board failed to submit the proposed budget to the 46747
director at least thirty days prior to the beginning of the 46748
calendar quarter to which it pertains; 46749

(4) The board failed to submit the latest report of 46750
quarterly expenditures from the fund that it was required to 46751
submit under section 3734.575 of the Revised Code within thirty 46752
days after the end of the calendar quarter to which it pertains; 46753

(5) The district is materially failing to comply with the 46754
implementation schedule contained in the plan or amended plan of 46755
the district prepared and ordered to be implemented under 46756
section 3734.521, 3734.55, or 3734.56 of the Revised Code; 46757

(6) There have been repeated inconsistencies between the 46758
expenditures projected in the proposed budgets submitted under 46759
division (E) of this section and actual expenditures from the 46760
fund. 46761

If the director does not disapprove a proposed quarterly 46762
budget prior to the first day of the calendar quarter to which 46763
it pertains, it is conclusively presumed that the proposed 46764

budget has not been disapproved. 46765

Nothing in division (E) of this section precludes the 46766
board of county commissioners or directors of a district from 46767
making necessary expenditures to meet unforeseen circumstances 46768
that occur during a calendar quarter that were not provided for 46769
in the proposed budget for that quarter. Prior to making any 46770
such expenditure, the board shall notify the director of the 46771
nature of the unforeseen circumstances and of the amount of the 46772
expenditure needed to meet them. The board shall include an 46773
explanation of the nature of the unforeseen circumstances and of 46774
the necessity and amount of the expenditures to meet them in the 46775
quarterly expenditure report for the quarter in which the 46776
expenditures were made that is submitted to the director under 46777
section 3734.575 of the Revised Code. 46778

(F) If the director finds that the board of county 46779
commissioners or directors of a district that is levying fees 46780
under division (A) or (B) of this section is in material and 46781
continued noncompliance with the implementation schedule 46782
contained in the plan or amended plan of the district prepared 46783
and ordered to be implemented under section 3734.521, 3734.55, 46784
or 3734.56 of the Revised Code, or if repeated whole or partial 46785
disapprovals of the proposed quarterly budgets of the district 46786
have occurred under division (E) of this section, the director 46787
may issue an order to the board terminating the collection of 46788
all of the fees levied by the district under division (A) or (B) 46789
of this section. 46790

Notwithstanding section 119.06 of the Revised Code, the 46791
director may issue an order under this division or disapprove in 46792
whole or in part a proposed budget under division (E) of this 46793
section by issuance of a final action that is effective upon 46794

issuance without the necessity to hold any adjudication hearing 46795
in connection with the order or disapproval and without the 46796
issuance of a proposed action under section 3745.07 of the 46797
Revised Code. 46798

~~(G) The director, in accordance with Chapter 119. of the 46799
Revised Code, may adopt, amend, suspend, and rescind such rules 46800
as the director considers to be necessary or appropriate to 46801
implement or administer this section or division (D) of section 46802
3734.55 of the Revised Code. 46803~~

~~(H)~~ (G) Moneys received by a district levying fees under 46804
division (A) or (B) of this section shall be credited to the 46805
special fund of the district created in division (G) of section 46806
3734.57 of the Revised Code and shall be used exclusively for 46807
the purposes set forth in division (G) of that section in the 46808
manner prescribed by the solid waste management policy committee 46809
of the district by resolution and for the purposes of section 46810
3734.551 of the Revised Code. 46811

Sec. 3734.74. The director of environmental protection, in 46812
accordance with Chapter 119. of the Revised Code, shall adopt 46813
and may amend or rescind rules ~~governing the transportation of 46814
scrap tires and the registration of persons engaged in the 46815
transportation of scrap tires. The rules shall that do all of 46816
the following: 46817~~

(A) Require that, before transporting scrap tires, a 46818
person shall register as a scrap tire transporter with the 46819
director; 46820

(B) Require that, before being issued a registration 46821
certificate under section 3734.83 of the Revised Code, a 46822
transporter submit a surety bond, a letter of credit, or other 46823

financial assurance acceptable to the director, as specified by 46824
the director in the rules, in an amount of not more than ten 46825
thousand dollars as the director considers necessary to cover 46826
the costs of cleanup of tires improperly accumulated or 46827
discarded by the transporter and to cover liability for sudden 46828
accidental occurrences that result in damage or injury to 46829
persons or property or to the environment; 46830

~~(B)~~ (C) Establish a system of shipping papers to accompany 46831
shipments of scrap tires. The shipping paper for each shipment 46832
shall include at least all of the following information: 46833

(1) The name and address of each transporter who 46834
transported the shipment of scrap tires; 46835

(2) The number of the registration certificate issued 46836
under section 3734.83 of the Revised Code for each transporter 46837
who transported the shipment of scrap tires, the signature of 46838
the individual transporting the scrap tires for each 46839
transporter, and the date or dates on which they were 46840
transported; 46841

(3) The quantity in weight or volume of the scrap tires 46842
being transported; 46843

(4) The address of the scrap tire collection, storage, 46844
monocell, monofill, or recovery facility, or other premises, 46845
where the scrap tires were deposited, or of any other registered 46846
transporter with whom the scrap tires were deposited, and the 46847
signature of the individual accepting receipt of the scrap tires 46848
for the facility or other transporter. 46849

The rules adopted under division (B) of this section shall 46850
require that the shipping papers be prepared on a form 46851
prescribed by the director and that all shipping papers be 46852

retained by a registered transporter for not less than three 46853
years. 46854

~~(C)~~(D) Require that each registered transporter submit a 46855
report to the director not later than the thirty-first day of 46856
January of each year concerning all shipments of scrap tires 46857
transported by the transporter during the preceding calendar 46858
year. The report shall include at least the following 46859
information: 46860

(1) The total quantity in weight or volume of scrap tires 46861
transported by the registered transporter; 46862

(2) The total quantity in weight or volume of scrap tires 46863
transported to each collection, storage, monocell, monofill, or 46864
recovery facility, or other premises, or deposited with another 46865
registered transporter. 46866

Sec. 3734.902. (A) The tax commissioner shall administer 46867
sections 3734.90 to 3734.9014 of the Revised Code ~~and may adopt~~ 46868
~~such rules as he finds necessary for the administration and~~ 46869
~~enforcement of the fee.~~ 46870

(B) The requirements, authorizations, procedures, 46871
limitations, and penalties set forth in Chapter 5703. of the 46872
Revised Code, except for those set forth in sections 5703.50 to 46873
5703.54 of the Revised Code, apply to the administration, 46874
collection, payment, and enforcement of the fee levied under 46875
sections 3734.90 to 3734.9014 of the Revised Code in the same 46876
manner and with the same effect as in the case of the other laws 46877
that the department of taxation is required to administer and 46878
enforce. 46879

(C) Sections 3734.10, 3734.101, and 3734.13 do not apply 46880
to the enforcement of sections 3734.90 to 3734.9014 of the 46881

Revised Code ~~and rules adopted under division (A) of this~~ 46882
~~section.~~ 46883

Sec. 3734.904. (A) By the twentieth day of each month, 46884
each person required to pay the fee imposed by section 3734.901 46885
of the Revised Code shall file with the tax commissioner a 46886
return as prescribed by the tax commissioner and shall make 46887
payment of the full amount of the fee due for the preceding 46888
month. The return shall be signed by the person required to file 46889
it, or an authorized employee, officer, or agent. The return 46890
shall be deemed filed when received by the tax commissioner. 46891

(B) Any person required by this section to file a return 46892
who fails to file such a return within the period prescribed may 46893
be required to pay an additional charge of fifty dollars or ten 46894
per cent of the fee required to be paid for the reporting 46895
period, whichever is greater. The commissioner may collect the 46896
additional charge by assessment pursuant to section 3734.907 of 46897
the Revised Code. The commissioner may remit all or a portion of 46898
the additional charge ~~and may adopt rules relating thereto.~~ 46899

(C) If any fee due is not paid timely in accordance with 46900
this section, the person liable for the fee shall pay interest, 46901
calculated at the rate per annum as prescribed by section 46902
5703.47 of the Revised Code, from the date the fee payment was 46903
due to the date of payment or to the date an assessment is 46904
issued, whichever occurs first. Interest shall be paid in the 46905
same manner as the fee, and the commissioner may collect the 46906
interest by assessment pursuant to section 3734.907 of the 46907
Revised Code. 46908

(D) If, in the estimation of the tax commissioner, the 46909
average liability of the person liable for the fee is such as 46910
not to merit monthly filing, the commissioner may authorize the 46911

person to file and pay at less frequent intervals. Returns are 46912
due by the twentieth day of the month following the close of the 46913
applicable reporting period authorized under this division. 46914

(E) All money collected by the tax commissioner under this 46915
section shall be paid to the treasurer of state as revenue 46916
arising from the fee imposed by section 3734.901 of the Revised 46917
Code. 46918

Sec. 3734.99. (A) Except as otherwise provided in 46919
divisions (B), (C), (D), (E), (F), (G), and (H) of this section, 46920
whoever recklessly violates any section of this chapter, except 46921
section 3734.025, 3734.18, 3734.57, 3734.572, 3734.573, 46922
3734.574, or 3734.60 of the Revised Code, recklessly violates 46923
section 3734.03 of the Revised Code with regard to scrap tires, 46924
or recklessly violates an order issued under division (B) of 46925
section 3734.13 of the Revised Code regarding a violation of the 46926
provisions of this chapter governing scrap tires, is guilty of a 46927
felony and shall be fined at least ten thousand dollars, but not 46928
more than twenty-five thousand dollars, or imprisoned for at 46929
least two years, but not more than four years, or both. Whoever 46930
violates section 3734.025, 3734.18, 3734.57, 3734.572, 3734.573, 46931
or 3734.574 of the Revised Code shall be fined not more than ten 46932
thousand dollars. Each day of violation constitutes a separate 46933
offense. 46934

(B) Whoever violates division (G) of section 3734.05 of 46935
the Revised Code with respect to a report required pursuant to a 46936
plan approved under division (A) of section 3734.041 of the 46937
Revised Code or violates division (D) of section 3734.13 of the 46938
Revised Code with respect to an order issued pursuant to 46939
division (C) or (D) of section 3734.041 of the Revised Code is 46940
guilty of a felony and shall be fined at least ten thousand 46941

dollars, but not more than twenty-five thousand dollars, or 46942
imprisoned for at least two years, but not more than four years, 46943
or both. Each day of violation constitutes a separate offense. 46944

(C) Except as otherwise provided in division (G) or (H) of 46945
this section, upon a second or subsequent conviction of a 46946
violation of any section of this chapter, except section 46947
3734.025, 3734.18, 3734.57, 3734.572, 3734.573, 3734.574, or 46948
3734.60 or a rule adopted under division (B) of section 3734.122 46949
of the Revised Code, the offender shall be fined at least twenty 46950
thousand dollars, but not more than fifty thousand dollars per 46951
day of violation, or imprisoned for at least two years, but not 46952
more than four years, or both. 46953

(D) Whoever knowingly violates a rule adopted under 46954
division (B) of section 3734.122 of the Revised Code shall be 46955
fined not more than twenty-five thousand dollars for each day of 46956
violation, or imprisoned for not more than one year, or both. 46957

(E) Except as otherwise provided in divisions (F) and (G) 46958
of this section, whoever recklessly violates division (B) of 46959
section 3734.029 of the Revised Code or any provision of this 46960
chapter governing scrap tires is guilty of a misdemeanor of the 46961
first degree. 46962

(F) Whoever knowingly violates an order issued under 46963
division (A) of section 3734.13 regarding a violation of the 46964
provisions of this chapter governing scrap tires or division (B) 46965
of section 3734.029, division (B) or (C) of section 3734.75, 46966
division (B) or (C) of section 3734.76, division (B) or (C) of 46967
section 3734.77, division (B) or (C) of section 3734.78, section 46968
3734.81, division (A) of section 3734.83, or a term or condition 46969
of a permit or license issued under section 3734.76, 3734.77, 46970
3734.78, or 3734.81 of the Revised Code is guilty of a felony 46971

and shall be fined at least ten thousand dollars, but not more than twenty-five thousand dollars, or imprisoned for at least two years, but not more than four years, or both. Each day of violation constitutes a separate offense.

(G) Upon a second or subsequent conviction of a violation of any provision of this chapter specified in division (E) or (F) of this section, the offender is guilty of a felony and shall be fined at least twenty thousand dollars, but not more than fifty thousand dollars per day of violation, or imprisoned for at least two years, but not more than four years, or both.

(H) Whoever knowingly violates any provision of section 3734.904, 3734.906, 3734.907, 3734.908, 3734.9011, 3734.9012, or 3734.9013 of the Revised Code, ~~or any rule adopted by the tax commissioner under section 3734.902 or 3734.904 of the Revised Code,~~ is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

Sec. 3737.07. (A) As used in this section:

(1) "Authority having jurisdiction" means an organization, office, agency, or individual responsible for enforcing the requirements under this section.

(2) "NFPA 101" means the standards for life safety code published by the national fire protection association, which includes the NFPA 80 standards for fire doors and other opening protectives.

(3) "Protective door assembly" or "protective door assemblies" means any of the following:

(a) Doors with panic hardware or fire exit hardware;

(b) Door assemblies in exit enclosures;	47000
(c) Electricity controlled egress doors;	47001
(d) Door assemblies with special locking arrangements, such as delayed egress, sensor release egress doors, and elevator lobby doors.	47002 47003 47004
(4) "Qualified inspector" means a person, who by possession of a recognized degree, certificate, professional standing, or skill, and who, by knowledge, training, and experience, has demonstrated the ability to deal with the subject matter, the work, or the project.	47005 47006 47007 47008 47009
(5) "School building" means a structure used for the instruction of students by a school governing authority.	47010 47011
(6) "School governing authority" means any of the following:	47012 47013
(a) The board of education of a school district;	47014
(b) The governing authority of a chartered nonpublic school;	47015 47016
(c) The governing authority of a community school established under Chapter 3314. of the Revised Code;	47017 47018
(d) The governing body of a STEM school established under Chapter 3328. of the Revised Code;	47019 47020
(e) The board of trustees of a college-preparatory boarding school established under Chapter 3328. of the Revised Code.	47021 47022 47023
(B) Each school governing authority in this state shall do both of the following:	47024 47025
(1) Cause all protective door assemblies in school	47026

buildings used by the school governing authority for instruction 47027
of students to be inspected and tested every twelve months in 47028
accordance with division (C) of this section; 47029

(2) Verify that such protective door assemblies are in 47030
compliance with the following standards: 47031

(a) If the protective door assembly was installed in 2015 47032
or after, the 2015 NFPA 101, or other standards required by the 47033
board of building standards; 47034

(b) If the protective door assembly was installed prior to 47035
2015, the NFPA 101 that was in effect on the date the protective 47036
door assembly was installed or, if the protective door assembly 47037
was installed before the NFPA 101 was published and in effect, 47038
the building code standards in effect at the time of 47039
installation. 47040

(C) (1) A school governing authority shall cause all of the 47041
protective door assemblies in school buildings used for the 47042
instruction of students to be inspected and tested every twelve 47043
months by a qualified inspector to confirm proper operation and 47044
full closure. 47045

(2) If a protective door assembly is not in compliance 47046
with the applicable standards described in division (B) (2) of 47047
this section, then the school governing authority shall take all 47048
steps necessary to make the protective door assembly compliant. 47049

(D) After the inspection of a protective door assembly in 47050
a school building, the qualified inspector shall provide a 47051
report to the school governing authority indicating any of the 47052
following: 47053

(1) That the protective door assembly is in compliance 47054
with the applicable standards described in division (B) (2) of 47055

this section and no further inspection is required respecting 47056
that protective door assembly for the next twelve months; 47057

(2) That the protective door assembly is not in compliance 47058
with the applicable standards; 47059

(3) That the protective door assembly is not in compliance 47060
with the applicable standards and there is a serious risk for 47061
fire or life safety hazard. 47062

(E) Each school governing authority shall maintain records 47063
verifying annual inspections. 47064

(F) If one or more protective door assemblies in a school 47065
building are not in compliance with the applicable standards 47066
described in division (B) (2) of this section, as indicated in a 47067
report under division (D) (2), (D) (3), (G) (2), or (G) (3) of this 47068
section, then the school governing authority shall do both of 47069
the following: 47070

(1) Take all steps necessary to make each such protective 47071
door assembly compliant with the applicable standards; 47072

(2) Cause another inspection of each such protective door 47073
assembly immediately after completing those steps. 47074

(G) After each inspection of a protective door assembly in 47075
the school building under division (F) (2) of this section has 47076
been completed, the qualified inspector shall provide a report 47077
to the school governing authority indicating any of the 47078
following: 47079

(1) That the protective door assembly is in compliance 47080
with the applicable standards described in division (B) (2) of 47081
this section and no further inspection is required respecting 47082
that protective door assembly for the next twelve months; 47083

(2) That the protective door assembly is not in compliance 47084
with the applicable standards; 47085

(3) That the protective door assembly is not in compliance 47086
with the applicable standards and there is a serious risk for 47087
fire or life safety hazard. 47088

(H) (1) Beginning eighteen months after ~~the effective date~~ 47089
~~of this section~~ October 24, 2024, the authority having 47090
jurisdiction shall annually cause an inspection of the records 47091
retained by each school governing authority under division (E) 47092
of this section. If a protective door assembly in a school 47093
building is not fully compliant with the applicable standards 47094
within eighteen months after a report issued under division (D) 47095
(2) of this section, or within one hundred eighty days after a 47096
report issued under division (D) (3) of this section, and the 47097
school governing authority is not actively taking steps to 47098
achieve compliance, then the authority having jurisdiction shall 47099
issue a citation pursuant to section 3737.42 of the Revised 47100
Code. Each protective door assembly that is not in compliance 47101
with the applicable standards, and which the respecting school 47102
governing authority is not actively taking steps to achieve 47103
compliance with those standards, is a separate violation and is 47104
subject to an additional citation. 47105

(2) If a citation is issued under division (H) (1) of this 47106
section and section 3737.42 of the Revised Code, the school 47107
governing authority shall post the citation issued concerning 47108
the protective door assembly on a public web site managed by the 47109
school governing authority. The school governing authority may 47110
remove the citation posted under this division once the 47111
protective door assembly is made compliant with the applicable 47112
standards and an inspection confirms such compliance. 47113

(I) No authority having jurisdiction shall do either of 47114
the following: 47115

(1) Issue a citation pursuant to this section and section 47116
3737.42 of the Revised Code to a school governing authority that 47117
is actively taking steps to reach compliance with the applicable 47118
standards, regardless of whether full compliance is reached for 47119
all protective door assemblies in the school building; 47120

(2) Assess a civil penalty or any fine associated with a 47121
citation issued pursuant to this section. 47122

(J) A qualified inspector that inspects more than one 47123
protective door assembly under division (D) or (G) of this 47124
section in the same school building may combine the results of 47125
such inspections into one report, so long as the report clearly 47126
indicates which protective door assemblies are in compliance 47127
with the applicable standards and which are not. 47128

(K) (1) The fire marshal shall adopt rules, in accordance 47129
with Chapter 119. of the Revised Code, that ~~are necessary to~~ 47130
~~implement the requirements of this section.~~ 47131

~~(2) The fire marshal shall work in conjunction with the~~ 47132
~~board of building standards to implement such requirements.~~ 47133

~~(3) The rules shall require that protective door~~ 47134
assemblies are inspected in accordance with this section and 47135
that the protective door assemblies continue to meet the 47136
compliance standards required at the time of installation. 47137

(2) The fire marshal shall work in conjunction with the 47138
board of building standards to implement this section. 47139

~~(I)~~ (K) Notwithstanding any provision of this section, a 47140
temporary door-locking device in compliance with the rules 47141

adopted by the fire marshal is not in conflict with this 47142
section. 47143

~~(M)~~(L) Any citation issued pursuant to this section may be 47144
appealed under section 3737.43 of the Revised Code. 47145

Sec. 3737.17. (A) As used in this section, a "qualifying 47146
small government" means any of the following: 47147

(1) A township that has a population of not more than five 47148
thousand or, regardless of its population, is located in a 47149
county that has a population of less than one hundred thousand; 47150

(2) A municipal corporation that has a population of not 47151
more than seven thousand five hundred; 47152

(3) A fire district, joint fire district, or fire and 47153
ambulance district that shares territory exclusively with 47154
townships or municipal corporations that meet the conditions of 47155
division (A)(1) or (2) of this section. 47156

(B) The state fire marshal shall administer a small 47157
government fire department services revolving loan program under 47158
which the state fire marshal makes loans to qualifying small 47159
governments for the following purposes: 47160

(1) To expedite purchases of major equipment for fire 47161
fighting, ambulance, emergency medical, or rescue services; 47162

(2) To expedite projects for the construction or 47163
renovation of fire department buildings. 47164

A loan for either purpose under the small government fire 47165
department services revolving loan program is not to carry 47166
interest, and is to be repaid within a term of not longer than 47167
twenty years. A qualifying small government is not eligible to 47168
receive a loan for a project or purchase under the program 47169

unless the qualifying small government contributes to the 47170
project or purchase an amount equal to at least five per cent of 47171
the loan amount. 47172

(C) A qualifying small government may apply to the state 47173
fire marshal for a loan under the small government fire 47174
department services revolving loan program. In its application, 47175
the qualifying small government shall explain how it qualifies 47176
for the loan, describe the project or purchase for which it is 47177
requesting a loan, state the amount of the loan it requests, and 47178
state the amount it is prepared to contribute to the project or 47179
purchase. The qualifying small government shall provide 47180
additional information to support its application for a loan 47181
under the program as requested by the state fire marshal. 47182

~~(D) The state fire marshal, in accordance with Chapter 47183
119. of the Revised Code, shall adopt rules for the 47184
administration of the small government fire department services- 47185
revolving loan program. 47186~~

~~(E)~~ (D) There is hereby created in the state treasury the 47187
small government fire department services revolving loan fund, 47188
into which shall be deposited repayments by qualifying small 47189
governments of loans authorized under this section. The fund 47190
also shall consist of appropriated money. Investment earnings on 47191
money in the fund shall be credited to the fund. The state fire 47192
marshal shall use the money credited to the fund to make loans 47193
to qualifying small governments as described in this section. 47194
The state fire marshal may loan money from repaid loans credited 47195
to the fund at any time to qualifying small governments in 47196
accordance with this section. 47197

~~(F)~~ (E) If the director of commerce determines that the 47198
cash balance in the small government fire department services 47199

revolving loan fund is insufficient to implement the program 47200
established under this section, the director may certify the 47201
amount needed, which cannot exceed the amount appropriated to 47202
the program for the biennium period for which the certification 47203
is made, to the director of budget and management. Upon 47204
certification, the director of budget and management may 47205
transfer from the state fire marshal's fund established in 47206
section 3737.71 of the Revised Code to the small government fire 47207
department services revolving loan fund any amount up to, but 47208
not exceeding, the amount certified by the director of commerce. 47209

Sec. 3737.82. The fire marshal shall adopt a state fire 47210
code which shall consist of rules relating to all aspects of 47211
fire safety. The rules shall be the minimum standards for 47212
safeguarding life and property from fire and explosion, and the 47213
fire marshal may, in adopting these rules, incorporate by 47214
reference existing published standards as well as amendments 47215
thereto subsequently published by the same authority. The fire 47216
code shall ~~include, but not be limited to,~~ contain rules 47217
relating to the movable contents of any building, or class of 47218
buildings, the transportation, storage, location, and use of 47219
flammable or explosive materials, the procedures to be employed 47220
by persons in the event of fire, and the installation and 47221
location of fire protection equipment, ~~and other similar~~ 47222
~~matters~~. The fire code may contain rules applicable to 47223
particular classes of existing buildings or structures as the 47224
use and occupancy of such buildings or structures suggest are 47225
necessary. The fire marshal may amend, modify, or repeal any 47226
rule of the state fire code. 47227

Sec. 3737.842. (A) The state fire marshal shall adopt 47228
rules that conform with technical bulletin 133, state of 47229
California bureau of home furnishings and thermal insulation, 47230

establishing flammability testing procedures and flammability 47231
standards for seating furniture used in public occupancies ~~and~~ 47232
~~rules he considers necessary for the administration and~~ 47233
~~enforcement of this section.~~ The rules shall not require any 47234
manufacturer of seating furniture to conduct such tests itself, 47235
but shall require that any seating furniture manufactured on or 47236
after ~~the effective date of this section~~ April 10, 1993, for use 47237
in public occupancies in this state comply with the flammability 47238
standards, and may require the submission of authenticated 47239
research reports to the state fire marshal verifying that the 47240
seating furniture meets the flammability standards. The state 47241
fire marshal may inspect any testing of seating furniture 47242
conducted under rules adopted under this division as ~~he~~ the fire 47243
marshal considers necessary. 47244

(B) The manufacturer of any seating furniture sold in this 47245
state on or after ~~the effective date of this section~~ April 10, 47246
1993, for use in a public occupancy that conforms to the 47247
flammability standards adopted by rule under division (A) of 47248
this section shall attach a permanent label to the article, in 47249
plain view, stating the following: 47250

"Notice 47251

This article is manufactured for use in public occupancies and 47252
meets the flammability requirements of California bureau of home 47253
furnishings and thermal insulation technical bulletin 133. 47254
However, care should be exercised near open flame and with 47255
burning cigarettes." 47256

The label shall be no less than two inches by three inches 47257
and the type shall be in all capital letters and no smaller than 47258
one-eighth inch in height. 47259

(C) No person shall sell for use in a public occupancy or use in a public occupancy any seating furniture manufactured on or after ~~the effective date of this section~~ April 10, 1993, that does not conform with the flammability standards adopted by rule under division (A) of this section or the labeling requirement in division (B) of this section.

(D) Whenever the state fire marshal, an assistant fire marshal, or a certified fire safety inspector has reason to believe a violation of division (C) of this section has occurred or is occurring, ~~the~~ the fire marshal, assistant fire marshal, or certified fire safety inspector may seek enforcement of the prohibition contained in that division through use of the procedures established in sections 3737.41 to 3737.51 of the Revised Code.

Sec. 3737.88. (A) (1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases of petroleum from underground storage tanks established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the programs, the fire marshal may adopt, amend, and rescind such rules, conduct such inspections, require annual registration of underground storage tanks, issue such citations and orders to enforce those rules, enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and perform such other duties, as are consistent with those programs. The fire marshal, by rule, may delegate the authority to conduct inspections of underground storage tanks to certified fire safety inspectors.

(2) In the place of any rules regarding release

containment and release detection for underground storage tanks 47290
adopted under division (A) (1) of this section, the fire marshal, 47291
by rule, shall designate areas as being sensitive for the 47292
protection of human health and the environment and adopt 47293
alternative rules regarding release containment and release 47294
detection methods for new and upgraded underground storage tank 47295
systems located in those areas. In designating such areas, the 47296
fire marshal shall take into consideration such factors as soil 47297
conditions, hydrogeology, water use, and the location of public 47298
and private water supplies. Not later than July 11, 1990, the 47299
fire marshal shall file the rules required under this division 47300
with the secretary of state, director of the legislative service 47301
commission, and joint committee on agency rule review in 47302
accordance with divisions (B) and (C) of section 119.03 of the 47303
Revised Code. 47304

(3) Notwithstanding sections 3737.87 to 3737.89 of the 47305
Revised Code, a person who is not a responsible person, as 47306
determined by the fire marshal pursuant to this chapter, may 47307
conduct a voluntary action in accordance with Chapter 3746. of 47308
the Revised Code and rules adopted under it for either of the 47309
following: 47310

(a) A class C release; 47311

(b) A release, other than a class C release, that is 47312
subject to the rules adopted by the fire marshal under division 47313
(B) of section 3737.882 of the Revised Code pertaining to a 47314
corrective action, provided that both of the following apply: 47315

(i) The voluntary action also addresses hazardous 47316
substances or petroleum that is not subject to the rules adopted 47317
under division (B) of section 3737.882 of the Revised Code 47318
pertaining to a corrective action. 47319

(ii) The fire marshal has not issued an administrative 47320
order concerning the release or referred the release to the 47321
attorney general for enforcement. 47322

The director of environmental protection, pursuant to 47323
section 3746.12 of the Revised Code, may issue a covenant not to 47324
sue to any person who properly completes a voluntary action with 47325
respect to any such release in accordance with Chapter 3746. of 47326
the Revised Code and rules adopted under it. 47327

(B) Before adopting any rule under this section or section 47328
3737.881 or 3737.882 of the Revised Code, the fire marshal shall 47329
file written notice of the proposed rule with the chairperson of 47330
the state fire council, and, within sixty days after notice is 47331
filed, the council may file responses to or comments on and may 47332
recommend alternative or supplementary rules to the fire 47333
marshal. At the end of the sixty-day period or upon the filing 47334
of responses, comments, or recommendations by the council, the 47335
fire marshal may adopt the rule filed with the council or any 47336
alternative or supplementary rule recommended by the council. 47337

(C) The state fire council may recommend courses of action 47338
to be taken by the fire marshal in carrying out the fire 47339
marshal's duties under this section. The council shall file its 47340
recommendations in the office of the fire marshal, and, within 47341
sixty days after the recommendations are filed, the fire marshal 47342
shall file with the chairperson of the council comments on, and 47343
proposed action in response to, the recommendations. 47344

(D) For the purpose of sections 3737.87 to 3737.89 of the 47345
Revised Code, the fire marshal shall adopt, and may amend and 47346
rescind, rules identifying or listing hazardous substances. The 47347
rules shall be consistent with and equivalent in scope, 47348
coverage, and content to regulations identifying or listing 47349

hazardous substances adopted under the "Comprehensive 47350
Environmental Response, Compensation, and Liability Act of 47351
1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, except that 47352
the fire marshal shall not identify or list as a hazardous 47353
substance any hazardous waste identified or listed in rules 47354
adopted under division (A) of section 3734.12 of the Revised 47355
Code. 47356

(E) Except as provided in division (A) (3) of this section, 47357
the fire marshal shall have exclusive jurisdiction to regulate 47358
the storage, treatment, and disposal of petroleum contaminated 47359
soil generated from corrective actions undertaken in response to 47360
releases of petroleum from underground storage tank systems. ~~The 47361
fire marshal may adopt, amend, or rescind such rules as the fire 47362
marshal considers to be necessary or appropriate to regulate the 47363
storage, treatment, or disposal of petroleum contaminated soil 47364
so generated.~~ 47365

(F) The fire marshal shall adopt, amend, and rescind rules 47366
under sections 3737.88 to 3737.882 of the Revised Code in 47367
accordance with Chapter 119. of the Revised Code. 47368

Sec. 3737.90. (A) There is hereby created the petroleum 47369
underground storage tank release compensation board consisting 47370
of the treasurer of state and the directors of commerce and 47371
environmental protection as members ex officio, or their 47372
designees, and nine members to be appointed by the governor with 47373
the advice and consent of the senate. No more than five of the 47374
appointed members shall be affiliated with the same political 47375
party. Of the appointed members, one shall represent the 47376
interests of petroleum refiners, one shall represent the 47377
interests of petroleum marketers, one shall represent the 47378
interests of retail petroleum dealers, one shall represent the 47379

interests of local governments, one shall have experience in 47380
casualty and fire or pollution liability insurance, two shall 47381
represent the interests of businesses that own petroleum 47382
underground storage tanks and are not primarily engaged in the 47383
sale of petroleum, and two shall be professional engineers 47384
registered under Chapter 4733. of the Revised Code with 47385
experience in geology or environmental engineering who shall 47386
represent the interests of the public and shall not be 47387
associated with the petroleum industry. 47388

Of the initial appointments to the board, three shall be 47389
for a term ending July 11, 1990, three shall be for a term 47390
ending July 11, 1991, and three shall be for a term ending July 47391
11, 1992. Thereafter, terms of office shall be for three years, 47392
with each term ending on the same day of the same month as did 47393
the term that it succeeds. Each member shall hold office from 47394
the date of ~~his~~the member's appointment until the end of the 47395
term for which ~~he~~the member was appointed. Members may be 47396
reappointed. Vacancies shall be filled in the manner provided 47397
for original appointments. Any member appointed to fill a 47398
vacancy occurring prior to the expiration date of the term for 47399
which ~~his~~the member's predecessor was appointed shall hold 47400
office as a member for the remainder of that term. A member 47401
shall continue in office subsequent to the expiration date of 47402
~~his~~the member's term until ~~his~~the member's successor takes 47403
office or until a period of sixty days has elapsed, whichever 47404
occurs first. Appointed members of the board shall be 47405
compensated on a per diem basis in accordance with division (J) 47406
of section 124.15 of the Revised Code for each day of actual 47407
attendance at meetings of the board. Members shall receive their 47408
actual and necessary expenses incurred in the performance of 47409
their duties as members of the board. 47410

The petroleum underground storage tank release 47411
compensation board is a body both corporate and politic in this 47412
state, and the carrying out of its purposes and the exercise by 47413
it of the powers conferred by sections 3737.90 to 3737.98 of the 47414
Revised Code shall be held to be, and are hereby determined to 47415
be, essential governmental functions and public purposes of the 47416
state. 47417

Each appointed member of the board shall give a surety 47418
bond to the state in the penal sum of not less than twenty-five 47419
thousand dollars as determined by the board. The 47420
~~chairman~~chairperson of the board shall give a bond in the penal 47421
sum of not less than fifty thousand dollars as determined by the 47422
board. Each surety bond shall be conditioned upon the faithful 47423
performance of the duties of the office, be executed by a surety 47424
company authorized to transact business in this state, be 47425
approved by the governor, and be filed in the office of the 47426
secretary of state. The surety bonds shall be given at such time 47427
as is established by the board, provided that they shall be 47428
given prior to the issuance of any revenue bonds by the board 47429
under sections 3737.90 to 3737.948 of the Revised Code. 47430

The board shall meet at least quarterly and shall hold 47431
such additional meetings as are necessary to implement and 47432
administer sections 3737.90 to 3737.98 of the Revised Code. 47433
Additional meetings may be called in accordance with rules 47434
adopted under this section. The board shall annually select from 47435
among its members a ~~chairman~~chairperson and a ~~vice-chairman~~vice- 47436
chairperson. 47437

A majority of the members of the board constitutes a 47438
quorum for the transaction of any business of the board. 47439

(B) The board may: 47440

(1) In accordance with Chapter 119. of the Revised Code, 47441
adopt, amend, and rescind rules establishing procedures for 47442
calling special meetings of the board; 47443

(2) In accordance with Chapter 119. of the Revised Code, 47444
adopt, amend, and rescind ~~such other rules as are necessary or~~ 47445
~~appropriate to implement and administer sections 3737.90 to~~ 47446
~~3737.98 of the Revised Code, including, without limitation,~~ 47447
rules for the administration of the petroleum underground 47448
storage tank linked deposit program established under sections 47449
3737.95 to 3737.98 of the Revised Code; rules establishing 47450
priorities for the payment of claims under section 3737.92 of 47451
the Revised Code on the petroleum underground storage tank 47452
financial assurance fund created in section 3737.91 of the 47453
Revised Code based upon a consideration of the date that a claim 47454
is originally filed and the threat posed to human health and the 47455
environment by the release to which the claim applies; and rules 47456
providing for the payment of any such claims in installments, 47457
when appropriate. The rules adopted under division (B) (2) of 47458
this section shall be consistent with section 9003 of the 47459
"Resource Conservation and Recovery Act of 1976," 98 Stat. 3279, 47460
42 U.S.C.A. 6991b, as amended, and regulations adopted under it. 47461

(3) Employ and fix the compensation of the director of the 47462
petroleum underground storage tank financial assurance fund and 47463
such other personnel as are necessary to implement and 47464
administer sections 3737.90 to 3737.98 of the Revised Code and 47465
rules adopted under them. The board may designate positions in 47466
the unclassified civil service for which it may employ persons 47467
who shall be eligible for membership in the public employees 47468
retirement system under Chapter 145. of the Revised Code and who 47469
shall not be subject to Chapter 4117. of the Revised Code. 47470

(4) Enter into contracts or agreements for the purposes of 47471
sections 3737.90 to 3737.98 of the Revised Code, including, 47472
without limitation, a contract for administration of the 47473
petroleum underground storage tank financial assurance fund by 47474
an agent; 47475

(5) Sue or be sued in its own name in actions arising out 47476
of any act or omission in connection with its business or 47477
affairs under sections 3737.90 to 3737.98 of the Revised Code; 47478

(6) Issue revenue bonds payable solely from revenues as 47479
provided in sections 3737.94 to 3737.948 of the Revised Code for 47480
the purpose of funding the petroleum underground storage tank 47481
financial assurance fund to preserve jobs and employment 47482
opportunities in the state and to control water pollution and 47483
ensure the viability of ground water in the state by 47484
reimbursements to responsible persons for improving property 47485
damaged by releases of petroleum; 47486

(7) Establish by rule the maximum percentage of the 47487
petroleum underground storage tank financial assurance fund that 47488
may be used to make petroleum underground storage tank linked 47489
deposits under sections 3737.95 to 3737.98 of the Revised Code. 47490

(C) Section 9.86 of the Revised Code applies to the 47491
petroleum underground storage tank release compensation board 47492
and to any officer or employee of the board, as "officer" and 47493
"employee" are defined in section 109.36 of the Revised Code. 47494

(D) The board, in the conduct of its functions and duties, 47495
is not subject to the regulation of the superintendent of 47496
insurance under Title XXXIX of the Revised Code nor any rules of 47497
the department of insurance adopted thereunder. 47498

Sec. 3738.09. The director of health shall adopt rules 47499

~~that are necessary~~ for the implementation of sections 3738.01 to 47500
3738.08 of the Revised Code, ~~including rules~~ that do all of the 47501
following: 47502

(A) Establish a procedure for the PAMR board to follow in 47503
conducting pregnancy-associated death reviews; 47504

(B) Specify the data and other relevant information the 47505
board must use when conducting pregnancy-associated death 47506
reviews; 47507

(C) Establish guidelines for the board to follow to 47508
prevent an unauthorized dissemination of confidential 47509
information in violation of division (B) of section 3738.06 of 47510
the Revised Code. 47511

The rules shall be adopted in accordance with Chapter 119. 47512
of the Revised Code. 47513

Sec. 3739.11. The state fire marshal may conduct testing 47514
on cigarettes certified by a manufacturer pursuant to section 47515
3739.07 of the Revised Code to determine whether the 47516
manufacturer complied with the requirements of this chapter. The 47517
state fire marshal shall conduct any such testing in accordance 47518
with division (B) of section 3739.03 of the Revised Code. 47519

Whenever the state fire marshal or a designee of the state 47520
fire marshal discovers any cigarettes that do not include a mark 47521
as required under section 3739.06 of the Revised Code, or for 47522
which no certification has been filed in accordance with section 47523
3739.07 of the Revised Code, the state fire marshal or the state 47524
fire marshal's designee may seize and take possession of such 47525
cigarettes and shall give such cigarettes to the tax 47526
commissioner, and such cigarettes thereupon shall be forfeited 47527
to the state. The tax commissioner shall order the destruction 47528

of any cigarettes forfeited pursuant to this section, but prior 47529
to the destruction of any cigarette forfeited pursuant to this 47530
section, the true holder of the trademark rights in the 47531
cigarette brand shall be permitted to inspect the cigarette. 47532

In addition to any other remedy provided by law, if the 47533
state fire marshal or attorney general determines that 47534
reasonable evidence exists that a violation of this chapter has 47535
occurred, the state fire marshal or attorney general may file an 47536
action in the court of common pleas in the county where the 47537
alleged violation occurred. The action may include a petition 47538
for preliminary or permanent injunctive relief against any 47539
manufacturer, importer, wholesale dealer, retail dealer, agent, 47540
or any other person or entity to enjoin such entity from 47541
selling, offering to sell, or affixing tax stamps to any 47542
cigarette that does not comply with the requirements of this 47543
chapter, or a claim to recover any costs or damages suffered by 47544
the state because a violation of this chapter occurred, 47545
including enforcement costs relating to the specific violation 47546
and attorney's fees. Each violation of this chapter ~~or the rules~~ 47547
~~adopted pursuant to it~~ constitutes a separate civil violation 47548
for which the state fire marshal may obtain relief. Upon 47549
obtaining judgment for injunctive relief under this section, the 47550
state fire marshal shall provide a copy of the judgment to all 47551
wholesale dealers and agents to which the cigarette has been 47552
sold. 47553

To enforce the requirements of this chapter, the state 47554
fire marshal may examine the books, papers, invoices, and other 47555
business records of any person in possession or control of, or 47556
occupying any premises where cigarettes are placed, stored, 47557
sold, or offered for sale, including the stock of cigarettes on 47558
the premises, if the state fire marshal reasonably suspects that 47559

a violation of this chapter has occurred. Every person in the 47560
possession or control of, or occupying any premises where 47561
cigarettes are placed, sold, or offered for sale shall give to 47562
the state fire marshal the means, facilities, and opportunity 47563
for the examinations authorized under this section. 47564

The tax commissioner, in the regular course of conducting 47565
inspections of wholesale dealers, agents, and retail dealers, as 47566
authorized under section 5743.14 of the Revised Code, may 47567
inspect any cigarette packaging to determine if the package is 47568
marked as required under section 3739.06 of the Revised Code. If 47569
a package containing cigarettes is not marked, the tax 47570
commissioner shall notify the state fire marshal of this fact. 47571

Sec. 3739.13. The implementation and substance of the New 47572
York fire safety standards for cigarettes shall be persuasive 47573
authority in implementing this chapter. ~~The state fire marshal~~ 47574
~~and attorney general may adopt rules, pursuant to Chapter 119.~~ 47575
~~of the Revised Code, as necessary to administer this chapter.~~ 47576
~~The tax commissioner may adopt rules, pursuant to division (M)~~ 47577
~~of section 5703.05 of the Revised Code and section 5703.14 of~~ 47578
~~the Revised Code, as necessary to enforce this chapter.~~ 47579

Sec. 3739.16. No person is required to comply with this 47580
chapter ~~or the rules adopted pursuant to it~~ if a federal reduced 47581
cigarette ignition propensity standard that preempts this 47582
chapter ~~or rules adopted under it~~ is adopted and becomes 47583
effective. 47584

Sec. 3740.01. As used in this chapter: 47585

(A) "Community-based long-term care provider" means a 47586
provider, as defined in section 173.39 of the Revised Code. 47587

(B) "Community-based long-term care subcontractor" means a 47588

subcontractor, as defined in section 173.38 of the Revised Code. 47589

(C) "Criminal records check" has the same meaning as in 47590
section 109.572 of the Revised Code. 47591

(D) "Direct care" means any of the following: 47592

(1) Any service identified in divisions (G)(1) to (6) of 47593
this section that is provided in a patient's place of residence 47594
used as the patient's home; 47595

(2) Any activity that requires the person performing the 47596
activity to be routinely alone with a patient or to routinely 47597
have access to a patient's personal property or financial 47598
documents regarding a patient; 47599

(3) For each home health agency individually, any other 47600
routine service or activity that the chief administrator of the 47601
home health agency designates as direct care. 47602

(E) "Disqualifying offense" means any of the offenses 47603
listed or described in divisions (A)(3)(a) to (e) of section 47604
109.572 of the Revised Code. 47605

(F) "Employee" means a person employed by a home health 47606
agency in a full-time, part-time, or temporary position that 47607
involves providing direct care to an individual and a person who 47608
works in such a position due to being referred to a home health 47609
agency by an employment service. 47610

(G) "Home health agency" means a person or government 47611
entity, other than a nursing home, residential care facility, 47612
hospice care program, pediatric respite care program, pediatric 47613
transition care program, informal respite care provider, 47614
provider certified by the department of developmental 47615
disabilities under Chapter 5123. of the Revised Code, 47616

residential facility licensed under section 5119.34 or 5123.19 47617
of the Revised Code, shared living provider, or immediate family 47618
member, that has the primary function of providing any of the 47619
following services to a patient at a place of residence used as 47620
the patient's home: 47621

(1) Skilled nursing care; 47622

(2) Physical therapy; 47623

(3) Occupational therapy; 47624

(4) Speech-language pathology; 47625

(5) Medical social services; 47626

(6) Home health aide services. 47627

(H) "Home health aide services" means any of the following 47628
services provided by an employee of a home health agency: 47629

(1) Hands-on bathing or assistance with a tub bath or 47630
shower; 47631

(2) Assistance with dressing, ambulation, and toileting; 47632

(3) Catheter care but not insertion; 47633

(4) Meal preparation and feeding. 47634

(I) "Hospice care program," "pediatric respite care 47635
program," and "pediatric transition care program" have the same 47636
meanings as in section 3712.01 of the Revised Code. 47637

(J) "Immediate family member" means a parent, stepparent, 47638
grandparent, legal guardian, grandchild, brother, sister, 47639
stepsibling, spouse, son, daughter, stepchild, aunt, uncle, 47640
mother-in-law, father-in-law, brother-in-law, sister-in-law, 47641
son-in-law, and daughter-in-law. 47642

(K) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.

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

(M) "Nonagency provider" means a person who provides direct care to an individual on a self-employed basis and does not employ, directly or through contract, another person to provide the services. "Nonagency provider" does not include any of the following:

(1) A caregiver who is an immediate family member of the individual receiving direct care;

(2) A person who provides direct care to not more than two individuals who are not immediate family members of the care provider;

(3) A volunteer;

(4) A person who is certified under section 5104.12 of the Revised Code to provide publicly funded child care as an in-home aide;

(5) A person who provides privately funded child care;

(6) A caregiver who is certified by the department of developmental disabilities under Chapter 5123. of the Revised Code;

(7) A person who operates a residential facility licensed under section 5119.34 of the Revised Code;

(8) A person who provides self-directed services, as that term is defined in 42 U.S.C. 1396n(i) (1) (G) (iii) (II), including

a person who is certified by the department of aging or 47670
registered as a self-directed individual provider through an 47671
area agency on aging. 47672

(N) "Nonmedical home health services" means any of the 47673
following: 47674

(1) Any service identified in divisions (H) (1) to (4) of 47675
this section; 47676

(2) Personal care services; 47677

~~(3) Any other service the director of health designates as 47678
a nonmedical home health service in rules adopted under section 47679
3740.10 of the Revised Code. 47680~~

(O) "Nursing home," "residential care facility," and 47681
"skilled nursing care" have the same meanings as in section 47682
3721.01 of the Revised Code. 47683

(P) "Occupational therapy" has the same meaning as in 47684
section 4755.04 of the Revised Code. 47685

(Q) "Personal care services" means any of the following 47686
provided to an individual in the individual's home or community: 47687

(1) Hands-on assistance with activities of daily living 47688
and instrumental activities of daily living, when incidental to 47689
assistance with activities of daily living; 47690

(2) Assistance managing the individual's home and handling 47691
personal affairs; 47692

(3) Assistance with self-administration of medications; 47693

(4) Homemaker services when incidental to any of the 47694
services identified in divisions (Q) (1) to (3) of this section 47695
or when essential to the health and welfare of the individual 47696

specifically, not the individual's family; 47697

(5) Respite services for the individual's caregiver; 47698

(6) Errands completed outside of the presence of the 47699
individual if needed to maintain the individual's health and 47700
safety, including picking up prescriptions and groceries. 47701

(R) "Physical therapy" has the same meaning as in section 47702
4755.40 of the Revised Code. 47703

(S) "Skilled home health services" means any ~~of the~~ 47704
~~following:~~ 47705

~~(1) Any service identified in divisions (G) (1) to (5) of~~ 47706
~~this section;~~ 47707

~~(2) Any other service the director of health designates as~~ 47708
~~a skilled home health service in rules adopted under section~~ 47709
~~3740.10 of the Revised Code.~~ 47710

(T) "Social worker" means a person licensed under Chapter 47711
4757. of the Revised Code to practice as a social worker or 47712
independent social worker. 47713

(U) "Speech-language pathology" has the same meaning as in 47714
section 4753.01 of the Revised Code. 47715

(V) "Waiver agency" has the same meaning as in section 47716
5164.342 of the Revised Code. 47717

Sec. 3740.03. (A) (1) A home health agency or nonagency 47718
provider seeking to provide skilled home health services shall 47719
apply to the department of health for a skilled home health 47720
services license. The application shall include all of the 47721
following: 47722

(a) Evidence that the agency or provider meets one of the 47723

following: 47724

(i) Is certified for participation in the medicare 47725
program; 47726

(ii) Is accredited by the accreditation commission for 47727
health care, the community health accreditation partner, the 47728
joint commission, or another national accreditation organization 47729
approved by the United States centers for medicare and medicaid 47730
services ~~and recognized by the department pursuant to rules~~ 47731
~~adopted under section 3740.10 of the Revised Code;~~ 47732

(iii) Is certified by the department of aging under 47733
section 173.391 of the Revised Code to provide community-based 47734
long-term care services; 47735

(iv) Otherwise meets medicare conditions of participation, 47736
even though not certified for participation in the medicare 47737
program. 47738

(b) Evidence that the applicant was providing direct care 47739
on or immediately prior to ~~the effective date of this~~ 47740
~~section~~ September 30, 2021, or if the applicant was not providing 47741
direct care immediately prior to ~~the effective date of this~~ 47742
~~section~~ September 30, 2021, a surety bond issued by a company 47743
licensed to do business in this state in the amount of fifty 47744
thousand dollars. 47745

(c) An application fee in the amount of two hundred fifty 47746
dollars. 47747

(2) An applicant applying on the basis of division (A) (1) 47748
(a) (iv) of this section shall provide documentation and comply 47749
with conditions as prescribed by rules adopted under section 47750
3740.10 of the Revised Code. 47751

(B) (1) Except as provided in division (B) (2) of this section, a home health agency or nonagency provider seeking to provide nonmedical home health services shall apply to the department of health for a nonmedical home health services license. Except as provided in division (B) (3) of this section, the application shall include all of the following:

(a) Fingerprint impressions of the primary owner of the home health agency or of the nonagency provider;

(b) Copies of any documents filed and recorded with the secretary of state;

(c) A notarized affidavit verifying the identity of the applicant;

(d) If the applicant is a home health agency, a copy of the agency's criminal records check policy;

(e) A statement identifying the days and hours of operation for the applicant;

(f) A description of the nonmedical home health services to be provided, and any policies and procedures related to those services, if applicable;

(g) Identification of the applicant's primary place of business and a description of the geographic area to be served;

(h) Evidence that the applicant was providing direct care on or immediately prior to ~~the effective date of this section~~ September 30, 2021, or if the applicant was not providing direct care immediately prior to ~~the effective date of this section~~ September 30, 2021, a surety bond issued by a company licensed to do business in this state in the amount of twenty thousand dollars;

- (i) An application fee in the amount of two hundred fifty dollars. 47780
47781
- (2) A home health agency or nonagency provider that holds a skilled home health services license issued under division (A) of this section may provide nonmedical home health services without obtaining a nonmedical home health services license. 47782
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- (3) The director of health shall waive receipt of the items identified in divisions (B) (1) (a) to (g) of this section if the agency or provider submits evidence that the agency or provider is certified by the department of aging under section 173.391 of the Revised Code to provide community-based long-term care services. 47786
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- (C) An applicant under this section shall use the application form prescribed by rules adopted under section 3740.10 of the Revised Code and comply with license procedures established by those rules. 47792
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47795
- Sec. 3740.10.** (A) The director of health shall adopt rules ~~as the director considers necessary to implement this chapter, including rules~~ that do all of the following: 47796
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47798
- (1) Prescribe license application forms and procedures; 47799
- (2) Specify the documentation that must be provided and conditions that must be met by an applicant seeking a license on the basis of division (A) (1) (a) (iv) of section 3740.03 of the Revised Code; 47800
47801
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- (3) Prescribe license renewal application forms and procedures; 47804
47805
- (4) Establish the reasons for which the department of health may take action under section 3740.07 of the Revised 47806
47807

Code; 47808

(5) Processes for dispute resolution and appeals related 47809
to licensing disputes. 47810

(B) All rules adopted under this section shall be adopted 47811
in accordance with Chapter 119. of the Revised Code. In 47812
addition, the rules shall be adopted in consultation with the 47813
director of aging and medicaid director. 47814

Sec. 3740.11. (A) As used in this section, "applicant" 47815
means a person who is under final consideration for employment 47816
with a home health agency in a full-time, part-time, or 47817
temporary position that involves providing direct care to an 47818
individual or is referred to a home health agency by an 47819
employment service for such a position. 47820

(B) No home health agency shall employ an applicant or 47821
continue to employ an employee in a position that involves 47822
providing direct care to an individual if any of the following 47823
apply: 47824

(1) A review of the databases listed in division (D) of 47825
this section reveals any of the following: 47826

(a) That the applicant or employee is included in one or 47827
more of the databases listed in divisions (D) (1) to (5) of this 47828
section; 47829

(b) That there is in the state nurse aide registry 47830
established under section 3721.32 of the Revised Code a 47831
statement detailing findings by the director of health that the 47832
applicant or employee abused, neglected, or exploited a long- 47833
term care facility or residential care facility resident or 47834
misappropriated property of such a resident; 47835

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the home health agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing direct care to an individual.

(2) After the applicant or employee is provided, pursuant to division (E) (2) (a) of this section, a copy of the form prescribed pursuant to division (C) (1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C) (2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) Except as provided by division (F) of this section, the chief administrator of a home health agency shall inform each applicant of both of the following at the time of the applicant's initial application for employment or referral to the home health agency by an employment service for a position that involves providing direct care to an individual:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the home health agency is prohibited by division (B) (1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(D) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a home health agency shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a home health agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to conduct a database review of an applicant or employee if division (F) of this section applies. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to the "Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 and 1320c-5;

(3) The registry of developmental disabilities employees

established under section 5123.52 of the Revised Code; 47895

(4) The internet-based sex offender and child-victim 47896
offender database established under division ~~(A) (11)~~ (A) (10) of 47897
section 2950.13 of the Revised Code; 47898

(5) The internet-based database of inmates established 47899
under section 5120.66 of the Revised Code; 47900

(6) The state nurse aide registry established under 47901
section 3721.32 of the Revised Code; 47902

(7) Any other database, if any, specified in rules adopted 47903
under this section. 47904

(E) (1) As a condition of employing any applicant in a 47905
position that involves providing direct care to an individual, 47906
the chief administrator of a home health agency shall request 47907
the superintendent of the bureau of criminal identification and 47908
investigation to conduct a criminal records check of the 47909
applicant. If rules adopted under this section so require, the 47910
chief administrator of a home health agency shall request the 47911
superintendent to conduct a criminal records check of an 47912
employee at times specified in the rules as a condition of 47913
continuing to employ the employee in a position that involves 47914
providing direct care to an individual. However, the chief 47915
administrator is not required to request the criminal records 47916
check of the applicant or the employee if division (F) of this 47917
section applies or the home health agency is prohibited by 47918
division (B) (1) of this section from employing the applicant or 47919
continuing to employ the employee in a position that involves 47920
providing direct care to an individual. If an applicant or 47921
employee for whom a criminal records check request is required 47922
by this section does not present proof of having been a resident 47923

of this state for the five-year period immediately prior to the 47924
date upon which the criminal records check is requested or does 47925
not provide evidence that within that five-year period the 47926
superintendent has requested information about the applicant 47927
from the federal bureau of investigation in a criminal records 47928
check, the chief administrator shall request that the 47929
superintendent obtain information from the federal bureau of 47930
investigation as a part of the criminal records check. Even if 47931
an applicant or employee for whom a criminal records check 47932
request is required by this section presents proof that the 47933
applicant or employee has been a resident of this state for that 47934
five-year period, the chief administrator may request that the 47935
superintendent include information from the federal bureau of 47936
investigation in the criminal records check. 47937

(2) The chief administrator shall do all of the following: 47938

(a) Provide to each applicant and employee for whom a 47939
criminal records check request is required by this section a 47940
copy of the form prescribed pursuant to division (C)(1) of 47941
section 109.572 of the Revised Code and a standard impression 47942
sheet prescribed pursuant to division (C)(2) of that section; 47943

(b) Obtain the completed form and standard impression 47944
sheet from each applicant and employee; 47945

(c) Forward the completed form and standard impression 47946
sheet to the superintendent at the time the chief administrator 47947
requests the criminal records check. 47948

(3) A home health agency shall pay to the bureau of 47949
criminal identification and investigation the fee prescribed 47950
pursuant to division (C)(3) of section 109.572 of the Revised 47951
Code for each criminal records check the agency requests under 47952

this section. A home health agency may charge an applicant a fee 47953
not exceeding the amount the agency pays to the bureau under 47954
this section if both of the following apply: 47955

(a) The home health agency notifies the applicant at the 47956
time of initial application for employment of the amount of the 47957
fee and that, unless the fee is paid, the applicant will not be 47958
considered for employment. 47959

(b) The medicaid program does not reimburse the home 47960
health agency for the fee it pays to the bureau under this 47961
section. 47962

(F) Divisions (C) to (E) of this section do not apply with 47963
regard to an applicant or employee if the applicant or employee 47964
is referred to a home health agency by an employment service 47965
that supplies full-time, part-time, or temporary staff for 47966
positions that involve providing direct care to an individual 47967
and both of the following apply: 47968

(1) The chief administrator of the home health agency 47969
receives from the employment service confirmation that a review 47970
of the databases listed in division (D) of this section was 47971
conducted with regard to the applicant or employee. 47972

(2) The chief administrator of the home health agency 47973
receives from the employment service, applicant, or employee a 47974
report of the results of a criminal records check of the 47975
applicant or employee that has been conducted by the 47976
superintendent within the one-year period immediately preceding 47977
the following: 47978

(a) In the case of an applicant, the date of the 47979
applicant's referral by the employment service to the home 47980
health agency; 47981

(b) In the case of an employee, the date by which the home health agency would otherwise have to request a criminal records check of the employee under division (E) of this section. 47982
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(G) (1) A home health agency may employ conditionally an applicant for whom a criminal records check request is required by this section before obtaining the results of the criminal records check if the agency is not prohibited by division (B) of this section from employing the applicant in a position that involves providing direct care to an individual and either of the following applies: 47985
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(a) The chief administrator of the home health agency requests the criminal records check in accordance with division (E) of this section not later than five business days after the applicant begins conditional employment. 47992
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(b) The applicant is referred to the home health agency by an employment service, the employment service or the applicant provides the chief administrator of the agency a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following: 47996
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(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant; 48002
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48004

(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense; 48005
48006
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(iii) That the employment service has not received the results of the criminal records check as of the date set forth 48009
48010

on the letter; 48011

(iv) That the employment service promptly will send a copy 48012
of the results of the criminal records check to the chief 48013
administrator of the home health agency when the employment 48014
service receives the results. 48015

(2) If a home health agency employs an applicant 48016
conditionally pursuant to division (G) (1) (b) of this section, 48017
the employment service, on its receipt of the results of the 48018
criminal records check, promptly shall send a copy of the 48019
results to the chief administrator of the agency. 48020

(3) A home health agency that employs an applicant 48021
conditionally pursuant to division (G) (1) (a) or (b) of this 48022
section shall terminate the applicant's employment if the 48023
results of the criminal records check, other than the results of 48024
any request for information from the federal bureau of 48025
investigation, are not obtained within the period ending sixty 48026
days after the date the request for the criminal records check 48027
is made. Regardless of when the results of the criminal records 48028
check are obtained, if the results indicate that the applicant 48029
has been convicted of, pleaded guilty to, or been found eligible 48030
for intervention in lieu of conviction for a disqualifying 48031
offense, the home health agency shall terminate the applicant's 48032
employment unless circumstances specified in rules adopted under 48033
this section that permit the agency to employ the applicant 48034
exist and the agency chooses to employ the applicant. 48035
Termination of employment under this division shall be 48036
considered just cause for discharge for purposes of division (D) 48037
(2) of section 4141.29 of the Revised Code if the applicant 48038
makes any attempt to deceive the home health agency about the 48039
applicant's criminal record. 48040

(H) The report of any criminal records check conducted by 48041
the bureau of criminal identification and investigation in 48042
accordance with section 109.572 of the Revised Code and pursuant 48043
to a request made under this section is not a public record for 48044
the purposes of section 149.43 of the Revised Code and shall not 48045
be made available to any person other than the following: 48046

(1) The applicant or employee who is the subject of the 48047
criminal records check or the applicant's or employee's 48048
representative; 48049

(2) The home health agency requesting the criminal records 48050
check or its representative; 48051

(3) The administrator of any other facility, agency, or 48052
program that provides direct care to individuals that is owned 48053
or operated by the same entity that owns or operates the home 48054
health agency that requested the criminal records check; 48055

(4) The employment service that requested the criminal 48056
records check; 48057

(5) The director of health and the staff of the department 48058
of health who monitor a home health agency's compliance with 48059
this section; 48060

(6) The director of aging or the director's designee if 48061
either of the following apply: 48062

(a) In the case of a criminal records check requested by a 48063
home health agency, the home health agency also is a community- 48064
based long-term care provider or community-based long-term care 48065
subcontractor; 48066

(b) In the case of a criminal records check requested by 48067
an employment service, the employment service makes the request 48068

for an applicant or employee the employment service refers to a 48069
home health agency that also is a community-based long-term care 48070
provider or community-based long-term care subcontractor. 48071

(7) The medicaid director and the staff of the department 48072
of medicaid who are involved in the administration of the 48073
medicaid program if either of the following apply: 48074

(a) In the case of a criminal records check requested by a 48075
home health agency, the home health agency also is a waiver 48076
agency; 48077

(b) In the case of a criminal records check requested by 48078
an employment service, the employment service makes the request 48079
for an applicant or employee the employment service refers to a 48080
home health agency that also is a waiver agency. 48081

(8) Any court, hearing officer, or other necessary 48082
individual involved in a case dealing with any of the following: 48083

(a) A denial of employment of the applicant or employee; 48084

(b) Employment or unemployment benefits of the applicant 48085
or employee; 48086

(c) A civil or criminal action regarding the medicaid 48087
program. 48088

(I) In a tort or other civil action for damages that is 48089
brought as the result of an injury, death, or loss to person or 48090
property caused by an applicant or employee who a home health 48091
agency employs in a position that involves providing direct care 48092
to an individual, all of the following shall apply: 48093

(1) If the home health agency employed the applicant or 48094
employee in good faith and reasonable reliance on the report of 48095
a criminal records check requested under this section, the 48096

agency shall not be found negligent solely because of its 48097
reliance on the report, even if the information in the report is 48098
determined later to have been incomplete or inaccurate. 48099

(2) If the home health agency employed the applicant in 48100
good faith on a conditional basis pursuant to division (G) of 48101
this section, the agency shall not be found negligent solely 48102
because it employed the applicant prior to receiving the report 48103
of a criminal records check requested under this section. 48104

(3) If the home health agency in good faith employed the 48105
applicant or employee according to the personal character 48106
standards established in rules adopted under this section, the 48107
agency shall not be found negligent solely because the applicant 48108
or employee had been convicted of, pleaded guilty to, or been 48109
found eligible for intervention in lieu of conviction for a 48110
disqualifying offense. 48111

(J) The director of health shall adopt rules in accordance 48112
with Chapter 119. of the Revised Code to implement this section. 48113

(1) The rules may do the following: 48114

(a) Require employees to undergo database reviews and 48115
criminal records checks under this section; 48116

(b) If the rules require employees to undergo database 48117
reviews and criminal records checks under this section, exempt 48118
one or more classes of employees from the requirements; 48119

(c) For the purpose of division (D)(7) of this section, 48120
specify other databases that are to be checked as part of a 48121
database review conducted under this section. 48122

(2) The rules shall specify all of the following: 48123

(a) The procedures for conducting database reviews under 48124

this section; 48125

(b) If the rules require employees to undergo database 48126
reviews and criminal records checks under this section, the 48127
times at which the database reviews and criminal records checks 48128
are to be conducted; 48129

(c) If the rules specify other databases to be checked as 48130
part of the database reviews, the circumstances under which a 48131
home health agency is prohibited from employing an applicant or 48132
continuing to employ an employee who is found by a database 48133
review to be included in one or more of those databases; 48134

(d) Circumstances under which a home health agency may 48135
employ an applicant or employee who is found by a criminal 48136
records check required by this section to have been convicted 48137
of, pleaded guilty to, or been found eligible for intervention 48138
in lieu of conviction for a disqualifying offense but meets 48139
personal character standards. 48140

Sec. 3742.03. The director of health shall adopt rules in 48141
accordance with Chapter 119. of the Revised Code ~~for the~~ 48142
~~administration and enforcement of sections 3742.01 to 3742.19~~ 48143
~~and 3742.99 of the Revised Code. The rules shall that specify~~ 48144
all of the following: 48145

(A) Procedures to be followed by a lead abatement 48146
contractor, lead abatement project designer, lead abatement 48147
worker, lead inspector, or lead risk assessor licensed under 48148
section 3742.05 of the Revised Code for undertaking lead 48149
abatement activities and procedures to be followed by a 48150
clearance technician, lead inspector, or lead risk assessor in 48151
performing a clearance examination; 48152

(B) (1) Requirements for training and licensure, in 48153

addition to those established under section 3742.08 of the 48154
Revised Code, to include levels of training and periodic 48155
refresher training for each class of worker, and to be used for 48156
licensure under section 3742.05 of the Revised Code. Except in 48157
the case of clearance technicians, these requirements shall 48158
include at least twenty-four classroom hours of training based 48159
on the Occupational Safety and Health Act training program for 48160
lead set forth in 29 C.F.R. 1926.62. For clearance technicians, 48161
the training requirements to obtain an initial license shall not 48162
exceed six hours and the requirements for refresher training 48163
shall not exceed two hours every four years. In establishing the 48164
training and licensure requirements, the director shall consider 48165
the core of information that is needed by all licensed persons, 48166
and establish the training requirements so that persons who 48167
would seek licenses in more than one area would not have to take 48168
duplicative course work. 48169

(2) Persons certified by the American board of industrial 48170
hygiene as a certified industrial hygienist or as an industrial 48171
hygienist-in-training, and persons registered as an 48172
environmental health specialist or environmental health 48173
specialist in training under Chapter 3776. of the Revised Code, 48174
shall be exempt from any training requirements for initial 48175
licensure established under this chapter, but shall be required 48176
to take any examinations for licensure required under section 48177
3742.05 of the Revised Code. 48178

(C) Fees for licenses issued under section 3742.05 of the 48179
Revised Code and for their renewal; 48180

(D) Procedures to be followed by lead inspectors, lead 48181
abatement contractors, environmental lead analytical 48182
laboratories, lead risk assessors, lead abatement project 48183

designers, and lead abatement workers to prevent public exposure 48184
to lead hazards and ensure worker protection during lead 48185
abatement projects; 48186

(E) (1) Record-keeping and reporting requirements for 48187
clinical laboratories, environmental lead analytical 48188
laboratories, lead inspectors, lead abatement contractors, lead 48189
risk assessors, lead abatement project designers, and lead 48190
abatement workers for lead abatement projects and record-keeping 48191
and reporting requirements for clinical laboratories, 48192
environmental lead analytical laboratories, and clearance 48193
technicians for clearance examinations; 48194

(2) Record-keeping and reporting requirements regarding 48195
lead poisoning to be followed by physicians, certified nurse- 48196
midwives if authorized as described in section 4723.438 of the 48197
Revised Code, clinical nurse specialists, and certified nurse 48198
practitioners; 48199

(3) Information that is required to be reported under 48200
rules based on divisions (E) (1) and (2) of this section and that 48201
is a medical record is not a public record under section 149.43 48202
of the Revised Code and shall not be released, except in 48203
aggregate statistical form. 48204

(F) Environmental sampling techniques for use in 48205
collecting samples of air, water, dust, paint, and other 48206
materials; 48207

(G) Requirements for a respiratory protection plan 48208
prepared in accordance with section 3742.07 of the Revised Code; 48209

(H) Requirements under which a manufacturer of 48210
encapsulants must demonstrate evidence of the safety and 48211
durability of its encapsulants by providing results of testing 48212

from an independent laboratory indicating that the encapsulants 48213
meet the standards developed by the "E06.23.30 task group on 48214
encapsulants," which is the task group of the lead hazards 48215
associated with buildings subcommittee of the performance of 48216
buildings committee of the American society for testing and 48217
materials. 48218

Sec. 3742.08. (A) (1) The director of health shall conduct, 48219
specify requirements by rule, or approve training programs for 48220
licensure of lead inspectors, lead abatement contractors, lead 48221
risk assessors, lead abatement project designers, lead abatement 48222
workers, and clearance technicians. In accordance with Chapter 48223
119. of the Revised Code, the director shall adopt rules 48224
establishing ~~all~~ both of the following: 48225

(a) A system for accreditation of training programs and 48226
the requirements for accreditation, including curriculum 48227
requirements, hour requirements, hands-on training requirements, 48228
trainee competency and proficiency requirements, and 48229
requirements for quality control; 48230

(b) Fees for application for approval of a training 48231
program and for participating in any program conducted by the 48232
director; 48233

~~(c) Any other requirements pertinent to the operation of a 48234
training program. 48235~~

(2) Each applicant for approval of a training program 48236
shall submit a completed application to the director on a form 48237
the director shall prescribe and provide. The director shall 48238
issue evidence of approval to each applicant who meets the 48239
requirements of division (A) (1) of this section and the criteria 48240
for approval established by rule adopted under this section and 48241

pays the fee. 48242

(B) The director shall administer examinations for 48243
licensure under this chapter by conducting examinations, 48244
contracting pursuant to section 3701.044 of the Revised Code for 48245
another entity to conduct the examinations, or approving 48246
examinations. In accordance with Chapter 119. of the Revised 48247
Code, the director shall adopt rules specifying requirements for 48248
the administration of licensing examinations. The rules shall 48249
include requirements regarding the qualifications of examination 48250
administrators, fees to cover the cost of conducting the 48251
examinations, and any other requirements pertinent to the 48252
examinations. 48253

If the director implements a system of approving 48254
examinations, the rules shall include procedures and criteria 48255
for approval and fees for the approval. Each applicant for 48256
approval shall submit a completed application to the director on 48257
a form the director shall prescribe and provide. The director 48258
shall issue evidence of approval to each applicant who meets the 48259
criteria for approval established in rules adopted under this 48260
division. 48261

Sec. 3742.09. (A) Any person desiring approval from the 48262
director of health for an environmental lead analytical 48263
laboratory or a clinical laboratory to perform lead testing 48264
shall submit an application for approval to the director on 48265
forms that ~~the~~ the director shall prescribe and provide. 48266

(B) The director shall adopt rules in accordance with 48267
Chapter 119. of the Revised Code to establish ~~all~~ both of the 48268
following: 48269

(1) Procedures and criteria for approval of clinical 48270

laboratories and environmental lead analytical 48271
~~laboratories~~ laboratories, including lead testing requirements 48272
and the qualification of laboratory owners and personnel; 48273

(2) Fees for application for approval of laboratories; 48274

~~(3) Any other requirements pertinent to the operation of a 48275
clinical laboratory or an environmental lead analytical 48276
laboratory. 48277~~

(C) The director shall issue the appropriate approval to 48278
any applicant who meets the requirements of division (A) of this 48279
section and rules adopted under division (B) of this section, 48280
pays the application fee, and demonstrates compliance with the 48281
record-keeping and reporting requirements established by rule 48282
adopted under section 3742.03 of the Revised Code. 48283

(D) Each clinical laboratory approved under this section 48284
shall report to the director the presence, at levels established 48285
by rule adopted under section 3742.03 of the Revised Code, of 48286
lead, cadmium, mercury, or arsenic in a blood or urine specimen. 48287
The report shall be made on a form prescribed by the director. 48288

Sec. 3742.50. (A) As used in this section: 48289

(1) "Lead abatement costs" means costs incurred by a 48290
taxpayer for either of the following: 48291

(a) A lead abatement specialist to conduct a lead risk 48292
assessment, a lead abatement project, or a clearance 48293
examination, provided the specialist is authorized under this 48294
chapter to conduct the respective task; 48295

(b) Relocation costs incurred in the relocation of 48296
occupants of an eligible dwelling to achieve occupant 48297
protection, as described in 24 C.F.R. 35.1345(a). 48298

"Lead abatement costs" do not include such costs for which the taxpayer is reimbursed or such costs the taxpayer deducts or excludes in computing the taxpayer's federal adjusted gross income for federal income tax purposes or Ohio adjusted gross income as determined under section 5747.01 of the Revised Code.

(2) "Eligible dwelling" means a residential unit constructed in this state before 1978.

(3) "Lead abatement specialist" means an individual who holds a valid license issued under section 3742.05 of the Revised Code.

(4) "Taxable year" and "taxpayer" have the same meanings as in section 5747.01 of the Revised Code.

(B) A taxpayer who incurs lead abatement costs on an eligible dwelling during a taxable year may apply to the director of health for a lead abatement tax credit certificate. The applicant shall list on the application the amount of lead abatement costs the applicant incurred for the eligible dwelling during the taxable year. The director, in consultation with the tax commissioner, shall prescribe the form of a lead abatement tax credit certificate, the manner by which an applicant shall apply for the certificate, and requirements for the submission of any record or other information an applicant must furnish with the application to verify the lead abatement costs.

(C) (1) Upon receipt of an application under division (B) of this section, the director of health shall verify all of the following:

(a) The residential unit that is the subject of the application is an eligible dwelling.

(b) The taxpayer incurred lead abatement costs during the

taxable year related to the eligible dwelling. 48328

(c) The eligible dwelling has passed a clearance 48329
examination in accordance with standards prescribed in rules 48330
adopted by the director under section 3742.03 or 3742.45 of the 48331
Revised Code. 48332

(2) After verifying the conditions described in division 48333
(C) (1) of this section, the director shall issue a lead 48334
abatement tax credit certificate to the applicant equal to the 48335
lesser of (a) the lead abatement costs incurred by the taxpayer 48336
on the eligible dwelling during the taxable year, (b) the amount 48337
of lead abatement costs listed on the application, or (c) forty 48338
thousand dollars, subject to the limitation in division (C) (3) 48339
of this section. 48340

(3) The director may not issue more than three million 48341
dollars in lead abatement tax credit certificates in any fiscal 48342
year. 48343

~~(D) The director of health, in consultation with the tax- 48344
commissioner, may adopt rules in accordance with Chapter 119. of 48345
the Revised Code as necessary for the administration of this- 48346
section. 48347~~

Sec. 3743.08. (A) The state fire marshal may inspect the 48348
premises of a fireworks plant, and the inventory, wholesale 48349
sale, and retail sale records, of a licensed manufacturer of 48350
fireworks during the manufacturer's period of licensure to 48351
determine whether the manufacturer is in compliance with Chapter 48352
3743. of the Revised Code and the rules adopted by the state 48353
fire marshal pursuant to section 3743.05 ~~or 3743.22~~ of the 48354
Revised Code. 48355

(B) If the state fire marshal determines during an 48356

inspection conducted pursuant to division (A) of this section 48357
that a manufacturer is not in compliance with Chapter 3743. of 48358
the Revised Code or the rules adopted by the state fire marshal 48359
pursuant to section 3743.05 ~~or 3743.22~~ of the Revised Code, the 48360
state fire marshal may take one or more of the following 48361
actions, whichever the state fire marshal considers appropriate 48362
under the circumstances: 48363

(1) Order, in writing, the manufacturer to eliminate, 48364
correct, or otherwise remedy the nonconformities within a 48365
specified period of time; 48366

(2) Order, in writing, the manufacturer to immediately 48367
cease its operations, if a fire or explosion hazard exists that 48368
reasonably can be regarded as posing an imminent danger of death 48369
or serious physical harm to persons. The order shall be 48370
effective until the nonconformities are eliminated, corrected, 48371
or otherwise remedied or for a period of seventy-two hours from 48372
the time of issuance, whichever first occurs. During the 48373
seventy-two hour period, the state fire marshal may obtain from 48374
the court of common pleas of Franklin county or of the county in 48375
which the fireworks plant is located an injunction restraining 48376
the manufacturer from continuing its operations after the 48377
seventy-two hour period expires until the nonconformities are 48378
eliminated, corrected, or otherwise remedied. 48379

(3) Suspend, revoke, or deny renewal of the license of the 48380
manufacturer in accordance with Chapter 119. of the Revised 48381
Code; 48382

(4) Take action as authorized by section 3743.68 of the 48383
Revised Code. 48384

(C) This section does not affect the authority conferred 48385

by Chapters 3781. and 3791. of the Revised Code to conduct 48386
inspections to determine conformity with those chapters or the 48387
rules adopted pursuant to them. 48388

(D) If the license of a manufacturer of fireworks is 48389
suspended or revoked or if renewal is denied pursuant to 48390
division (B) (3) of this section or section 3743.70 of the 48391
Revised Code, the manufacturer shall cease its operations 48392
immediately. The manufacturer may not reapply for licensure as a 48393
manufacturer of fireworks until two years expire from the date 48394
of revocation. 48395

The state fire marshal shall remove from the list of 48396
licensed manufacturers the name of a manufacturer whose license 48397
has been revoked, and shall notify the law enforcement 48398
authorities for the political subdivision in which the 48399
manufacturer's fireworks plant is located, of the suspension, 48400
revocation, or denial of renewal. 48401

Sec. 3743.21. (A) The state fire marshal may inspect the 48402
premises, and the inventory, wholesale sale, and retail sale 48403
records, of a licensed wholesaler of fireworks during the 48404
wholesaler's period of licensure to determine whether the 48405
wholesaler is in compliance with Chapter 3743. of the Revised 48406
Code and the rules adopted by the state fire marshal pursuant to 48407
section 3743.18 ~~or 3743.22~~ of the Revised Code. 48408

(B) If the state fire marshal determines during an 48409
inspection conducted pursuant to division (A) of this section 48410
that a wholesaler is not in compliance with Chapter 3743. of the 48411
Revised Code or the rules adopted by the state fire marshal 48412
pursuant to section 3743.18 ~~or 3743.22~~ of the Revised Code, the 48413
state fire marshal may take one or more of the following 48414
actions, whichever the state fire marshal considers appropriate 48415

under the circumstances: 48416

(1) Order, in writing, the wholesaler to eliminate, 48417
correct, or otherwise remedy the nonconformities within a 48418
specified period of time; 48419

(2) Order, in writing, the wholesaler to immediately cease 48420
its operations, if a fire or explosion hazard exists that 48421
reasonably can be regarded as posing an imminent danger of death 48422
or serious physical harm to persons. The order shall be 48423
effective until the nonconformities are eliminated, corrected, 48424
or otherwise remedied or for a period of seventy-two hours from 48425
the time of issuance, whichever first occurs. During the 48426
seventy-two hour period, the state fire marshal may obtain from 48427
the court of common pleas of Franklin county or of the county in 48428
which the premises of the wholesaler are located an injunction 48429
restraining the wholesaler from continuing its operations after 48430
the seventy-two hour period expires until the nonconformities 48431
are eliminated, corrected, or otherwise remedied. 48432

(3) Suspend, revoke, or deny renewal of, the license of 48433
the wholesaler in accordance with Chapter 119. of the Revised 48434
Code; 48435

(4) Take action as authorized by section 3743.68 of the 48436
Revised Code. 48437

(C) This section does not affect the authority conferred 48438
by Chapters 3781. and 3791. of the Revised Code to conduct 48439
inspections to determine conformity with those chapters or the 48440
rules adopted pursuant to them. 48441

(D) If the license of a wholesaler of fireworks is 48442
suspended or revoked or if renewal is denied pursuant to 48443
division (B) (3) of this section or section 3743.70 of the 48444

Revised Code, the wholesaler shall cease its operations 48445
immediately. The wholesaler may not reapply for licensure as a 48446
wholesaler of fireworks until two years expire from the date of 48447
revocation. 48448

The state fire marshal shall remove from the list of 48449
licensed wholesalers the name of a wholesaler whose license has 48450
been revoked, and shall notify the law enforcement authorities 48451
for the political subdivision in which the wholesaler's premises 48452
are located, of the suspension, revocation, or denial of 48453
renewal. 48454

Sec. 3743.22. (A) As used in this section: 48455

(1) "Fee period" means the period beginning on the first 48456
day of October and ending on the thirtieth day of the following 48457
September. 48458

(2) "Gross receipts" excludes the amount of taxes a 48459
licensed retailer, licensed manufacturer, or licensed wholesaler 48460
collects from a consumer under Chapter 5739. of the Revised Code 48461
on behalf of the state or a political subdivision. 48462

(B) For the purpose of providing revenue to fund 48463
firefighter training programs and the enforcement and regulation 48464
of the fireworks industry, a fee is imposed on licensed 48465
retailers, licensed manufacturers, and licensed wholesalers 48466
selling 1.4G fireworks in this state. The fee shall equal four 48467
per cent of the gross receipts of a licensed manufacturer or 48468
licensed wholesaler from retail sales of 1.4G fireworks in this 48469
state made one hundred or more days after ~~the effective date of~~ 48470
~~this section~~ February 7, 2022. For the purpose of this section, 48471
a retail sale of 1.4G fireworks is made in this state only if 48472
the purchaser intends to use the fireworks, and not resell them, 48473

and receives the 1.4G fireworks at a location in this state. 48474

The fee shall be reported, on a form prescribed by the 48475
state fire marshal, and remitted to the state fire marshal on or 48476
before the twenty-third day after the last day of each fee 48477
period. The amount of the fee due shall be computed on the basis 48478
of gross receipts from retail sales made in each fee period. A 48479
licensed retailer, licensed manufacturer, or licensed wholesaler 48480
whose license is issued, canceled or revoked, or not renewed 48481
after expiration during a fee period shall report and remit the 48482
fee based on sales of 1.4G fireworks made in that fee period as 48483
required under this section. A licensed retailer, licensed 48484
manufacturer, or licensed wholesaler may separately or 48485
proportionately bill or invoice a fee imposed under this section 48486
to another person. 48487

(C) All money collected under this section shall be 48488
credited to the fireworks fee receipts fund, which is hereby 48489
created in the state treasury. Seven-eighths of the money in the 48490
fund shall be used by the state fire marshal solely to fund 48491
firefighter training programs. Remaining money in the fund shall 48492
be used solely to pay expenses of the state fire marshal in 48493
performing the duties prescribed by this chapter. 48494

(D) If the state fire marshal determines that a licensed 48495
retailer, licensed manufacturer, or licensed wholesaler fails to 48496
timely report and remit the full amount of the fee as required 48497
by this section, the state fire marshal may do either of the 48498
following: 48499

(1) Order, in writing, the retailer, wholesaler, or 48500
manufacturer to report and remit to the state fire marshal, 48501
within a specified period of time, any such underpayment; 48502

(2) Revoke or deny renewal of the license of the retailer, 48503
manufacturer, or wholesaler, which shall subject a manufacturer 48504
or wholesaler to the consequences prescribed in division (D) of 48505
section 3743.08 of the Revised Code or division (D) of section 48506
3743.21 of the Revised Code. 48507

~~(E) The state fire marshal may adopt rules in accordance 48508
with Chapter 119. of the Revised Code as necessary to administer 48509
and enforce the fee imposed under this section. 48510~~

Sec. 3743.25. (A) (1) Except as described in division (A) 48511
(2) of this section and in section 3743.48 of the Revised Code, 48512
all retail sales of 1.4G fireworks by a licensed manufacturer or 48513
wholesaler shall only occur from an approved retail sales 48514
showroom on a licensed premises or from a representative sample 48515
showroom as described in this section on a licensed premises. 48516
For the purposes of this section, a retail sale includes the 48517
transfer of the possession of the 1.4G fireworks from the 48518
licensed manufacturer or wholesaler to the purchaser of the 48519
fireworks. 48520

(2) Sales of 1.4G fireworks to a licensed exhibitor for a 48521
properly permitted exhibition shall occur in accordance with the 48522
provisions of the Revised Code and rules adopted by the state 48523
fire marshal under Chapter 119. of the Revised Code. Such rules 48524
shall specify, at a minimum, that the licensed exhibitor holds a 48525
license under section 3743.51 of the Revised Code, that the 48526
exhibitor possesses a valid exhibition permit issued in 48527
accordance with section 3743.54 of the Revised Code, and that 48528
the fireworks shipped are to be used at the specifically 48529
permitted exhibition. 48530

(B) All wholesale sales of fireworks by a licensed 48531
manufacturer or wholesaler shall only occur from a licensed 48532

premises to persons who intend to resell the fireworks purchased 48533
at wholesale. A wholesale sale by a licensed manufacturer or 48534
wholesaler may occur as follows: 48535

(1) The direct sale and shipment of fireworks to a person 48536
outside of this state; 48537

(2) From an approved retail sales showroom as described in 48538
this section; 48539

(3) From a representative sample showroom as described in 48540
this section; 48541

(4) By delivery of wholesale fireworks to a purchaser at a 48542
licensed premises outside of a structure or building on that 48543
premises. All other portions of the wholesale sales transaction 48544
may occur at any location on a licensed premises. 48545

~~(5) Any other method as described in rules adopted by the 48546
state fire marshal under Chapter 119. of the Revised Code. 48547~~

(C) Except as otherwise provided in section 3743.48 of the 48548
Revised Code, a licensed manufacturer or wholesaler shall only 48549
sell 1.4G fireworks from a representative sample showroom or a 48550
retail sales showroom. Each licensed premises shall only contain 48551
one sales structure. 48552

A representative sample showroom shall consist of a 48553
structure constructed and maintained in accordance with the 48554
nonresidential building code adopted under Chapter 3781. of the 48555
Revised Code and the fire code adopted under section 3737.82 of 48556
the Revised Code for a use and occupancy group that permits 48557
mercantile sales. A representative sample showroom shall not 48558
contain any pyrotechnics, pyrotechnic materials, fireworks, 48559
explosives, explosive materials, or any similar hazardous 48560
materials or substances. A representative sample showroom shall 48561

be used only for the public viewing of fireworks product 48562
representations, including paper materials, packaging materials, 48563
catalogs, photographs, or other similar product depictions. The 48564
delivery of product to a purchaser of fireworks at a licensed 48565
premises that has a representative sample structure shall not 48566
occur inside any structure on a licensed premises. Such product 48567
delivery shall occur on the licensed premises in a manner 48568
prescribed by rules adopted by the state fire marshal pursuant 48569
to Chapter 119. of the Revised Code. 48570

If a manufacturer or wholesaler elects to conduct sales 48571
from a retail sales showroom, the showroom structures, to which 48572
the public may have any access and in which employees are 48573
required to work, on all licensed premises, shall comply with 48574
the following safety requirements: 48575

(1) A fireworks showroom that is constructed or upon which 48576
expansion is undertaken on and after June 30, 1997, shall be 48577
equipped with interlinked fire detection, fire suppression, 48578
smoke exhaust, and smoke evacuation systems that are approved by 48579
the superintendent of industrial compliance in the department of 48580
commerce. 48581

(2) (a) A fireworks showroom that first begins to operate 48582
on or after June 30, 1997, or that resumes operations at any 48583
time after a period of inactive status of licensure greater than 48584
one year, and to which the public has access for retail purposes 48585
shall not exceed seven thousand five hundred square feet in 48586
floor area. 48587

(b) A fireworks showroom that, through construction of a 48588
new showroom, expansion of an existing showroom, or similar 48589
means, first exceeds five thousand square feet, to which the 48590
public has access for retail purposes, after February 7, 2022, 48591

shall be equipped with a sprinkler system that meets the 48592
criteria for sprinkler systems in extra hazard (group 2) 48593
occupancies under "NFPA 13, Standard for the Installation of 48594
Sprinkler Systems (2019 Edition)." 48595

(c) Notwithstanding division (D) of this section, the 48596
state fire marshal may provide a variance to the requirements of 48597
division (C)(2)(b) of this section pursuant to section 3743.59 48598
of the Revised Code for a sprinkler system that matches or 48599
exceeds the degree of safety provided by a sprinkler system that 48600
meets the criteria for sprinkler systems in extra hazard (group 48601
2) occupancies under "NFPA 13, Standard for the Installation of 48602
Sprinkler Systems (2019 Edition)." 48603

(3) A newly constructed or an existing fireworks showroom 48604
structure that exists on September 23, 2008, but that, on or 48605
after September 23, 2008, is altered or added to in a manner 48606
requiring the submission of plans, drawings, specifications, or 48607
data pursuant to section 3791.04 of the Revised Code, shall 48608
comply with a graphic floor plan layout that is approved by the 48609
state fire marshal and superintendent showing width of aisles, 48610
parallel arrangement of aisles to exits, number of exits per 48611
wall, maximum occupancy load, evacuation plan for occupants, 48612
height of storage or display of merchandise, and other 48613
information as may be required by the state fire marshal and 48614
superintendent. 48615

(4) A fireworks showroom structure that exists on June 30, 48616
1997, shall be in compliance on or after June 30, 1997, with 48617
floor plans showing occupancy load limits and internal 48618
circulation and egress patterns that are approved by the state 48619
fire marshal and superintendent, and that are submitted under 48620
seal as required by section 3791.04 of the Revised Code. 48621

(D) The safety requirements established in division (C) of 48622
this section are not subject to any variance, waiver, or 48623
exclusion pursuant to this chapter or any applicable building 48624
code. 48625

Sec. 3743.48. (A) For the purposes of this section, 48626
"online sale" means a retail sale through an internet web site 48627
or other digital platform. 48628

(B) A licensed manufacturer or licensed wholesaler may 48629
conduct online sales of 1.4G fireworks in accordance with this 48630
section. A licensed manufacturer or licensed wholesaler shall 48631
ensure that all selection, ordering, payment, and delivery is 48632
carried out in accordance with the procedures and requirements 48633
of this chapter and all rules adopted thereunder, except to the 48634
extent that those procedures, requirements, and rules directly 48635
conflict with this section. 48636

(C) Each online sale of 1.4G fireworks shall be 48637
specifically associated with a single licensed manufacturer or 48638
licensed wholesaler, identified by license identification number 48639
and the address of the licensed premises. A licensed 48640
manufacturer or licensed wholesaler shall transfer possession of 48641
1.4G fireworks purchased in an online sale only in the retail 48642
showroom of the licensed premises or via curbside delivery made 48643
in accordance with all of the following: 48644

(1) The delivery is made to the verified purchaser of the 48645
1.4G fireworks. 48646

(2) The delivery occurs on the licensed premises 48647
associated with sale. 48648

(3) The delivery occurs in a designated customer pick-up 48649
zone which may be accessible by motor vehicles. 48650

(4) The purchaser is provided a safety pamphlet, in 48651
accordance with section 3743.47 of the Revised Code, at the 48652
point of delivery. 48653

(5) The purchaser is offered safety glasses for a nominal 48654
fee at the point of delivery in accordance section 3743.47 of 48655
the Revised Code. 48656

(D) A licensed manufacturer or licensed wholesaler may 48657
construct a tent or other temporary structure on a licensed 48658
premises to provide shelter for employees and purchasers at the 48659
point of curbside delivery, provided that such structures are 48660
approved by the state fire marshal and are in compliance with 48661
all state and local laws, including the state building code, the 48662
state fire code, and any applicable zoning requirements. 48663

(E) A licensed manufacturer or licensed wholesaler shall 48664
not transfer possession of 1.4G fireworks purchased in an online 48665
sale to any person other than the verified purchaser. Before 48666
transferring possession, the licensed manufacturer or licensed 48667
wholesaler shall verify all of the following: 48668

(1) The number and types of items included in the order; 48669

(2) That the purchaser is at least eighteen years of age; 48670

(3) That the purchaser's name is the same name associated 48671
with the credit or debit card with which the order was placed; 48672

(4) That the purchaser attests to understanding and agrees 48673
to comply with all applicable federal, state, and local laws 48674
regarding consumer fireworks storage and use; 48675

(5) That the purchaser signs all forms required by law; 48676

(6) That the purchaser pays the fee imposed by section 48677
3743.22 of the Revised Code. 48678

(F) A licensed manufacturer or licensed wholesaler that 48679
conducts online sales of 1.4G fireworks shall do all of the 48680
following: 48681

(1) Comply with all applicable state and local laws, 48682
including the state building code, state fire code, and zoning 48683
requirements; 48684

(2) Implement reasonable traffic control measures for 48685
curbside deliveries; 48686

(3) Maintain all regular fireworks sales records, 48687
including any records necessary to demonstrate compliance with 48688
this section, and make those records available upon request of 48689
the state fire marshal or any law enforcement officer, fire code 48690
official, or building code official with jurisdiction. 48691

(G) A licensed manufacturer or licensed wholesaler shall 48692
not do any of the following: 48693

(1) Deliver fireworks via mail order, parcel service, or 48694
any other delivery process that occurs outside of the licensed 48695
premises; 48696

(2) Sell or offer for sale fireworks or other items 48697
outside of the licensed retail showroom except as expressly 48698
authorized by this section; 48699

(3) Display fireworks for sale outside of a retail 48700
showroom; 48701

(4) Permit any member of the public to access any areas on 48702
the licensed premises other than the retail showroom and the 48703
designated area for curbside delivery. 48704

(H) Nothing in this section shall be construed to do any 48705
of the following: 48706

(1) Reduce, waive, or otherwise eliminate any licensure or safety requirements in this chapter or the rules adopted thereunder; 48707
48708
48709

(2) Exempt any retail sales of 1.4G fireworks from the fee imposed by section 3743.22 of the Revised Code; 48710
48711

(3) Reduce, waive, or otherwise eliminate any of a licensed manufacturer's or licensed wholesaler's liability, insurance, workers compensation, or other legal obligations. 48712
48713
48714

(I) (1) A licensed wholesaler or licensed manufacturer is not required to conduct online sales of fireworks. 48715
48716

(2) A licensed wholesaler or licensed manufacturer may implement a hybrid firework purchase and delivery system composed of one or more of the following: 48717
48718
48719

(a) Standard retail showroom sales; 48720

(b) Online selection of, or payment for, 1.4G fireworks products and in-store showroom delivery of those products; 48721
48722

(c) Online selection of, or payment for, 1.4G fireworks products and curbside delivery of those products; 48723
48724

(d) Retail showroom-based product selection and payment, and curbside delivery of those products; 48725
48726

(e) Other similar purchase and delivery systems approved in writing by the state fire marshal in accordance with division (J) of this section. 48727
48728
48729

(J) A licensed wholesaler or licensed manufacturer may submit to the state fire marshal proposals for alternative 1.4G firework purchase and delivery systems that satisfy the requirements of this section. The state fire marshal shall 48730
48731
48732
48733

review each such proposal and, if the alternative firework purchase and delivery system satisfies the requirements of this section, may approve that firework purchase and delivery system for use by the licensed wholesaler or licensed manufacturer.

(K) This section does not apply to 1.3G fireworks or wholesale sales.

~~(L) The state fire marshal shall adopt rules and standards in accordance with Chapter 119. of the Revised Code as necessary to implement and enforce this section.~~

Sec. 3743.56. Each fireworks exhibitor licensed under section 3743.51 of the Revised Code shall register annually with the fire marshal all employees who assist the licensed exhibitor in conducting fireworks exhibitions. Once registered, such an employee may be employed by any other licensed fireworks exhibitor, without the need for that other licensed exhibitor to register the employee with the fire marshal. The fire marshal shall maintain a record of licensed exhibitors and registered employees and make it available, upon request, to any law enforcement agency.

The fire marshal shall adopt rules under Chapter 119. of the Revised Code that establish appropriate fees for the registration of employees of licensed exhibitors ~~and otherwise implement this section.~~

In addition to the annual registration of employees required by this section, a licensed exhibitor shall file an application to register a new employee, unless the new employee is already registered under this section, not later than seven days after the date on which the employee is hired.

Each applicant for registration under this section shall

provide fingerprint or similar identifying information to the 48763
fire marshal for the purposes of determining applicant 48764
compliance with section 3743.70 of the Revised Code. The fire 48765
marshal may adopt rules under Chapter 119. of the Revised Code 48766
specifying the method to be used by the applicant to provide the 48767
fingerprint or similar identifying information, fees to be 48768
assessed by the fire marshal to conduct such background checks, 48769
and the procedures to be used by the fire marshal to verify 48770
compliance with this section. Such rules may include provisions 48771
establishing the frequency that license renewal applicants must 48772
update background check information filed by the applicant with 48773
previous license applications and provisions describing 48774
alternative forms of background check information that may be 48775
accepted by the fire marshal to verify compliance with this 48776
section. 48777

Sec. 3743.60. (A) No person shall manufacture fireworks in 48778
this state unless it is a licensed manufacturer of fireworks, 48779
and no person shall operate a fireworks plant in this state 48780
unless it has been issued a license as a manufacturer of 48781
fireworks for the particular fireworks plant. 48782

(B) No person shall operate a fireworks plant in this 48783
state after its license as a manufacturer of fireworks for the 48784
particular fireworks plant has expired, is suspended, has been 48785
denied renewal, or has been revoked, unless a new license has 48786
been obtained or the suspension lifted. 48787

(C) No licensed manufacturer of fireworks, during the 48788
effective period of its licensure, shall construct, locate, or 48789
relocate any buildings or other structures on the premises of 48790
its fireworks plant, make any structural change or renovation in 48791
any building or other structure on the premises of its fireworks 48792

plant, or change the nature of its manufacturing of fireworks so 48793
as to include the processing of fireworks without first 48794
obtaining a written authorization from the state fire marshal 48795
pursuant to division (B) of section 3743.04 of the Revised Code. 48796

(D) No licensed manufacturer of fireworks shall 48797
manufacture fireworks, possess fireworks for sale at wholesale 48798
or retail, or sell fireworks at wholesale or retail, in a manner 48799
not authorized by division (C) of section 3743.04 of the Revised 48800
Code. 48801

(E) No licensed manufacturer of fireworks shall knowingly 48802
fail to comply with the rules adopted by the state fire marshal 48803
pursuant to ~~sections~~ section 3743.05 and ~~3743.48~~ of the Revised 48804
Code or the requirements of sections 3743.06 and 3743.48 of the 48805
Revised Code. 48806

(F) No licensed manufacturer of fireworks shall fail to 48807
maintain complete inventory, wholesale sale, and retail records 48808
as required by section 3743.07 of the Revised Code, or to permit 48809
inspection of these records or the premises of a fireworks plant 48810
pursuant to section 3743.08 of the Revised Code. 48811

(G) No licensed manufacturer of fireworks shall fail to 48812
comply with an order of the state fire marshal issued pursuant 48813
to division (B) (1) of section 3743.08 of the Revised Code, 48814
within the specified period of time. 48815

(H) No licensed manufacturer of fireworks shall fail to 48816
comply with an order of the state fire marshal issued pursuant 48817
to division (B) (2) of section 3743.08 of the Revised Code until 48818
the nonconformities are eliminated, corrected, or otherwise 48819
remedied or the seventy-two hour period specified in that 48820
division has expired, whichever first occurs. 48821

(I) No person shall smoke or shall carry a pipe, 48822
cigarette, or cigar, or a match, lighter, other flame-producing 48823
item, or open flame on, or shall carry a concealed source of 48824
ignition into, the premises of a fireworks plant, except as 48825
smoking is authorized in specified lunchrooms or restrooms by a 48826
manufacturer pursuant to division (C) of section 3743.06 of the 48827
Revised Code. 48828

(J) No person shall have possession or control of, or be 48829
under the influence of, any intoxicating liquor, beer, or 48830
controlled substance, while on the premises of a fireworks 48831
plant. 48832

(K) No licensed manufacturer of fireworks shall 48833
negligently fail to furnish a safety pamphlet to a purchaser of 48834
1.4G fireworks as required by division (A) of section 3743.47 of 48835
the Revised Code. 48836

(L) No licensed manufacturer of fireworks shall 48837
negligently fail to have safety glasses available for sale as 48838
required by division (B) of section 3743.47 of the Revised Code. 48839

Sec. 3743.61. (A) No person, except a licensed 48840
manufacturer of fireworks engaging in the wholesale sale of 48841
fireworks as authorized by division (C) (2) of section 3743.04 of 48842
the Revised Code, shall operate as a wholesaler of fireworks in 48843
this state unless it is a licensed wholesaler of fireworks, or 48844
shall operate as a wholesaler of fireworks at any location in 48845
this state unless it has been issued a license as a wholesaler 48846
of fireworks for the particular location. 48847

(B) No person shall operate as a wholesaler of fireworks 48848
at a particular location in this state after its license as a 48849
wholesaler of fireworks for the particular location has expired, 48850

is suspended, has been denied renewal, or has been revoked, 48851
unless a new license has been obtained or the suspension lifted. 48852

(C) No licensed wholesaler of fireworks, during the 48853
effective period of its licensure, shall perform any 48854
construction, or make any structural change or renovation, on 48855
the premises on which the fireworks are sold without first 48856
obtaining a written authorization from the state fire marshal 48857
pursuant to division (B) of section 3743.17 of the Revised Code. 48858

(D) No licensed wholesaler of fireworks shall possess 48859
fireworks for sale at wholesale or retail, or sell fireworks at 48860
wholesale or retail, in a manner not authorized by division (C) 48861
of section 3743.17 of the Revised Code. 48862

(E) No licensed wholesaler of fireworks shall knowingly 48863
fail to comply with the rules adopted by the state fire marshal 48864
pursuant to ~~sections~~ section 3743.18 and ~~3743.48~~ or the 48865
requirements of sections 3743.19 and 3743.48 of the Revised 48866
Code. 48867

(F) No licensed wholesaler of fireworks shall fail to 48868
maintain complete inventory, wholesale sale, and retail records 48869
as required by section 3743.20 of the Revised Code, or to permit 48870
inspection of these records or the premises of the wholesaler 48871
pursuant to section 3743.21 of the Revised Code. 48872

(G) No licensed wholesaler of fireworks shall fail to 48873
comply with an order of the state fire marshal issued pursuant 48874
to division (B) (1) of section 3743.21 of the Revised Code, 48875
within the specified period of time. 48876

(H) No licensed wholesaler of fireworks shall fail to 48877
comply with an order of the state fire marshal issued pursuant 48878
to division (B) (2) of section 3743.21 of the Revised Code until 48879

the nonconformities are eliminated, corrected, or otherwise 48880
remedied or the seventy-two hour period specified in that 48881
division has expired, whichever first occurs. 48882

(I) No person shall smoke or shall carry a pipe, 48883
cigarette, or cigar, or a match, lighter, other flame-producing 48884
item, or open flame on, or shall carry a concealed source of 48885
ignition into, the premises of a wholesaler of fireworks, except 48886
as smoking is authorized in specified lunchrooms or restrooms by 48887
a wholesaler pursuant to division (D) of section 3743.19 of the 48888
Revised Code. 48889

(J) No person shall have possession or control of, or be 48890
under the influence of, any intoxicating liquor, beer, or 48891
controlled substance, while on the premises of a wholesaler of 48892
fireworks. 48893

(K) No licensed wholesaler of fireworks shall negligently 48894
fail to furnish a safety pamphlet to a purchaser of 1.4G 48895
fireworks as required by division (A) of section 3743.47 of the 48896
Revised Code. 48897

(L) No licensed wholesaler of fireworks shall negligently 48898
fail to have safety glasses available for sale as required by 48899
division (B) of section 3743.47 of the Revised Code. 48900

Sec. 3745.11. (A) Applicants for and holders of permits, 48901
licenses, variances, plan approvals, and certifications issued 48902
by the director of environmental protection pursuant to Chapters 48903
3704., 3734., 6109., and 6111. of the Revised Code shall pay a 48904
fee to the environmental protection agency for each such 48905
issuance and each application for an issuance as provided by 48906
this section. No fee shall be charged for any issuance for which 48907
no application has been submitted to the director. 48908

(B) Except as otherwise provided in division (C) (2) of 48909
this section, beginning July 1, 1994, each person who owns or 48910
operates an air contaminant source and who is required to apply 48911
for and obtain a Title V permit under section 3704.036 of the 48912
Revised Code shall pay an annual fee of five thousand dollars in 48913
addition to the fees set forth in this division. For the 48914
purposes of this division, total emissions of air contaminants 48915
may be calculated using engineering calculations, emissions 48916
factors, material balance calculations, or performance testing 48917
procedures, as authorized by the director. 48918

The following fees shall be assessed on the total actual 48919
emissions from a source in tons per year of the regulated 48920
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 48921
organic compounds, and lead: 48922

(1) Fifteen dollars per ton on the total actual emissions 48923
of each such regulated pollutant during the period July through 48924
December 1993, to be collected no sooner than July 1, 1994; 48925

(2) Twenty dollars per ton on the total actual emissions 48926
of each such regulated pollutant during calendar year 1994, to 48927
be collected no sooner than April 15, 1995; 48928

(3) Twenty-five dollars per ton on the total actual 48929
emissions of each such regulated pollutant in calendar year 48930
1995, and each subsequent calendar year, to be collected no 48931
sooner than the fifteenth day of April of the year next 48932
succeeding the calendar year in which the emissions occurred. 48933

The fees levied under this division do not apply to that 48934
portion of the emissions of a regulated pollutant at a facility 48935
that exceed four thousand tons during a calendar year. 48936

(C) (1) The fees assessed under division (B) of this 48937

section are for the purpose of providing funding for the Title V permit program. 48938
48939

(2) The fees assessed under division (B) of this section 48940
do not apply to emissions from any electric generating unit 48941
designated as a Phase I unit under Title IV of the federal Clean 48942
Air Act prior to calendar year 2000. Those fees shall be 48943
assessed on the emissions from such a generating unit commencing 48944
in calendar year 2001 based upon the total actual emissions from 48945
the generating unit during calendar year 2000 and shall continue 48946
to be assessed each subsequent calendar year based on the total 48947
actual emissions from the generating unit during the preceding 48948
calendar year. 48949

(3) The director shall issue invoices to owners or 48950
operators of air contaminant sources who are required to pay a 48951
fee assessed under division (B) or (D) of this section. Any such 48952
invoice shall be issued no sooner than the applicable date when 48953
the fee first may be collected in a year under the applicable 48954
division, shall identify the nature and amount of the fee 48955
assessed, and shall indicate that the fee is required to be paid 48956
within thirty days after the issuance of the invoice. 48957

(D) (1) Except as provided in division (D) (2) of this 48958
section, beginning January 1, 2004, each person who owns or 48959
operates an air contaminant source; who is required to apply for 48960
a permit to operate pursuant to rules adopted under division 48961
~~(G), or a variance pursuant to division (H),~~ (F) of section 48962
3704.03 of the Revised Code; and who is not required to apply 48963
for and obtain a Title V permit under section 3704.03 of the 48964
Revised Code shall pay a single fee based upon the sum of the 48965
actual annual emissions from the facility of the regulated 48966
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 48967

organic compounds, and lead in accordance with the following 48968
 schedule: 48969
 48970

	1	2	
A	Total tons per year of regulated pollutants emitted	Annual fee per facility	
B	More than 0, but less than 10		\$100
C	10 or more, but less than 50	200	
D	50 or more, but less than 100	300	
E	100 or more	700	

(2) (a) As used in division (D) of this section, "synthetic 48971
 minor facility" means a facility for which one or more permits 48972
 to install or permits to operate have been issued for the air 48973
 contaminant sources at the facility that include terms and 48974
 conditions that lower the facility's potential to emit air 48975
 contaminants below the major source thresholds established in 48976
 rules adopted under section 3704.036 of the Revised Code. 48977

(b) Through June 30, 2028, each person who owns or 48978
 operates a synthetic minor facility shall pay an annual fee of 48979
 five thousand dollars in addition to a fee based on the sum of 48980
 the actual annual emissions from the facility of particulate 48981
 matter, sulfur dioxide, nitrogen dioxide, organic compounds, and 48982
 lead in accordance with the following schedule: 48983
 48984

	1	2
A	Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
B	Less than 10	\$255
C	10 or more, but less than 20	510
D	20 or more, but less than 30	1,005
E	30 or more, but less than 40	1,515
F	40 or more, but less than 50	2,010
G	50 or more, but less than 60	2,520
H	60 or more, but less than 70	3,015
I	70 or more, but less than 80	3,525
J	80 or more, but less than 90	4,020
K	90 or more, but less than 100	4,530
L	100 or more	5,025

(3) The fees assessed under division (D)(1) of this	48985
section shall be collected annually no sooner than the fifteenth	48986
day of April, commencing in 2005. The fees assessed under	48987
division (D)(2) of this section shall be collected no sooner	48988
than the fifteenth day of April, commencing in 2000. The fees	48989
assessed under division (D) of this section in a calendar year	48990

shall be based upon the sum of the actual emissions of those 48991
regulated pollutants during the preceding calendar year. For the 48992
purpose of division (D) of this section, emissions of air 48993
contaminants may be calculated using engineering calculations, 48994
emission factors, material balance calculations, or performance 48995
testing procedures, as authorized by the director. The director, 48996
by rule, may require persons who are required to pay the fees 48997
assessed under division (D) of this section to pay those fees 48998
biennially rather than annually. 48999

(E) (1) Consistent with the need to cover the reasonable 49000
costs of the Title V permit program, the director annually shall 49001
increase the fees assessed on emissions prescribed in division 49002
(B) of this section by the percentage, if any, by which the 49003
consumer price index for the most recent calendar year ending 49004
before the beginning of a year exceeds the consumer price index 49005
for calendar year 1989. Upon calculating an increase in fees 49006
authorized by division (E) (1) of this section, the director 49007
shall compile revised fee schedules for the purposes of division 49008
(B) of this section and shall make the revised schedules 49009
available to persons required to pay the fees assessed under 49010
that division and to the public. 49011

(2) For the purposes of division (E) (1) of this section: 49012

(a) The consumer price index for any year is the average 49013
of the consumer price index for all urban consumers published by 49014
the United States department of labor as of the close of the 49015
twelve-month period ending on the thirty-first day of August of 49016
that year. 49017

(b) If the 1989 consumer price index is revised, the 49018
director shall use the revision of the consumer price index that 49019
is most consistent with that for calendar year 1989. 49020

(F) Each person who is issued a permit to install pursuant to rules adopted under division ~~(F)~~(E) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

	1	2
A	Input capacity (maximum) (million British thermal units per hour)	Permit to install
B	Greater than 0, but less than 10	\$300
C	10 or more, but less than 100	600
D	100 or more, but less than 300	1,500
E	300 or more, but less than 500	3,375
F	500 or more, but less than 1000	5,625
G	1000 or more, but less than 5000	9,000
H	5000 or more	13,500

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F) (1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

	1	2
A	Generating capacity (mega watts)	Permit to install
B	0 or more, but less than 10	\$37.50
C	10 or more, but less than 25	225
D	25 or more, but less than 50	450
E	50 or more, but less than 100	750
F	100 or more, but less than 250	1,500
G	250 or more	3,000
	(3) Incinerators	49035
		49036

	1	2
A	Input capacity (pounds per hour)	Permit to install
B	0 to 100	\$150
C	101 to 500	750
D	501 to 2000	1,500
E	2001 to 20,000	2,250
F	more than 20,000	5,625
	(4) (a) Process	49037
		49038

A	Process weight rate (pounds per hour)	Permit to install
B	0 to 1000	\$300
C	1001 to 5000	750
D	5001 to 10,000	1,125
E	10,001 to 50,000	1,500
F	more than 50,000	1,875

In any process where process weight rate cannot be 49039
ascertained, the minimum fee shall be assessed. A boiler, 49040
furnace, combustion turbine, stationary internal combustion 49041
engine, or process heater designed to provide direct heat or 49042
power to a process not designed to generate electricity shall be 49043
assessed a fee established in division (F) (4) (a) of this 49044
section. A combustion turbine or stationary internal combustion 49045
engine designed to generate electricity shall be assessed a fee 49046
established in division (F) (2) of this section. 49047

(b) Notwithstanding division (F) (4) (a) of this section, 49048
any person issued a permit to install pursuant to rules adopted 49049
under division ~~(F)~~(E) of section 3704.03 of the Revised Code 49050
shall pay the fees set forth in division (F) (4) (c) of this 49051
section for a process used in any of the following industries, 49052
as identified by the applicable two-digit, three-digit, or four- 49053
digit standard industrial classification code according to the 49054
Standard Industrial Classification Manual published by the 49055
United States office of management and budget in the executive 49056
office of the president, 1987, as revised: 49057

Major group 10, metal mining; 49058

Major group 12, coal mining;	49059
Major group 14, mining and quarrying of nonmetallic minerals;	49060 49061
Industry group 204, grain mill products;	49062
2873 Nitrogen fertilizers;	49063
2874 Phosphatic fertilizers;	49064
3281 Cut stone and stone products;	49065
3295 Minerals and earth, ground or otherwise treated;	49066
4221 Grain elevators (storage only);	49067
5159 Farm related raw materials;	49068
5261 Retail nurseries and lawn and garden supply stores.	49069
(c) The fees set forth in the following schedule apply to	49070
the issuance of a permit to install pursuant to rules adopted	49071
under division (F) (E) of section 3704.03 of the Revised Code for	49072
a process identified in division (F) (4) (b) of this section:	49073
	49074

1

2

A	Process weight rate (pounds per hour)	Permit to install
B	0 to 10,000	\$300
C	10,001 to 50,000	600
D	50,001 to 100,000	750
E	100,001 to 200,000	900
F	200,001 to 400,000	1,125

G	400,001 or more		1,350	
	(5) Storage tanks			49075 49076
		1	2	
A	Gallons (maximum useful capacity)		Permit to install	
B	0 to 20,000		\$150	
C	20,001 to 40,000		225	
D	40,001 to 100,000		375	
E	100,001 to 500,000		600	
F	500,001 or greater		1,125	
	(6) Gasoline/fuel dispensing facilities			49077 49078
		1	2	
A	For each gasoline/fuel dispensing facility (includes all units at the facility)		Permit to install \$150	
	(7) Dry cleaning facilities			49079 49080
		1	2	
A	For each dry cleaning facility (includes all units at the facility)		Permit to install \$150	
	(8) Registration status			49081

49082

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A For each source covered by registration Permit to install
status \$112.50

(G) An owner or operator who is responsible for an 49083
asbestos demolition or renovation project pursuant to rules 49084
adopted under section 3704.03 of the Revised Code shall pay, 49085
upon submitting a notification pursuant to rules adopted under 49086
that section, the fees set forth in the following schedule: 49087
49088

1

2

A	Action	Fee
B	Each notification	\$75
C	Asbestos removal	\$3/unit
D	Asbestos cleanup	\$4/cubic yard

For purposes of this division, "unit" means any 49089
combination of linear feet or square feet equal to fifty. 49090

(H) A person who is issued an extension of time for a 49091
permit to install an air contaminant source pursuant to rules 49092
adopted under division ~~(F)~~(E) of section 3704.03 of the Revised 49093
Code shall pay a fee equal to one-half the fee originally 49094
assessed for the permit to install under this section, except 49095
that the fee for such an extension shall not exceed two hundred 49096
dollars. 49097

(I) A person who is issued a modification to a permit to 49098

install an air contaminant source pursuant to rules adopted 49099
under section 3704.03 of the Revised Code shall pay a fee equal 49100
to one-half of the fee that would be assessed under this section 49101
to obtain a permit to install the source. The fee assessed by 49102
this division only applies to modifications that are initiated 49103
by the owner or operator of the source and shall not exceed two 49104
thousand dollars. 49105

(J) Notwithstanding division (F) of this section, a person 49106
who applies for or obtains a permit to install pursuant to rules 49107
adopted under division ~~(F)~~(E) of section 3704.03 of the Revised 49108
Code after the date actual construction of the source began 49109
shall pay a fee for the permit to install that is equal to twice 49110
the fee that otherwise would be assessed under the applicable 49111
division unless the applicant received authorization to begin 49112
construction under division ~~(W)~~(U) of section 3704.03 of the 49113
Revised Code. This division only applies to sources for which 49114
actual construction of the source begins on or after July 1, 49115
1993. The imposition or payment of the fee established in this 49116
division does not preclude the director from taking any 49117
administrative or judicial enforcement action under this 49118
chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised 49119
Code, or a rule adopted under any of them, in connection with a 49120
violation of rules adopted under division ~~(F)~~(E) of section 49121
3704.03 of the Revised Code. 49122

As used in this division, "actual construction of the 49123
source" means the initiation of physical on-site construction 49124
activities in connection with improvements to the source that 49125
are permanent in nature, including, without limitation, the 49126
installation of building supports and foundations and the laying 49127
of underground pipework. 49128

(K) (1) Money received under division (B) of this section shall be deposited in the state treasury to the credit of the Title V clean air fund created in section 3704.035 of the Revised Code. Annually, not more than fifty cents per ton of each fee assessed under division (B) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division may be transferred by the director using an interstate transfer voucher to the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. In addition, annually, the amount of money necessary for the operation of the office of ombudsperson as determined under division (B) of that section shall be transferred to the state treasury to the credit of the small business ombudsperson fund created by that section.

(2) Money received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the non-Title V clean air fund created in section 3704.035 of the Revised Code.

(L) (1) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a nonrefundable fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, 2028, and a nonrefundable application fee of one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, 2028, except that the total fee shall not exceed fifteen thousand dollars through June 30, 2028, and five thousand dollars on and after July 1, 2028. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(3) (a) (i) Not later than January 30, 2026, and January 30, 2027, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L) (3) (a) (i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L) (3) (c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L) 49189
 (3) (a) (i) of this section, except for the surcharge applicable 49190
 to certain industrial facilities pursuant to division (L) (3) (c) 49191
 of this section, shall be based upon the average daily discharge 49192
 flow in gallons per day calculated using first day of May 49193
 through thirty-first day of October flow data for the period two 49194
 years prior to the date on which the fee is due. In the case of 49195
 NPDES discharge permits for new sources, the fee shall be 49196
 calculated using the average daily design flow of the facility 49197
 until actual average daily discharge flow values are available 49198
 for the time period specified in division (L) (3) (a) (iii) of this 49199
 section. The annual discharge fee may be prorated for a new 49200
 source as described in division (L) (3) (a) (ii) of this section. 49201

(b) (i) An NPDES permit holder that is a public discharger 49202
 shall pay the fee specified in the following schedule: 49203

	1	2
A	Average daily discharge flow	Fee due by January 30, 2026, and January 30, 2027
B	5,000 to 49,999	\$200
C	50,000 to 100,000	500
D	100,001 to 250,000	1,050
E	250,001 to 1,000,000	2,600
F	1,000,001 to 5,000,000	5,200
G	5,000,001 to 10,000,000	10,350

H	10,000,001 to 20,000,000	15,550
I	20,000,001 to 50,000,000	25,900
J	50,000,001 to 100,000,000	41,400
K	100,000,001 or more	62,100

(ii) Public dischargers owning or operating two or more	49205
publicly owned treatment works serving the same political	49206
subdivision, as "treatment works" is defined in section 6111.01	49207
of the Revised Code, and that serve exclusively political	49208
subdivisions having a population of fewer than one hundred	49209
thousand persons shall pay an annual discharge fee under	49210
division (L) (3) (b) (i) of this section that is based on the	49211
combined average daily discharge flow of the treatment works.	49212

(c) (i) An NPDES permit holder that is an industrial	49213
discharger, other than a coal mining operator identified by P in	49214
the third character of the permittee's NPDES permit number,	49215
shall pay the fee specified in the following schedule:	49216
	49217

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A	Average daily discharge flow	Fee due by January 30, 2026, and January 30, 2027
B	5,000 to 49,999	\$250
C	50,000 to 250,000	1,200
D	250,001 to 1,000,000	2,950
E	1,000,001 to 5,000,000	5,850

F	5,000,001 to 10,000,000	8,800
G	10,000,001 to 20,000,000	11,700
H	20,000,001 to 100,000,000	14,050
I	100,000,001 to 250,000,000	16,400
J	250,000,001 or more	18,700

(ii) In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L) (3) (a) (ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, 2026, and not later than January 30, 2027. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L) (3) (b) and (c) of this section, a public discharger, that is not a separate municipal storm sewer system, identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, 2026, and not later than January 30, 2027. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(4) Each person obtaining an NPDES permit for municipal storm water discharge shall pay a nonrefundable storm water

annual discharge fee of ten dollars per one-tenth of a square 49240
mile of area permitted. The fee shall not exceed ten thousand 49241
dollars and shall be payable on or before January 30, 2004, and 49242
the thirtieth day of January of each year thereafter. Any person 49243
who fails to pay the fee on the date specified in division (L) 49244
(4) of this section shall pay an additional amount per year 49245
equal to ten per cent of the annual fee that is unpaid. 49246

(5) The director shall transmit all moneys collected under 49247
division (L) of this section to the treasurer of state for 49248
deposit into the state treasury to the credit of the surface 49249
water protection fund created in section 6111.038 of the Revised 49250
Code. 49251

(6) As used in this section: 49252

(a) "NPDES" means the federally approved national 49253
pollutant discharge elimination system individual and general 49254
program for issuing, modifying, revoking, reissuing, 49255
terminating, monitoring, and enforcing permits and imposing and 49256
enforcing pretreatment requirements under Chapter 6111. of the 49257
Revised Code and rules adopted under it. 49258

(b) "Public discharger" means any holder of an NPDES 49259
permit identified by P in the second character of the NPDES 49260
permit number assigned by the director. 49261

(c) "Industrial discharger" means any holder of an NPDES 49262
permit identified by I in the second character of the NPDES 49263
permit number assigned by the director. 49264

(d) "Major discharger" means any holder of an NPDES permit 49265
classified as major by the regional administrator of the United 49266
States environmental protection agency in conjunction with the 49267
director. 49268

(M) Through June 30, 2028, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in divisions (M) (4) and (5) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, 2028, the fee is:

	1	2	
A	Number of service connections	Fee amount	
B	Not more than 49		\$112
C	50 to 99	176	
D	Number of service connections	Average cost per connection	
E	100 to 2,499		\$1.92

F	2,500 to 4,999	1.48
G	5,000 to 7,499	1.42
H	7,500 to 9,999	1.34
I	10,000 to 14,999	1.16
J	15,000 to 24,999	1.10
K	25,000 to 49,999	1.04
L	50,000 to 99,999	.92
M	100,000 to 149,999	.86
N	150,000 to 199,999	.80
O	200,000 or more	.76

A public water system may determine how it will pay the 49288
total amount of the fee calculated under division (M) (1) of this 49289
section, including the assessment of additional user fees that 49290
may be assessed on a volumetric basis. 49291

As used in division (M) (1) of this section, "service 49292
connection" means the number of active or inactive pipes, 49293
goosenecks, pigtails, and any other fittings connecting a water 49294
main to any building outlet. 49295

(2) For the initial license required under section 6109.21 49296
of the Revised Code for any public water system that is not a 49297
community water system and serves a nontransient population, and 49298
for each license renewal required for such a system prior to 49299
January 31, 2028, the fee is: 49300

49301

	1	2	
A	Population served	Fee amount	
B	Fewer than 150		\$112
C	150 to 299	176	
D	300 to 749	384	
E	750 to 1,499	628	
F	1,500 to 2,999	1,268	
G	3,000 to 7,499	2,816	
H	7,500 to 14,999	5,510	
I	15,000 to 22,499	9,048	
J	22,500 to 29,999	12,430	
K	30,000 or more	16,820	

As used in division (M) (2) of this section, "population served" means the total number of individuals having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and

for each license renewal required for such a system prior to 49311
January 31, 2028, the fee is: 49312
49313

	1	2	
A	Number of wells or sources, other than surface water, supplying system		Fee amount
B	1		\$112
C	2	112	
D	3	176	
E	4	278	
F	5	568	
G	System designated as using a surface water source		792

As used in division (M) (3) of this section, "number of 49314
wells or sources, other than surface water, supplying system" 49315
means those wells or sources that are physically connected to 49316
the plumbing system serving the public water system. 49317

(4) A public water system designated as using a surface 49318
water source shall pay a fee of seven hundred ninety-two dollars 49319
or the amount calculated under division (M) (1) or (2) of this 49320
section, whichever is greater. 49321

(5) An applicant for an initial license who is proposing 49322
to operate a new public water supply system shall submit a fee 49323
that equals a prorated amount of the appropriate fee for the 49324
remainder of the licensing year. 49325

(N) (1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, 2028, and fifteen thousand dollars on and after July 1, 2028. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A) (2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, 2028, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

	1	2	
A	microbiological		
B	MMO-MUG		\$2,000
C	MF	2,100	

D	MMO-MUG and MF	2,550
E	organic chemical	5,400
F	trace metals	5,400
G	standard chemistry	2,800
H	limited chemistry	1,550

On and after July 1, 2028, the following fee, on a per survey basis, shall be charged any such person:

49350
49351
49352

	1	2	
A	microbiological		\$1,650
B	organic chemicals	3,500	
C	trace metals	3,500	
D	standard chemistry	1,800	
E	limited chemistry	1,000	

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, 2028, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay five hundred dollars for each additional survey requested.

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As used in division (N) (3) of this section: 49360

- (a) "MF" means membrane filtration. 49361
- (b) "MMO" means minimal medium ONPG. 49362
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 49363
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 49364

The director shall transmit all moneys collected under 49365
 this division to the treasurer of state for deposit into the 49366
 drinking water protection fund created in section 6109.30 of the 49367
 Revised Code. 49368

(O) Any person applying to the director to take an 49369
 examination for certification as an operator of a water supply 49370
 system or wastewater system under Chapter 6109. or 6111. of the 49371
 Revised Code that is administered by the director, at the time 49372
 the application is submitted, shall pay a fee in accordance with 49373
 the following schedule through November 30, 2028: 49374
 49375

	1	2	
A	Class A operator		\$80
B	Class I operator	105	
C	Class II operator	120	
D	Class III operator	130	
E	Class IV operator	145	

On and after December 1, 2028, the applicant shall pay a 49376
 fee in accordance with the following schedule: 49377
 49378

A	Class A operator		\$50
B	Class I operator	70	
C	Class II operator	80	
D	Class III operator	90	
E	Class IV operator	100	

Any person applying to the director for certification as an operator of a water supply system or wastewater system who has passed an examination administered by an examination provider approved by the director shall pay a certification fee of forty-five dollars.

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

		1	2	
A	Class A operator			\$25
B	Class I operator		35	
C	Class II operator		45	
D	Class III operator		55	
E	Class IV operator		65	

If a certification renewal fee is received by the director more than thirty days, but not more than one year, after the expiration date of the certification, the person shall pay a

certification renewal fee in accordance with the following 49391
schedule: 49392
49393

	1	2	
A	Class A operator		\$45
B	Class I operator	55	
C	Class II operator	65	
D	Class III operator	75	
E	Class IV operator	85	

A person who requests a replacement certificate shall pay 49394
a fee of twenty-five dollars at the time the request is made. 49395

Any person applying to be a water supply system or 49396
wastewater treatment system examination provider shall pay an 49397
application fee of five hundred dollars. Any person approved by 49398
the director as a water supply system or wastewater treatment 49399
system examination provider shall pay an annual fee that is 49400
equal to ten per cent of the fees that the provider assesses and 49401
collects for administering water supply system or wastewater 49402
treatment system certification examinations in this state for 49403
the calendar year. The fee shall be paid not later than forty- 49404
five days after the end of a calendar year. 49405

The director shall transmit all moneys collected under 49406
this division to the treasurer of state for deposit into the 49407
drinking water protection fund created in section 6109.30 of the 49408
Revised Code. 49409

(P) Except as otherwise provided in division (Q) of this 49410

section, a person issued a permit by the director for a new 49411
solid waste disposal facility other than an incineration or 49412
composting facility, a new infectious waste treatment facility 49413
other than an incineration facility, or a modification of such 49414
an existing facility that includes an increase in the total 49415
disposal or treatment capacity of the facility pursuant to 49416
Chapter 3734. of the Revised Code shall pay a fee of ten dollars 49417
per thousand cubic yards of disposal or treatment capacity, or 49418
one thousand dollars, whichever is greater, except that the 49419
total fee for any such permit shall not exceed eighty thousand 49420
dollars. A person issued a modification of a permit for a solid 49421
waste disposal facility or an infectious waste treatment 49422
facility that does not involve an increase in the total disposal 49423
or treatment capacity of the facility shall pay a fee of one 49424
thousand dollars. A person issued a permit to install a new, or 49425
modify an existing, solid waste transfer facility under that 49426
chapter shall pay a fee of two thousand five hundred dollars. A 49427
person issued a permit to install a new or to modify an existing 49428
solid waste incineration or composting facility, or an existing 49429
infectious waste treatment facility using incineration as its 49430
principal method of treatment, under that chapter shall pay a 49431
fee of one thousand dollars. The increases in the permit fees 49432
under this division resulting from the amendments made by 49433
Amended Substitute House Bill 592 of the 117th general assembly 49434
do not apply to any person who submitted an application for a 49435
permit to install a new, or modify an existing, solid waste 49436
disposal facility under that chapter prior to September 1, 1987; 49437
any such person shall pay the permit fee established in this 49438
division as it existed prior to June 24, 1988. In addition to 49439
the applicable permit fee under this division, a person issued a 49440
permit to install or modify a solid waste facility or an 49441
infectious waste treatment facility under that chapter who fails 49442

to pay the permit fee to the director in compliance with 49443
division (U) of this section shall pay an additional ten per 49444
cent of the amount of the fee for each week that the permit fee 49445
is late. 49446

Permit and late payment fees paid to the director under 49447
this division shall be credited to the general revenue fund. 49448

(Q) (1) A person issued a registration certificate for a 49449
scrap tire collection facility under section 3734.75 of the 49450
Revised Code shall pay a fee of two hundred dollars, except that 49451
if the facility is owned or operated by a motor vehicle salvage 49452
dealer licensed under Chapter 4738. of the Revised Code, the 49453
person shall pay a fee of twenty-five dollars. 49454

(2) A person issued a registration certificate for a new 49455
scrap tire storage facility under section 3734.76 of the Revised 49456
Code shall pay a fee of three hundred dollars, except that if 49457
the facility is owned or operated by a motor vehicle salvage 49458
dealer licensed under Chapter 4738. of the Revised Code, the 49459
person shall pay a fee of twenty-five dollars. 49460

(3) A person issued a permit for a scrap tire storage 49461
facility under section 3734.76 of the Revised Code shall pay a 49462
fee of one thousand dollars, except that if the facility is 49463
owned or operated by a motor vehicle salvage dealer licensed 49464
under Chapter 4738. of the Revised Code, the person shall pay a 49465
fee of fifty dollars. 49466

(4) A person issued a permit for a scrap tire monocell or 49467
monofill facility under section 3734.77 of the Revised Code 49468
shall pay a fee of ten dollars per thousand cubic yards of 49469
disposal capacity or one thousand dollars, whichever is greater, 49470
except that the total fee for any such permit shall not exceed 49471

eighty thousand dollars. 49472

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars. 49473
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(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars. 49476
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(7) In addition to the applicable registration certificate or permit fee under divisions (Q) (1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (U) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late. 49479
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(8) The registration certificate, permit, and late payment fees paid to the director under divisions (Q) (1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code. 49487
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(R) (1) (a) Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable application fee of one hundred dollars at the time the application is submitted through June 30, 2028, and a nonrefundable application fee of fifteen dollars at the time the application is submitted on and after July 1, 2028. 49491
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(b) (i) Except as otherwise provided in divisions (R) (1) (b) (iii) and (iv) of this section, through June 30, 2028, any person applying for an NPDES permit under Chapter 6111. of the 49498
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Revised Code shall pay a nonrefundable application fee of two 49501
hundred dollars at the time of application for the permit. On 49502
and after July 1, 2028, such a person shall pay a nonrefundable 49503
application fee of fifteen dollars at the time of application. 49504

(ii) In addition to the nonrefundable application fee, any 49505
person applying for an NPDES permit under Chapter 6111. of the 49506
Revised Code shall pay a design flow discharge fee based on each 49507
point source to which the issuance is applicable in accordance 49508
with the following schedule: 49509
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	1	2
A	Design flow discharge (gallons per day)	Fee
B	0 to 1,000	\$0
C	1,001 to 5,000	100
D	5,001 to 50,000	200
E	50,001 to 100,000	300
F	100,001 to 300,000	525
G	over 300,000	750

(iii) Notwithstanding divisions (R) (1) (b) (i) and (ii) of 49511
this section, the application and design flow discharge fee for 49512
an NPDES permit for a public discharger identified by the letter 49513
I in the third character of the NPDES permit number shall not 49514
exceed nine hundred fifty dollars. 49515

(iv) Notwithstanding divisions (R) (1) (b) (i) and (ii) of 49516
this section, the application and design flow discharge fee for 49517

an NPDES permit for a coal mining operation regulated under 49518
Chapter 1513. of the Revised Code shall not exceed four hundred 49519
fifty dollars per mine. 49520

(v) A person issued a modification of an NPDES permit 49521
shall pay a nonrefundable modification fee equal to the 49522
application fee and one-half the design flow discharge fee based 49523
on each point source, if applicable, that would be charged for 49524
an NPDES permit, except that the modification fee shall not 49525
exceed six hundred dollars. 49526

(c) In addition to the application fee established under 49527
division (R)(1)(b)(i) of this section, any person applying for 49528
an NPDES general storm water construction permit shall pay a 49529
nonrefundable fee of twenty dollars per acre for each acre that 49530
is permitted above five acres at the time the application is 49531
submitted. However, the per acreage fee shall not exceed three 49532
hundred dollars. In addition to the application fee established 49533
under division (R)(1)(b)(i) of this section, any person applying 49534
for an NPDES general storm water industrial permit shall pay a 49535
nonrefundable fee of one hundred fifty dollars at the time the 49536
application is submitted. 49537

(d) The director shall transmit all moneys collected under 49538
division (R)(1) of this section pursuant to Chapter 6109. of the 49539
Revised Code to the treasurer of state for deposit into the 49540
drinking water protection fund created in section 6109.30 of the 49541
Revised Code. 49542

(e) The director shall transmit all moneys collected under 49543
division (R)(1) of this section pursuant to Chapter 6111. of the 49544
Revised Code and under division (R)(2) of this section to the 49545
treasurer of state for deposit into the surface water protection 49546
fund created in section 6111.038 of the Revised Code. 49547

(f) If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (R) (1) of this section, the person shall pay all applicable fees as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (R) (1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) A person applying for coverage under an NPDES general discharge permit for household sewage treatment systems shall pay a nonrefundable fee of two hundred dollars at the time of application for initial permit coverage. No fee is required for an application for permit coverage renewal.

(S) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (S) (1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in

section 6109.30 of the Revised Code. 49578

The director shall transmit all moneys collected under 49579
rules adopted under division (S) (1) of this section pursuant to 49580
Chapter 6111. of the Revised Code to the treasurer of state for 49581
deposit into the surface water protection fund created in 49582
section 6111.038 of the Revised Code. 49583

(2) Exempt the state and political subdivisions thereof, 49584
including education facilities or medical facilities owned by 49585
the state or a political subdivision, or any person exempted 49586
from taxation by section 5709.07 or 5709.12 of the Revised Code, 49587
from any fee required by this section; 49588

(3) Provide for the waiver of any fee, or any part 49589
thereof, otherwise required by this section whenever the 49590
director determines that the imposition of the fee would 49591
constitute an unreasonable cost of doing business for any 49592
applicant, class of applicants, or other person subject to the 49593
fee; 49594

(4) Prescribe measures that the director considers 49595
necessary to carry out this section. 49596

(T) When the director reasonably demonstrates that the 49597
direct cost to the state associated with the issuance of a 49598
permit, license, variance, plan approval, or certification 49599
exceeds the fee for the issuance or review specified by this 49600
section, the director may condition the issuance or review on 49601
the payment by the person receiving the issuance or review of, 49602
in addition to the fee specified by this section, the amount, or 49603
any portion thereof, in excess of the fee specified under this 49604
section. The director shall not so condition issuances for which 49605
a fee is prescribed in division (R) (1) (b) (iii) of this section. 49606

(U) Except as provided in divisions (L), (M), and (R) of 49607
this section or unless otherwise prescribed by a rule of the 49608
director adopted pursuant to Chapter 119. of the Revised Code, 49609
all fees required by this section are payable within thirty days 49610
after the issuance of an invoice for the fee by the director or 49611
the effective date of the issuance of the license, permit, 49612
variance, plan approval, or certification. If payment is late, 49613
the person responsible for payment of the fee shall pay an 49614
additional ten per cent of the amount due for each month that it 49615
is late. 49616

(V) As used in this section, "fuel-burning equipment," 49617
"fuel-burning equipment input capacity," "incinerator," 49618
"incinerator input capacity," "process," "process weight rate," 49619
"storage tank," "gasoline dispensing facility," "dry cleaning 49620
facility," "design flow discharge," and "new source treatment 49621
works" have the meanings ascribed to those terms by applicable 49622
rules or standards adopted by the director under Chapter 3704. 49623
or 6111. of the Revised Code. 49624

(W) As used in divisions (B), (D), (E), (F), (H), (I), and 49625
(J) of this section, and in any other provision of this section 49626
pertaining to fees paid pursuant to Chapter 3704. of the Revised 49627
Code: 49628

(1) "Facility," "federal Clean Air Act," "person," and 49629
"Title V permit" have the same meanings as in section 3704.01 of 49630
the Revised Code. 49631

(2) "Title V permit program" means the following 49632
activities as necessary to meet the requirements of Title V of 49633
the federal Clean Air Act and 40 C.F.R. part 70, including at 49634
least: 49635

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(3) "Organic compound" means any chemical compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

(X) (1) Except as provided in divisions (X) (2), (3), and

(4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2) (a) Except as provided in division (X) (2) (d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (X) (1) of this section, subject to the following exceptions:

(i) Except as provided in division (X) (2) (d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (X) (3) of this section. 49693
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(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (X) (2) (a) of this section. 49696
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In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. 49705
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(d) A sewage sludge facility that generates sewage sludge resulting from an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (X) of this section. 49710
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(3) No sewage sludge facility required to pay the annual sludge fee shall be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (X) (5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows: 49714
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(a) Incineration: five thousand dollars; 49722

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars; 49723
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(c) Land application, land reclamation, surface disposal, 49725
or any other disposal method not specified in division (X) (3) (a) 49726
or (b) of this section: twenty thousand dollars. 49727

(4) (a) In the case of an entity that generates sewage 49728
sludge or a sewage sludge facility that treats sewage sludge and 49729
transfers the sewage sludge to an incineration facility for 49730
disposal, the incineration facility, and not the entity 49731
generating the sewage sludge or the sewage sludge facility 49732
treating the sewage sludge, shall pay the annual sludge fee for 49733
the tons of sewage sludge that are transferred. However, the 49734
entity or facility generating or treating the sewage sludge 49735
shall pay the one-hundred-dollar minimum fee required under 49736
division (X) (2) (a) of this section. 49737

(b) In the case of an entity that generates sewage sludge 49738
and transfers the sewage sludge to a landfill for disposal or to 49739
a sewage sludge facility for land reclamation or surface 49740
disposal, the entity generating the sewage sludge, and not the 49741
landfill or sewage sludge facility, shall pay the annual sludge 49742
fee for the tons of sewage sludge that are transferred. 49743

(5) Not later than the first day of April of the calendar 49744
year following March 17, 2000, and each first day of April 49745
thereafter, the director shall issue invoices to persons who are 49746
required to pay the annual sludge fee. The invoice shall 49747
identify the nature and amount of the annual sludge fee assessed 49748
and state the first day of May as the deadline for receipt by 49749
the director of objections regarding the amount of the fee and 49750

the first day of July as the deadline for payment of the fee. 49751

Not later than the first day of May following receipt of 49752
an invoice, a person required to pay the annual sludge fee may 49753
submit objections to the director concerning the accuracy of 49754
information regarding the number of dry tons of sewage sludge 49755
used to calculate the amount of the annual sludge fee or 49756
regarding whether the sewage sludge qualifies for the 49757
exceptional quality sludge discount established in division (X) 49758
(2) (b) of this section. The director may consider the objections 49759
and adjust the amount of the fee to ensure that it is accurate. 49760

If the director does not adjust the amount of the annual 49761
sludge fee in response to a person's objections, the person may 49762
appeal the director's determination in accordance with Chapter 49763
119. of the Revised Code. 49764

Not later than the first day of June, the director shall 49765
notify the objecting person regarding whether the director has 49766
found the objections to be valid and the reasons for the 49767
finding. If the director finds the objections to be valid and 49768
adjusts the amount of the annual sludge fee accordingly, the 49769
director shall issue with the notification a new invoice to the 49770
person identifying the amount of the annual sludge fee assessed 49771
and stating the first day of July as the deadline for payment. 49772

Not later than the first day of July, any person who is 49773
required to do so shall pay the annual sludge fee. Any person 49774
who is required to pay the fee, but who fails to do so on or 49775
before that date shall pay an additional amount that equals ten 49776
per cent of the required annual sludge fee. 49777

(6) The director shall transmit all moneys collected under 49778
division (X) of this section to the treasurer of state for 49779

deposit into the surface water protection fund created in 49780
section 6111.038 of the Revised Code. The moneys shall be used 49781
to defray the costs of administering and enforcing provisions in 49782
Chapter 6111. of the Revised Code and rules adopted under it 49783
that govern the use, storage, treatment, or disposal of sewage 49784
sludge. 49785

(7) Beginning in fiscal year 2001, and every two years 49786
thereafter, the director shall review the total amount of moneys 49787
generated by the annual sludge fees to determine if that amount 49788
exceeded six hundred thousand dollars in either of the two 49789
preceding fiscal years. If the total amount of moneys in the 49790
fund exceeded six hundred thousand dollars in either fiscal 49791
year, the director, after review of the fee structure and 49792
consultation with affected persons, shall issue an order 49793
reducing the amount of the fees levied under division (X) of 49794
this section so that the estimated amount of moneys resulting 49795
from the fees will not exceed six hundred thousand dollars in 49796
any fiscal year. 49797

If, upon review of the fees under division (X) (7) of this 49798
section and after the fees have been reduced, the director 49799
determines that the total amount of moneys collected and 49800
accumulated is less than six hundred thousand dollars, the 49801
director, after review of the fee structure and consultation 49802
with affected persons, may issue an order increasing the amount 49803
of the fees levied under division (X) of this section so that 49804
the estimated amount of moneys resulting from the fees will be 49805
approximately six hundred thousand dollars. Fees shall never be 49806
increased to an amount exceeding the amount specified in 49807
division (X) (7) of this section. 49808

Notwithstanding section 119.06 of the Revised Code, the 49809

director may issue an order under division (X) (7) of this 49810
section without the necessity to hold an adjudicatory hearing in 49811
connection with the order. The issuance of an order under this 49812
division is not an act or action for purposes of section 3745.04 49813
of the Revised Code. 49814

(8) As used in division (X) of this section: 49815

(a) "Sewage sludge facility" means an entity that performs 49816
treatment on or is responsible for the disposal of sewage 49817
sludge. 49818

(b) "Sewage sludge" means a solid, semi-solid, or liquid 49819
residue generated during the treatment of domestic sewage in a 49820
treatment works as defined in section 6111.01 of the Revised 49821
Code. "Sewage sludge" includes, but is not limited to, scum or 49822
solids removed in primary, secondary, or advanced wastewater 49823
treatment processes. "Sewage sludge" does not include ash 49824
generated during the firing of sewage sludge in a sewage sludge 49825
incinerator, grit and screenings generated during preliminary 49826
treatment of domestic sewage in a treatment works, animal 49827
manure, residue generated during treatment of animal manure, or 49828
domestic septage. 49829

(c) "Exceptional quality sludge" means sewage sludge that 49830
meets all of the following qualifications: 49831

(i) Satisfies the class A pathogen standards in 40 C.F.R. 49832
503.32(a); 49833

(ii) Satisfies one of the vector attraction reduction 49834
requirements in 40 C.F.R. 503.33(b) (1) to (b) (8); 49835

(iii) Does not exceed the ceiling concentration 49836
limitations for metals listed in table one of 40 C.F.R. 503.13; 49837

- (iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13. 49838
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- (d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge. 49840
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- (e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator. 49843
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- (f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil. 49847
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- (g) "Land reclamation" means the returning of disturbed land to productive use. 49852
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- (h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites. 49854
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- (i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device. 49858
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- (j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway. 49862
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(k) "Annual sludge fee" means the fee assessed under 49866
division (X)(1) of this section. 49867

(l) "Landfill" means a sanitary landfill facility, as 49868
defined in rules adopted under section 3734.02 of the Revised 49869
Code, that is licensed under section 3734.05 of the Revised 49870
Code. 49871

(m) "Preexisting land reclamation project" means a 49872
property-specific land reclamation project that has been in 49873
continuous operation for not less than five years pursuant to 49874
approval of the activity by the director and includes the 49875
implementation of a community outreach program concerning the 49876
activity. 49877

Sec. 3746.04. The director of environmental protection, in 49878
accordance with Chapter 119. of the Revised Code, shall adopt, 49879
and subsequently may amend, suspend, or rescind, rules that do 49880
both of the following: 49881

(A) Revise the rules adopted under Chapters 3704., 3714., 49882
3734., 6109., and 6111. of the Revised Code to incorporate the 49883
provisions necessary to conform those rules to the requirements 49884
of this chapter. The amended rules adopted under this division 49885
also shall establish response times for all submittals to the 49886
environmental protection agency required under this chapter or 49887
rules adopted under it. 49888

(B) Establish ~~requirements and procedures that are~~ 49889
~~reasonably necessary for the implementation and administration~~ 49890
~~of this chapter, including, without limitation, all of the~~ 49891
following: 49892

(1) Appropriate generic numerical clean-up standards for 49893
the treatment or removal of soils, sediments, and water media 49894

for hazardous substances and petroleum. The rules shall 49895
establish separate generic numerical clean-up standards based 49896
upon the intended use of properties after the completion of 49897
voluntary actions, including industrial, commercial, and 49898
residential uses and such other categories of land use as the 49899
director considers to be appropriate. The generic numerical 49900
clean-up standards established for each category of land use 49901
shall be the concentration of each contaminant that may be 49902
present on a property that shall ensure protection of public 49903
health and safety and the environment for the reasonable 49904
exposure for that category of land use. When developing the 49905
standards, the director shall consider such factors as all of 49906
the following: 49907

(a) Scientific information, including, without limitation, 49908
toxicological information and realistic assumptions regarding 49909
human and environmental exposure to hazardous substances or 49910
petroleum; 49911

(b) Climatic factors; 49912

(c) Human activity patterns; 49913

(d) Current statistical techniques; 49914

(e) For petroleum at industrial property, alternatives to 49915
the use of total petroleum hydrocarbons. 49916

The generic numerical clean-up standards established in 49917
the rules adopted under division (B) (1) of this section shall be 49918
consistent with and equivalent in scope, content, and coverage 49919
to any applicable standard established by federal environmental 49920
laws and regulations adopted under them, including, without 49921
limitation, the "Federal Water Pollution Control Act Amendments 49922
of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; the 49923

"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 49924
42 U.S.C.A. 6921, as amended; the "Toxic Substances Control 49925
Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended; the 49926
"Comprehensive Environmental Response, Compensation, and 49927
Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as 49928
amended; and the "Safe Drinking Water Act," 88 Stat. 1660 49929
(1974), 42 U.S.C.A. 300f, as amended. 49930

In order for the rules adopted under division (B) (1) of 49931
this section to require that any such federal environmental 49932
standard apply to a property, the property shall meet the 49933
requirements of the particular federal statute or regulation 49934
involved in the manner specified by the statute or regulation. 49935

The generic numerical clean-up standards for petroleum at 49936
commercial or residential property shall be the standards 49937
established in rules adopted under division (B) of section 49938
3737.882 of the Revised Code. 49939

(2) (a) Procedures for performing property-specific risk 49940
assessments that would be performed at a property to demonstrate 49941
that the remedy evaluated in a risk assessment results in 49942
protection of public health and safety and the environment 49943
instead of complying with the generic numerical clean-up 49944
standards established in the rules adopted under division (B) (1) 49945
of this section. The risk assessment procedures shall describe a 49946
methodology to establish, on a property-specific basis, 49947
allowable levels of contamination to remain at a property to 49948
ensure protection of public health and safety and the 49949
environment on the property and off the property when the 49950
contamination is emanating off the property, taking into account 49951
all of the following: 49952

(i) The implementation of treatment, storage, or disposal, 49953

or a combination thereof, of hazardous substances or petroleum; 49954

(ii) The existence of institutional controls or activity 49955
and use limitations that eliminate or mitigate exposure to 49956
hazardous substances or petroleum through the restriction of 49957
access to hazardous substances or petroleum; 49958

(iii) The existence of engineering controls that eliminate 49959
or mitigate exposure to hazardous substances or petroleum 49960
through containment of, control of, or restrictions of access to 49961
hazardous substances or petroleum, including, without 49962
limitation, fences, cap systems, cover systems, and landscaping. 49963

(b) The risk assessment procedures and levels of 49964
acceptable risk set forth in the rules adopted under division 49965
(B) (2) of this section shall be based upon all of the following: 49966

(i) Scientific information, including, without limitation, 49967
toxicological information and actual or proposed human and 49968
environmental exposure; 49969

(ii) Locational and climatic factors; 49970

(iii) Surrounding land use and human activities; 49971

(iv) Differing levels of remediation that may be required 49972
when an existing land use is continued compared to when a 49973
different land use follows the remediation. 49974

(c) Any standards established pursuant to rules adopted 49975
under division (B) (2) of this section shall be no more stringent 49976
than standards established under the environmental statutes of 49977
this state and rules adopted under them for the same contaminant 49978
in the same environmental medium that are in effect at the time 49979
the risk assessment is conducted. 49980

(3) Minimum standards for phase I property assessments. 49981

The standards shall specify the information needed to 49982
demonstrate that there is no reason to believe that 49983
contamination exists on a property. The rules adopted under 49984
division (B) (3) of this section, at a minimum, shall require 49985
that a phase I property assessment include all of the following: 49986

(a) A review and analysis of deeds, mortgages, easements 49987
of record, and similar documents relating to the chain of title 49988
to the property that are publicly available or that are known to 49989
and reasonably available to the owner or operator; 49990

(b) A review and analysis of any previous environmental 49991
assessments, property assessments, environmental studies, or 49992
geologic studies of the property and any land within two 49993
thousand feet of the boundaries of the property that are 49994
publicly available or that are known to and reasonably available 49995
to the owner or operator; 49996

(c) A review of current and past environmental compliance 49997
histories of persons who owned or operated the property; 49998

(d) A review of aerial photographs of the property that 49999
indicate prior uses of the property; 50000

(e) Interviews with managers of activities conducted at 50001
the property who have knowledge of environmental conditions at 50002
the property; 50003

(f) Conducting an inspection of the property consisting of 50004
a walkover; 50005

(g) Identifying the current and past uses of the property, 50006
adjoining tracts of land, and the area surrounding the property, 50007
including, without limitation, interviews with persons who 50008
reside or have resided, or who are or were employed, within the 50009
area surrounding the property regarding the current and past 50010

uses of the property and adjacent tracts of land. 50011

The rules adopted under division (B) (3) of this section 50012
shall establish criteria to determine when a phase II property 50013
assessment shall be conducted when a phase I property assessment 50014
reveals facts that establish a reason to believe that hazardous 50015
substances or petroleum have been treated, stored, managed, or 50016
disposed of on the property if the person undertaking the phase 50017
I property assessment wishes to obtain a covenant not to sue 50018
under section 3746.12 of the Revised Code. 50019

(4) Minimum standards for phase II property assessments. 50020
The standards shall specify the information needed to 50021
demonstrate that any contamination present at the property does 50022
not exceed applicable standards or that the remedial activities 50023
conducted at the property have achieved compliance with 50024
applicable standards. The rules adopted under division (B) (4) of 50025
this section, at a minimum, shall require that a phase II 50026
property assessment include all of the following: 50027

(a) A review and analysis of all documentation prepared in 50028
connection with a phase I property assessment conducted within 50029
the one hundred eighty days before the phase II property 50030
assessment begins. The rules adopted under division (B) (4) (a) of 50031
this section shall require that if a period of more than one 50032
hundred eighty days has passed between the time that the phase I 50033
assessment of the property was completed and the phase II 50034
assessment begins, the phase II assessment shall include a 50035
reasonable inquiry into the change in the environmental 50036
condition of the property during the intervening period. 50037

(b) Quality assurance objectives for measurements taken in 50038
connection with a phase II assessment; 50039

(c) Sampling procedures to ensure the representative	50040
sampling of potentially contaminated environmental media;	50041
(d) Quality assurance and quality control requirements for	50042
samples collected in connection with phase II assessments;	50043
(e) Analytical and data assessment procedures;	50044
(f) Data objectives to ensure that samples collected in	50045
connection with phase II assessments are biased toward areas	50046
where information indicates that contamination by hazardous	50047
substances or petroleum is likely to exist.	50048
(5) Standards governing the conduct of certified	50049
professionals, criteria and procedures for the certification of	50050
professionals to issue no further action letters under section	50051
3746.11 of the Revised Code, and criteria for the suspension and	50052
revocation of those certifications. The director shall take an	50053
action regarding a certification as a final action. The	50054
issuance, denial, renewal, suspension, and revocation of those	50055
certifications are subject to Chapter 3745. of the Revised Code,	50056
except that, in lieu of publishing an action regarding a	50057
certification in a newspaper of general circulation as required	50058
in section 3745.07 of the Revised Code, such an action shall be	50059
published on the environmental protection agency's web site and	50060
in the agency's weekly review not later than fifteen days after	50061
the date of the issuance, denial, renewal, suspension, or	50062
revocation of the certification and not later than thirty days	50063
before a hearing or public meeting concerning the action.	50064
The rules adopted under division (B) (5) of this section	50065
shall do all of the following:	50066
(a) Provide for the certification of environmental	50067
professionals to issue no further action letters pertaining to	50068

investigations and remedies in accordance with the criteria and 50069
procedures set forth in the rules. The rules adopted under 50070
division (B) (5) (a) of this section shall do at least all of the 50071
following: 50072

(i) Authorize the director to consider such factors as an 50073
environmental professional's previous performance record 50074
regarding such investigations and remedies and the environmental 50075
professional's environmental compliance history when determining 50076
whether to certify the environmental professional; 50077

(ii) Ensure that an application for certification is 50078
reviewed in a timely manner; 50079

(iii) Require the director to certify any environmental 50080
professional who the director determines complies with those 50081
criteria; 50082

(iv) Require the director to deny certification for any 50083
environmental professional who does not comply with those 50084
criteria. 50085

(b) Establish an annual fee to be paid by environmental 50086
professionals certified pursuant to the rules adopted under 50087
division (B) (5) (a) of this section. The fee shall be established 50088
at an amount calculated to defray the costs to the agency for 50089
the required reviews of the qualifications of environmental 50090
professionals for certification and for the issuance of the 50091
certifications. 50092

(c) Develop a schedule for and establish requirements 50093
governing the review by the director of the credentials of 50094
environmental professionals who were deemed to be certified 50095
professionals before ~~the effective date of this amendment~~ 50096
September 30, 2021, in order to determine if they comply with 50097

the criteria established in rules adopted under division (B) (5) 50098
of this section. The rules adopted under division (B) (5) (c) of 50099
this section shall do at least all of the following: 50100

(i) Ensure that the review is conducted in a timely 50101
fashion; 50102

(ii) Require the director to certify any such 50103
environmental professional who the director determines complies 50104
with those criteria; 50105

(iii) Require any such environmental professional 50106
initially to pay the fee established in the rules adopted under 50107
division (B) (5) (b) of this section at the time that the 50108
environmental professional is so certified by the director; 50109

(iv) Establish a time period within which any such 50110
environmental professional who does not comply with those 50111
criteria may obtain the credentials that are necessary for 50112
certification; 50113

(v) Require the director to deny certification for any 50114
such environmental professional who does not comply with those 50115
criteria and who fails to obtain the necessary credentials 50116
within the established time period. 50117

(d) Require that any information submitted to the director 50118
for the purposes of the rules adopted under division (B) (5) (a) 50119
or (c) of this section comply with division (A) of section 50120
3746.20 of the Revised Code; 50121

(e) Authorize the director to suspend or revoke the 50122
certification of an environmental professional if the director 50123
finds that the environmental professional's performance has 50124
resulted in the issuance of no further action letters under 50125
section 3746.11 of the Revised Code that are not consistent with 50126

applicable standards or finds that the certified environmental professional has not substantially complied with section 3746.31 of the Revised Code;

(f) Authorize the director to suspend for a period of not more than five years or to permanently revoke a certified environmental professional's certification for any violation of or failure to comply with an ethical standard established in rules adopted under division (B) (5) of this section;

(g) Require the director to revoke the certification of an environmental professional if the director finds that the environmental professional falsified any information on the environmental professional's application for certification regarding the environmental professional's credentials or qualifications or any other information generated for the purposes of or use under this chapter or rules adopted under it;

(h) Require the director permanently to revoke the certification of an environmental professional who has violated or is violating division (A) of section 3746.18 of the Revised Code;

(i) Preclude the director from revoking the certification of an environmental professional who only conducts investigations and remedies at property contaminated solely with petroleum unless the director first consults with the director of commerce.

(6) Information to be included in a no further action letter prepared under section 3746.11 of the Revised Code, including, without limitation, all of the following:

(a) A summary of the information required to be submitted to the certified environmental professional preparing the no

further action letter under division (C) of section 3746.10 of the Revised Code;	50156 50157
(b) Notification that a risk assessment was performed in accordance with rules adopted under division (B) (2) of this section if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B) (1) of this section;	50158 50159 50160 50161 50162
(c) The contaminants addressed at the property, if any, their source, if known, and their levels prior to remediation;	50163 50164
(d) The identity of any other person who performed work to support the request for the no further action letter as provided in division (B) (2) of section 3746.10 of the Revised Code and the nature and scope of the work performed by that person;	50165 50166 50167 50168
(e) A list of the data, information, records, and documents relied upon by the certified environmental professional in preparing the no further action letter.	50169 50170 50171
(7) Methods for determining fees to be paid for the following services provided by the agency under this chapter and rules adopted under it:	50172 50173 50174
(a) Site- or property-specific technical assistance in developing or implementing plans in connection with a voluntary action;	50175 50176 50177
(b) Reviewing applications for and issuing consolidated standards permits under section 3746.15 of the Revised Code and monitoring compliance with those permits;	50178 50179 50180
(c) Negotiating, preparing, and entering into agreements necessary for the implementation and administration of this chapter and rules adopted under it;	50181 50182 50183

(d) Reviewing no further action letters, issuing covenants not to sue, and monitoring compliance with any terms and conditions of those covenants and with operation and maintenance agreements entered into pursuant to those covenants, including, without limitation, conducting audits of properties where voluntary actions are being or were conducted under this chapter and rules adopted under it.

The fees established pursuant to the rules adopted under division (B) (7) of this section shall be at a level sufficient to defray the direct and indirect costs incurred by the agency for the administration and enforcement of this chapter and rules adopted under it other than the provisions regarding the certification of professionals and laboratories.

(8) Criteria for selecting the no further action letters issued under section 3746.11 of the Revised Code that will be audited under section 3746.17 of the Revised Code, and the scope and procedures for conducting those audits. The rules adopted under division (B) (8) of this section, at a minimum, shall require the director to establish priorities for auditing no further action letters to which any of the following applies:

(a) The letter was prepared by an environmental professional who was deemed to be a certified professional before ~~the effective date of this amendment~~ September 30, 2021, but who does not comply with the criteria established in rules adopted under division (B) (5) of this section as determined pursuant to rules adopted under division (B) (5) (d) of this section;

(b) The letter was submitted fraudulently;

(c) The letter was prepared by a certified environmental

professional whose certification subsequently was revoked in 50213
accordance with rules adopted under division (B) (5) of this 50214
section, or analyses were performed for the purposes of the no 50215
further action letter by a certified laboratory whose 50216
certification was revoked before ~~the effective date of this~~ 50217
~~amendment~~ September 30, 2021, or a laboratory that is not an 50218
accredited laboratory; 50219

(d) A covenant not to sue that was issued pursuant to the 50220
letter was revoked under this chapter; 50221

(e) The letter was for a voluntary action that was 50222
conducted pursuant to a risk assessment in accordance with rules 50223
adopted under division (B) (2) of this section; 50224

(f) The letter was for a voluntary action that included as 50225
remedial activities engineering controls or institutional 50226
controls or activity and use limitations authorized under 50227
section 3746.05 of the Revised Code. 50228

The rules adopted under division (B) (8) of this section 50229
shall provide for random audits of no further action letters to 50230
which the rules adopted under divisions (B) (8) (a) to (f) of this 50231
section do not apply. 50232

(9) A classification system to characterize ground water 50233
according to its capability to be used for human use and its 50234
impact on the environment and a methodology that shall be used 50235
to determine when ground water that has become contaminated from 50236
sources on a property for which a covenant not to sue is 50237
requested under section 3746.11 of the Revised Code shall be 50238
remediated to the standards established in the rules adopted 50239
under division (B) (1) or (2) of this section. 50240

(a) In adopting rules under division (B) (9) of this 50241

section to characterize ground water according to its capability 50242
for human use, the director shall consider all of the following: 50243

(i) The presence of legally enforceable, reliable 50244
restrictions on the use of ground water, including, without 50245
limitation, local rules or ordinances; 50246

(ii) The presence of regional commingled contamination 50247
from multiple sources that diminishes the quality of ground 50248
water; 50249

(iii) The natural quality of ground water; 50250

(iv) Regional availability of ground water and reasonable 50251
alternative sources of drinking water; 50252

(v) The productivity of the aquifer; 50253

(vi) The presence of restrictions on the use of ground 50254
water implemented under this chapter and rules adopted under it; 50255

(vii) The existing use of ground water. 50256

(b) In adopting rules under division (B) (9) of this 50257
section to characterize ground water according to its impacts on 50258
the environment, the director shall consider both of the 50259
following: 50260

(i) The risks posed to humans, fauna, surface water, 50261
sediments, soil, air, and other resources by the continuing 50262
presence of contaminated ground water; 50263

(ii) The availability and feasibility of technology to 50264
remedy ground water contamination. 50265

(10) Governing the application for and issuance of 50266
variances under section 3746.09 of the Revised Code; 50267

(11) (a) In the case of voluntary actions involving 50268

contaminated ground water, specifying the circumstances under 50269
which the generic numerical clean-up standards established in 50270
rules adopted under division (B) (1) of this section and 50271
standards established through a risk assessment conducted 50272
pursuant to rules adopted under division (B) (2) of this section 50273
shall be inapplicable to the remediation of contaminated ground 50274
water and under which the standards for remediating contaminated 50275
ground water shall be established on a case-by-case basis prior 50276
to the commencement of the voluntary action pursuant to rules 50277
adopted under division (B) (11) (b) of this section; 50278

(b) Criteria and procedures for the case-by-case 50279
establishment of standards for the remediation of contaminated 50280
ground water under circumstances in which the use of the generic 50281
numerical clean-up standards and standards established through a 50282
risk assessment are precluded by the rules adopted under 50283
division (B) (11) (a) of this section. The rules governing the 50284
procedures for the case-by-case development of standards for the 50285
remediation of contaminated ground water shall establish 50286
application, public participation, adjudication, and appeals 50287
requirements and procedures that are equivalent to the 50288
requirements and procedures established in section 3746.09 of 50289
the Revised Code and rules adopted under division (B) (10) of 50290
this section, except that the procedural rules shall not require 50291
an applicant to make the demonstrations set forth in divisions 50292
(A) (1) to (3) of section 3746.09 of the Revised Code. 50293

(12) A definition of the evidence that constitutes 50294
sufficient evidence for the purpose of division (A) (5) of 50295
section 3746.02 of the Revised Code. 50296

At least thirty days before filing the proposed rules 50297
required to be adopted under this section with the secretary of 50298

state, director of the legislative service commission, and joint 50299
committee on agency rule review in accordance with divisions (B) 50300
and (C) of section 119.03 of the Revised Code, the director of 50301
environmental protection shall hold at least one public meeting 50302
on the proposed rules in each of the five districts into which 50303
the agency has divided the state for administrative purposes. 50304

Sec. 3750.02. (A) There is hereby created the emergency 50305
response commission consisting of the directors of environmental 50306
protection, health, and administrative services, the chairperson 50307
of the public utilities commission, the fire marshal, the 50308
director of public safety, the director of transportation, the 50309
director of natural resources, the superintendent of the highway 50310
patrol, and the attorney general as members ex officio, or their 50311
designees; notwithstanding section 101.26 of the Revised Code, a 50312
member of the house of representatives appointed by the speaker 50313
of the house of representatives and a member of the senate 50314
appointed by the president of the senate, who may participate 50315
fully in all the commission's deliberations and activities, 50316
except that they shall serve as nonvoting members; and ten 50317
members to be appointed by the governor with the advice and 50318
consent of the senate. The appointed members, to the extent 50319
practicable, shall have technical expertise in the field of 50320
emergency response. Of the appointed members, two shall 50321
represent environmental advocacy organizations, one shall 50322
represent the interests of petroleum refiners or marketers or 50323
chemical manufacturers, one shall represent the interests of 50324
another industry subject to this chapter, one shall represent 50325
the interests of municipal corporations, one shall represent the 50326
interests of counties, one shall represent the interests of 50327
chiefs of fire departments, one shall represent the interests of 50328
professional firefighters, one shall represent the interests of 50329

volunteer firefighters, and one shall represent the interests of 50330
local emergency management agencies. 50331

An appointed member of the commission also may serve as a 50332
member of the local emergency planning committee of an emergency 50333
planning district. An appointed member of the commission who is 50334
also a member of a local emergency planning committee shall not 50335
participate as a member of the commission in the appointment of 50336
members of the local emergency planning committee of which the 50337
member is a member, in the review of the chemical emergency 50338
response and preparedness plan submitted by the local emergency 50339
planning committee of which the member is a member, in any vote 50340
to approve a grant to the member's district, or in any vote of 50341
the commission on any motion or resolution pertaining 50342
specifically to the member's district or the local emergency 50343
planning committee on which the member serves. A commission 50344
member who is also a member of a local emergency planning 50345
committee shall not lobby or otherwise act as an advocate for 50346
the member's district to other members of the commission to 50347
obtain from the commission anything of value for the member's 50348
district or the local emergency planning committee of which the 50349
member is a member. A member of the commission who is also a 50350
member of a local emergency planning committee may vote on 50351
resolutions of the commission that apply uniformly to all local 50352
emergency planning committees and districts in the state and do 50353
not provide a grant or other pecuniary benefit to the member's 50354
district or the committee of which the member is a member. 50355

The governor shall make the initial appointments to the 50356
commission within thirty days after December 14, 1988. Of the 50357
initial appointments to the commission, five shall be for a term 50358
of two years and five shall be for a term of one year. 50359
Thereafter, terms of office of the appointed members of the 50360

commission shall be for two years, with each term ending on the 50361
same day of the same month as did the term that it succeeds. 50362
Each member shall hold office from the date of appointment until 50363
the end of the term for which the member was appointed. Members 50364
may be reappointed. Vacancies shall be filled in the manner 50365
provided for original appointments. Any member appointed to fill 50366
a vacancy occurring prior to the expiration of the term for 50367
which the member's predecessor was appointed shall hold office 50368
for the remainder of that term. A member shall continue in 50369
office subsequent to the expiration date of the member's term 50370
until the member's successor takes office or until a period of 50371
sixty days has elapsed, whichever occurs first. The commission 50372
may at any time by a vote of two-thirds of all the members 50373
remove any appointed member of the commission for misfeasance, 50374
nonfeasance, or malfeasance. Members of the commission shall 50375
serve without compensation, but shall be reimbursed for the 50376
reasonable expenses incurred by them in the discharge of their 50377
duties as members of the commission. 50378

The commission shall meet at least annually and shall hold 50379
such additional meetings as are necessary to implement and 50380
administer this chapter. Additional meetings may be held at the 50381
behest of either a co-chairperson or a majority of the members. 50382
The commission shall, by adoption of internal management rules 50383
under division (B) (9) of this section, establish an executive 50384
committee and delegate to it the performance of such of the 50385
commission's duties and powers under this chapter as are 50386
required or authorized to be so delegated by that division. The 50387
commission may organize itself into such additional committees 50388
as it considers necessary or convenient to implement and 50389
administer this chapter. The director of environmental 50390
protection and the director of public safety or their designees 50391

shall serve as co-chairpersons of the commission and the 50392
executive committee. Except as otherwise provided in this 50393
chapter, a majority of the voting members of the commission 50394
constitutes a quorum and the affirmative vote of a majority of 50395
the voting members of the commission is necessary for any action 50396
taken by the commission. Meetings of the executive committee 50397
conducted for the purpose of determining whether to issue an 50398
enforcement order or request that a civil action, civil penalty 50399
action, or criminal action be brought to enforce this chapter or 50400
rules adopted or orders issued under it are not subject to 50401
section 121.22 of the Revised Code pursuant to division (D) of 50402
that section. 50403

Except for the purposes of Chapters 102. and 2921. and 50404
sections 9.86 and 109.36 to ~~109.366~~109.365 of the Revised Code, 50405
serving as an appointed member of the commission does not 50406
constitute holding a public office or position of employment 50407
under the laws of this state and does not constitute grounds for 50408
removal of public officers or employees from their offices or 50409
positions of employment. 50410

(B) The commission shall: 50411

(1) Adopt rules in accordance with Chapter 119. of the 50412
Revised Code that are consistent with and equivalent in scope, 50413
content, and coverage to the "Emergency Planning and Community 50414
Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, 50415
and applicable regulations adopted under it: 50416

(a) Identifying or listing extremely hazardous substances 50417
and establishing a threshold planning quantity for each such 50418
substance. To the extent consistent with that act and applicable 50419
regulations adopted under it, the rules may establish threshold 50420
planning quantities based upon classes of those substances or 50421

categories of facilities at which such substances are present. 50422

(b) Listing hazardous chemicals, establishing threshold 50423
quantities for those chemicals, establishing categories of 50424
health and physical hazards of those chemicals, establishing 50425
criteria or procedures for identifying those chemicals and the 50426
appropriate hazard categories of those chemicals, and 50427
establishing ranges of quantities for those chemicals to be used 50428
in preparing emergency and hazardous chemical inventory forms 50429
under section 3750.08 of the Revised Code. To the extent 50430
consistent with that act and applicable regulations adopted 50431
under it, the rules may establish threshold quantities based 50432
upon classes of those chemicals or categories of facilities 50433
where those chemicals are present. 50434

To the extent consistent with that act, the threshold 50435
quantities for purposes of the submission of lists of hazardous 50436
chemicals under section 3750.07 and the submission of emergency 50437
and hazardous chemical inventory forms under section 3750.08 of 50438
the Revised Code may differ. 50439

(c) Identifying or listing hazardous substances and 50440
establishing reportable quantities of each of those substances 50441
and each extremely hazardous substance. In addition to being 50442
consistent with and equivalent in scope, content, and coverage 50443
to that act and applicable regulations adopted under it, the 50444
rules shall be consistent with and equivalent in scope, content, 50445
and coverage to regulations identifying or listing hazardous 50446
substances and reportable quantities of those substances adopted 50447
under the "Comprehensive Environmental Response, Compensation, 50448
and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as 50449
amended. 50450

(d) Prescribing the information to be included in the 50451

lists of hazardous chemicals required to be submitted under 50452
section 3750.07 of the Revised Code; 50453

(e) Prescribing the information to be included in the 50454
emergency and hazardous chemical inventory forms required to be 50455
submitted under section 3750.08 of the Revised Code. If the 50456
commission establishes its own emergency and hazardous chemical 50457
inventory form, the rules shall authorize owners and operators 50458
of facilities who also have one or more facilities located 50459
outside the state for which they are required to submit 50460
inventory forms under the federal act and regulations adopted 50461
under it to submit their annual inventories on forms prescribed 50462
by the administrator of the United States environmental 50463
protection agency under that act instead of on forms prescribed 50464
by the commission and shall require those owners or operators to 50465
submit any additional information required by the commission's 50466
inventory form on an attachment to the federal form. 50467

(f) Establishing procedures for giving verbal notice of 50468
releases under section 3750.06 of the Revised Code and 50469
prescribing the information to be provided in such a notice and 50470
in the follow-up written notice required by that section; 50471

(g) Establishing standards for determining valid needs for 50472
the release of tier II information under division (B) (4) of 50473
section 3750.10 of the Revised Code; 50474

(h) Identifying the types or categories of information 50475
submitted or obtained under this chapter and rules adopted under 50476
it that constitute confidential business information; 50477

(i) Establishing criteria and procedures to protect trade 50478
secret and confidential business information from unauthorized 50479
disclosure; 50480

~~(j) Establishing other requirements or authorizations that the commission considers necessary or appropriate to implement, administer, and enforce this chapter.~~

(2) Adopt rules in accordance with Chapter 119. of the Revised Code to implement and administer this chapter that may be more stringent than the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and regulations adopted under it. Rules adopted under division (B) (2) of this section shall not be inconsistent with that act or the regulations adopted under it. The rules shall:

(a) Prescribe the information to be included in the chemical emergency response and preparedness plans prepared and submitted by local emergency planning committees under section 3750.04 of the Revised Code;

(b) Establish criteria and procedures for reviewing the chemical emergency response and preparedness plans of local emergency planning committees required by section 3750.04 of the Revised Code and the annual exercise of those plans and for providing concurrence or requesting modifications in the plans and the exercise of those plans. The criteria shall include, without limitation, the requirement that each exercise of a committee's plan involve, in addition to local emergency response and medical personnel, either a facility that is subject to the plan or a transporter of materials that are identified or listed as hazardous materials by regulations adopted under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended.

(c) Establish policies and procedures for maintaining information submitted to the commission and local emergency planning committees under this chapter, and for receiving and

fulfilling requests from the public for access to review and to 50511
obtain copies of that information. The criteria and procedures 50512
shall include the following requirements and authorizations 50513
regarding that information and access to it: 50514

(i) Information that is protected as trade secret 50515
information or confidential business information under this 50516
chapter and rules adopted under it shall be kept in files that 50517
are separate from those containing information that is not so 50518
protected. 50519

(ii) The original copies of information submitted to the 50520
commission or committee shall not be removed from the custody 50521
and control of the commission or committee. 50522

(iii) A person who, either in person or by mail, requests 50523
to obtain a copy of a material safety data sheet submitted under 50524
this chapter by a facility owner or operator shall submit a 50525
separate application for each facility for which a material 50526
safety data sheet is being requested. 50527

(iv) A person who requests to receive by mail a copy of 50528
information submitted under this chapter by a facility owner or 50529
operator shall submit a separate application for each facility 50530
for which information is being requested and shall specify both 50531
the facility for which information is being requested and the 50532
particular types of documents requested. 50533

(v) Only employees of the commission or committee shall 50534
copy information in the files of the commission or committee. 50535

(vi) The commission or committee may require any person 50536
who requests to review or obtain a copy of information in its 50537
files to schedule an appointment for that purpose with the 50538
information coordinator of the commission or committee at least 50539

twenty-four hours before arriving at the office of the 50540
commission or committee for the review or copy. 50541

(vii) Any person who seeks access to information in the 50542
files of the commission or a local emergency planning committee 50543
shall submit a written application, either in person or by mail, 50544
to the information coordinator on a form provided by the 50545
commission or committee. The person also shall provide the 50546
person's name and current mailing address on the application and 50547
may be requested by the commission or committee to provide basic 50548
demographic information on the form to assist in the evaluation 50549
of the information access provisions of this chapter and rules 50550
adopted under it. Application forms may be obtained by mail or 50551
in person or by request by telephone at the office of the 50552
commission or committee during regular business hours. Upon 50553
receipt of a request for an application by telephone or mail, 50554
the information coordinator shall promptly mail an application 50555
to the person who requested it. 50556

(viii) The application form shall provide the applicant 50557
with a means of indicating that the applicant's name and address 50558
are to be kept confidential. If the applicant so indicates, that 50559
information is not a public record under section 149.43 of the 50560
Revised Code and shall not be disclosed to any person who is not 50561
a member or employee of the commission or committee or an 50562
employee of the environmental protection agency. When a name and 50563
address are to be kept confidential, they also shall be deleted 50564
from the copy of the application required to be placed in the 50565
file of the facility under division (B)(2)(c)(xii) of this 50566
section and shall be withheld from any log of information 50567
requests kept by the commission or committee pursuant to that 50568
division. 50569

(ix) Neither the commission nor a local emergency planning committee shall charge any fee for access to review information in its files when no copies or computer searches of that information are requested.

(x) An applicant shall be informed of the cost of copying, mailing, or conducting a computer search of information on file with the commission or committee before such a copy or search is made, and the commission or committee shall collect the appropriate fees as established under section 3750.13 of the Revised Code. Each applicant shall acknowledge on the application form that the applicant is aware that the applicant will be charged for copies and computer searches of that information the applicant requests and for the costs of mailing copies of the information to the applicant.

(xi) The commission or committee may require a person requesting copies of information on file with it to take delivery of them in the office of the commission or committee whenever it considers the volume of the information to be large enough to make mailing or delivery by a parcel or package delivery service impractical.

(xii) When the commission or committee receives a request for access to review or obtain copies of information in its files, it shall not routinely notify the owner or operator of the facility involved, but instead shall either keep a log or file of requests for the information or shall place a copy of each completed application form in the file for the facility to which the application pertains. Such a log or file shall be available for review by the public and by the owners and operators of facilities required to submit information to the commission or committee under this chapter and rules adopted

under it. 50600

(d) Require that claims for the protection, as a trade 50601
secret, of information obtained under this chapter regarding 50602
extremely hazardous substances identified or listed in rules 50603
adopted under division (B) (1) (a) of this section and hazardous 50604
chemicals identified or listed in rules adopted under division 50605
(B) (1) (b) of this section be submitted to the administrator of 50606
the United States environmental protection agency for 50607
determination under section 322 of the ~~the~~ "Emergency Planning 50608
and Community Right-To-Know Act of 1986," 100 Stat. 1747, 42 50609
U.S.C.A. 11042, and regulations adopted under that section; 50610

(e) Establish criteria and procedures for the issuance of 50611
variances under divisions (B) and (C) of section 3750.11 of the 50612
Revised Code. The rules shall require that, before approval of 50613
an application for a variance, the commission or committee find 50614
by a preponderance of the scientific evidence based upon 50615
generally accepted scientific principles or laboratory tests 50616
that the extremely hazardous substances, hazardous chemicals, or 50617
hazardous substances that would be subject to the reporting 50618
requirement pose a substantial risk of catastrophic injury to 50619
public health or safety or to the environment, or pose an 50620
extraordinary risk of injury to emergency management personnel 50621
responding to a release of the chemicals or substances, when the 50622
substances or chemicals are present at a facility in an amount 50623
equal to or exceeding the quantity for which reporting would be 50624
required under the reporting requirement for which the variance 50625
is sought. The rules shall also require that before approval of 50626
an application for a variance, the commission or committee find 50627
by a preponderance of the evidence that the development and 50628
implementation of a local emergency response plan for releases 50629
of the substances or chemicals covered by the reporting 50630

requirement will reduce the risk of catastrophic injury to 50631
public health or safety or to the environment, or will reduce 50632
the extraordinary risk of injury to responding emergency 50633
management personnel, in the event of a release of the 50634
substances or chemicals and find by a preponderance of the 50635
evidence that the reporting requirement is necessary for the 50636
development of such a local emergency response plan. The rules 50637
shall require that when determining whether the substances or 50638
chemicals that would be subject to the reporting requirement 50639
pose a substantial risk of catastrophic injury to public health 50640
or safety or to the environment, or pose an extraordinary risk 50641
of injury to emergency management personnel responding to a 50642
release of the substance or chemical, the commission or 50643
committee consider all of the following factors: 50644

(i) The specific characteristics and degree and nature of 50645
the hazards posed by a release of the extremely hazardous 50646
substances, hazardous chemicals, or hazardous substances; 50647

(ii) The proximity of the facilities that would be subject 50648
to the reporting requirement to residential areas, to areas 50649
where significantly large numbers of people are employed or 50650
otherwise congregate, and to environmental resources that are 50651
subject to injury; 50652

(iii) The quantities of the extremely hazardous 50653
substances, hazardous chemicals, or hazardous substances that 50654
are routinely present at facilities that would be subject to the 50655
reporting requirement; 50656

(iv) The frequency with which the extremely hazardous 50657
substances, hazardous chemicals, or hazardous substances are 50658
present at the facilities that would be subject to the reporting 50659
requirement in quantities for which reporting would be required 50660

thereunder. 50661

(f) Establish criteria and procedures for the issuance of 50662
orders under division (D) of section 3750.11 of the Revised Code 50663
requiring the placement of emergency response lock box units. 50664
The rules shall require that before approval of an application 50665
for issuance of such an order, the commission or committee find 50666
by a preponderance of the scientific evidence based upon 50667
generally accepted scientific principles or laboratory tests 50668
that the presence of the extremely hazardous substances, 50669
hazardous chemicals, or hazardous substances in the quantities 50670
in which they are routinely or intermittently present at the 50671
facility for which the order is sought pose a substantial risk 50672
of catastrophic injury to public health or safety or to the 50673
environment, or pose an extraordinary risk of injury to 50674
responding emergency management personnel, in the event of a 50675
release of any of those substances or chemicals from the 50676
facility. The rules shall require that before approval of an 50677
application for issuance of such an order, the commission or 50678
committee also find by a preponderance of the evidence that the 50679
placement of an emergency response lock box unit at the facility 50680
is necessary to protect against the substantial risk of 50681
catastrophic injury to public health or safety or the 50682
environment, or to protect against an extraordinary risk of 50683
injury to responding emergency management personnel, in the 50684
event of a release of any of the extremely hazardous substances, 50685
hazardous chemicals, or hazardous substances routinely or 50686
intermittently present at the facility. The rules shall require 50687
that when determining whether the extremely hazardous 50688
substances, hazardous chemicals, or hazardous substances present 50689
at the facility pose a substantial risk of catastrophic injury 50690
to public health or safety or to the environment, or pose an 50691

extraordinary risk of injury to responding emergency management 50692
personnel, in the event of a release of any of those substances 50693
or chemicals from the facility, the commission or committee 50694
consider all of the following factors: 50695

(i) The specific characteristics and the degree and nature 50696
of the hazards posed by a release of the extremely hazardous 50697
substances, hazardous chemicals, or hazardous substances present 50698
at the facility; 50699

(ii) The proximity of the facility to residential areas, 50700
to areas where significantly large numbers of people are 50701
employed or otherwise congregate, and to environmental resources 50702
that are subject to injury; 50703

(iii) The quantities of the extremely hazardous 50704
substances, hazardous chemicals, or hazardous substances that 50705
are routinely present at the facility; 50706

(iv) The frequency with which the extremely hazardous 50707
substances, hazardous chemicals, or hazardous substances are 50708
present at the facility. 50709

(g) Establish procedures to be followed by the commission 50710
and the executive committee of the commission for the issuance 50711
of orders under this chapter. 50712

(3) In accordance with Chapter 119. of the Revised Code 50713
adopt rules establishing reportable quantities for releases of 50714
oil that are consistent with and equivalent in scope, content, 50715
and coverage to section 311 of the "Federal Water Pollution 50716
Control Act Amendments of 1972," 86 Stat. 862, 33 U.S.C.A. 1321, 50717
as amended, and applicable regulations adopted under it; 50718

(4) Adopt rules in accordance with Chapter 119. of the 50719
Revised Code establishing criteria and procedures for 50720

identifying or listing extremely hazardous substances in 50721
addition to those identified or listed in rules adopted under 50722
division (B) (1) (a) of this section and for establishing 50723
threshold planning quantities and reportable quantities for the 50724
added extremely hazardous substances; for identifying or listing 50725
hazardous chemicals in addition to those identified or listed in 50726
rules adopted under division (B) (1) (b) of this section and for 50727
establishing threshold quantities and categories of health and 50728
physical hazards for the added hazardous chemicals; and for 50729
identifying or listing hazardous substances in addition to those 50730
identified or listed in rules adopted under division (B) (1) (c) 50731
of this section and for establishing reportable quantities for 50732
the added hazardous substances. The criteria for identifying or 50733
listing additional extremely hazardous substances and 50734
establishing threshold planning quantities and reportable 50735
quantities therefor and for identifying or listing additional 50736
hazardous chemicals and establishing threshold quantities and 50737
categories of health and physical hazards for the added 50738
hazardous chemicals shall be consistent with and equivalent to 50739
applicable criteria therefor under the "Emergency Planning and 50740
Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 50741
U.S.C.A. 11001, and regulations adopted under it. The criteria 50742
for identifying additional hazardous substances and for 50743
establishing reportable quantities of the added hazardous 50744
substances shall be consistent with and equivalent to the 50745
applicable criteria for identifying or listing hazardous 50746
substances and establishing reportable quantities therefor under 50747
the "Comprehensive Environmental Response, Compensation, and 50748
Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as 50749
amended, and regulations adopted under it. 50750

The rules shall require that, before identifying or 50751

listing any such additional extremely hazardous substance, 50752
hazardous chemical, or hazardous substance and establishing a 50753
threshold planning quantity, threshold quantity, or reportable 50754
quantity therefor, the commission find by a preponderance of the 50755
scientific evidence based on generally accepted scientific 50756
principles or laboratory tests that the substance or chemical 50757
poses a substantial risk of catastrophic injury to public health 50758
or safety or to the environment, or poses an extraordinary risk 50759
of injury to emergency management personnel responding to a 50760
release of the chemical or substance, when the chemical or 50761
substance is present at a facility in an amount equal to the 50762
proposed threshold planning quantity or threshold quantity or, 50763
in the instance of a proposed additional extremely hazardous 50764
substance or hazardous substance, poses a substantial risk of 50765
catastrophic injury to public health or safety or to the 50766
environment if a release of the proposed reportable quantity of 50767
the substance occurs. The rules shall further require that, 50768
before so identifying or listing a substance or chemical, the 50769
commission find by a preponderance of the evidence that the 50770
development and implementation of state or local emergency 50771
response plans for releases of the substance or chemical will 50772
reduce the risk of a catastrophic injury to public health or 50773
safety or to the environment, or will reduce the extraordinary 50774
risk of injury to responding emergency response personnel, in 50775
the event of a release of the substance or chemical and find by 50776
a preponderance of the evidence that the identification or 50777
listing of the substance or chemical is necessary for the 50778
development of state or local emergency response plans for 50779
releases of the substance or chemical. The rules shall require 50780
that the commission consider the toxicity of the substance or 50781
chemical in terms of both the short-term and long-term health 50782
effects resulting from exposure to it and its reactivity, 50783

volatility, dispersibility, combustibility, and flammability 50784
when determining the risks posed by a release of the substance 50785
or chemical and, as appropriate, when establishing a threshold 50786
planning quantity, threshold quantity, reportable quantity, or 50787
category of health or physical hazard for it. 50788

(5) Adopt rules in accordance with Chapter 119. of the 50789
Revised Code establishing criteria and procedures for receiving 50790
and deciding claims for protection of information as a trade 50791
secret that are applicable only to extremely hazardous 50792
substances and hazardous chemicals identified or listed in rules 50793
adopted under division (C)(5) of this section. The rules shall 50794
be equivalent in scope, content, and coverage to section 322 of 50795
the "Emergency Planning and Community Right-To-Know Act of 50796
1986," 100 Stat. 1747, 42 U.S.C.A. 11042, and regulations 50797
adopted under it. 50798

(6) (a) After consultation with the fire marshal, adopt 50799
rules in accordance with Chapter 119. of the Revised Code 50800
establishing standards for the construction, placement, and use 50801
of emergency response lock box units at facilities that are 50802
subject to this chapter. The rules shall establish all of the 50803
following: 50804

(i) Specific standards of construction for lock box units; 50805

(ii) The specific types of information that shall be 50806
placed in the lock box units required to be placed at a facility 50807
by an order issued under division (D) of section 3750.11 of the 50808
Revised Code, which shall include the location of on-site 50809
emergency fire-fighting and spill cleanup equipment; a diagram 50810
of the public and private water supply and sewage systems 50811
serving the facility that are known to the owner or operator of 50812
the facility; a copy of the emergency and hazardous chemical 50813

inventory form for the facility most recently required to be 50814
submitted under section 3750.08 of the Revised Code from which 50815
the owner or operator may withhold information claimed or 50816
determined to be trade secret information pursuant to rules 50817
adopted under division (B)(2)(d) of this section, or pursuant to 50818
division (B)(14) of this section and rules adopted under 50819
division (B)(5) of this section, and confidential business 50820
information identified in rules adopted under division (B)(1)(h) 50821
of this section; a copy of the local fire department's and 50822
facility's emergency management plans for the facility, if any; 50823
a current list of the names, positions, addresses, and telephone 50824
numbers of all key facility personnel knowledgeable in facility 50825
safety procedures and the locations at the facility where 50826
extremely hazardous substances, hazardous chemicals, and 50827
hazardous substances are produced, used, or stored. The rules 50828
shall stipulate that, in the instance of lock box units placed 50829
voluntarily at facilities by the owners or operators of the 50830
facilities, such information shall be maintained in them as is 50831
prescribed by agreement by the owner or operator and the fire 50832
department having jurisdiction over the facility. 50833

(iii) The conditions that shall be met in order to provide 50834
safe and expedient access to a lock box unit during a release or 50835
threatened release of an extremely hazardous substance, 50836
hazardous chemical, or hazardous substance. 50837

(b) Unless the owner or operator of a facility is issued 50838
an order under division (D) of section 3750.11 of the Revised 50839
Code requiring the owner or operator to place a lock box unit at 50840
the facility, the owner or operator may place a lock box unit at 50841
the facility at the owner's or operator's discretion. If the 50842
owner or operator chooses to place a lock box unit at the 50843
facility, the responsibility to deposit information in the lock 50844

box unit is in addition to any other obligations established in 50845
this chapter. 50846

(c) Any costs associated with the purchase, construction, 50847
or placement of a lock box unit shall be paid by the owner or 50848
operator of the facility. 50849

(7) In accordance with Chapter 119. of the Revised Code, 50850
adopt rules governing the application for and awarding of grants 50851
under division (C) of section 3750.14 and division (B) of 50852
section 3750.15 of the Revised Code; 50853

(8) Adopt rules in accordance with Chapter 119. of the 50854
Revised Code establishing reasonable maximum fees that may be 50855
charged by the commission and local emergency planning 50856
committees for copying information in the commission's or 50857
committee's files to fulfill requests from the public for that 50858
information; 50859

(9) Adopt internal management rules governing the 50860
operations of the commission. The internal management rules 50861
shall establish an executive committee of the commission 50862
consisting of the director of environmental protection or the 50863
director's designee, the director of public safety or the 50864
director's designee, the attorney general or the attorney 50865
general's designee, one of the appointed members of the 50866
commission representing industries subject to this chapter to be 50867
appointed by the commission, one of the appointed members of the 50868
commission representing the interests of environmental advocacy 50869
organizations to be appointed by the commission, and one other 50870
appointed member or member ex officio of the commission to be 50871
appointed by the commission. The executive committee has 50872
exclusive authority to issue enforcement orders under section 50873
3750.18 of the Revised Code and to request the attorney general 50874

to bring a civil action, civil penalty action, or criminal 50875
action under section 3750.20 of the Revised Code in the name of 50876
the commission regarding violations of this chapter, rules 50877
adopted under it, or orders issued under it. The internal 50878
management rules may set forth the other specific powers and 50879
duties of the commission that the executive committee may 50880
exercise and carry out and the conditions under which the 50881
executive committee may do so. The internal management rules 50882
shall not authorize the executive committee to issue variances 50883
under division (B) or (C) of section 3750.11 of the Revised Code 50884
or orders under division (D) of that section. 50885

(10) Oversee and coordinate the implementation and 50886
enforcement of this chapter and make such recommendations to the 50887
director of environmental protection and the director of public 50888
safety as it considers necessary or appropriate to improve the 50889
implementation and enforcement of this chapter; 50890

(11) Make allocations of moneys under division (B) of 50891
section 3750.14 of the Revised Code and make grants under 50892
division (C) of section 3750.14 and division (B) of section 50893
3750.15 of the Revised Code; 50894

(12) Designate an officer of the environmental protection 50895
agency to serve as the commission's information coordinator 50896
under this chapter; 50897

(13) Not later than December 14, 1989, develop and 50898
distribute a state emergency response plan that defines the 50899
emergency response roles and responsibilities of the state 50900
agencies that are represented on the commission and that 50901
provides appropriate coordination with the national contingency 50902
plan and the regional contingency plan required by section 105 50903
of the "Comprehensive Environmental Response, Compensation, and 50904

Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 50905
amended. The plan shall ensure a well-coordinated response by 50906
state agencies that may be involved in assisting local emergency 50907
responders during a major release of oil or a major sudden and 50908
accidental release of a hazardous substance or extremely 50909
hazardous substance. The plan may incorporate existing state 50910
emergency response plans by reference. At least annually, the 50911
commission and the state agencies that are represented on it 50912
shall jointly exercise the state plan in conjunction with the 50913
exercise of a local emergency response plan by a local emergency 50914
planning committee under section 3750.04 of the Revised Code. 50915
After any such exercise, the commission shall review the state 50916
plan and make such revisions in it as the commission considers 50917
necessary or appropriate. 50918

(14) Receive and decide claims for the protection of 50919
information as a trade secret that pertain only to extremely 50920
hazardous substances and hazardous chemicals identified or 50921
listed by rules adopted under division (C)(5) of this section. 50922
If the commission determines that the claim meets the criteria 50923
established in rules adopted under division (B)(5) of this 50924
section, it shall issue an order to that effect in accordance 50925
with section 3750.18 of the Revised Code. If the commission 50926
determines that the claim does not meet the criteria established 50927
in those rules, it shall issue an order to that effect in 50928
accordance with section 3750.18 of the Revised Code. 50929

(15) Annually compile, make available to the public, and 50930
submit to the president of the senate and the speaker of the 50931
house of representatives a summary report on the number of 50932
facilities estimated to be subject to regulation under sections 50933
3750.05, 3750.07, and 3750.08 of the Revised Code, the number of 50934
facilities reporting to the commission, an estimate of the 50935

percentage of facilities in compliance with those sections, and 50936
recommendations regarding the types of activities the commission 50937
considers necessary to improve such compliance. The commission 50938
shall base its estimate of the number of facilities that are 50939
subject to regulation under those sections on the current 50940
estimates provided by the local emergency planning committees 50941
under division (D) (6) of section 3750.03 of the Revised Code. 50942

(C) The commission may: 50943

(1) Procure by contract the temporary or intermittent 50944
services of experts or consultants when those services are to be 50945
performed on a part-time or fee-for-service basis and do not 50946
involve the performance of administrative duties; 50947

(2) Enter into contracts or agreements with political 50948
subdivisions or emergency planning districts for the purposes of 50949
this chapter; 50950

(3) Accept on behalf of the state any gift, grant, or 50951
contribution from any governmental or private source for the 50952
purposes of this chapter; 50953

(4) Enter into contracts, agreements, or memoranda of 50954
understanding with any state department, agency, board, 50955
commission, or institution to obtain the services of personnel 50956
thereof or utilize resources thereof for the purposes of this 50957
chapter. Employees of a state department, agency, board, 50958
commission, or institution providing services to the commission 50959
under any such contract, agreement, or memorandum shall perform 50960
only those functions and provide only the services provided for 50961
in the contract, agreement, or memorandum. 50962

(5) Identify or list extremely hazardous substances in 50963
addition to those identified or listed in rules adopted under 50964

division (B) (1) (a) of this section and establish threshold 50965
planning quantities and reportable quantities for the additional 50966
extremely hazardous substances, identify or list hazardous 50967
chemicals in addition to those identified or listed in rules 50968
adopted under division (B) (1) (b) of this section and establish 50969
threshold quantities and categories or health and physical 50970
hazards for the added chemicals, and identify or list hazardous 50971
substances in addition to those identified or listed in rules 50972
adopted under division (B) (1) (c) of this section and establish 50973
reportable quantities for the added hazardous substances. The 50974
commission may establish threshold planning quantities for the 50975
additional extremely hazardous substances based upon classes of 50976
those substances or categories of facilities at which they are 50977
present and may establish threshold quantities for the 50978
additional hazardous chemicals based upon classes of those 50979
chemicals or categories of facilities where they are present. 50980
The commission shall identify or list such additional substances 50981
or chemicals and establish threshold planning quantities, 50982
threshold quantities, reportable quantities, and hazard 50983
categories therefor in accordance with the criteria and 50984
procedures established in rules adopted under division (B) (4) of 50985
this section and, after compliance with those criteria and 50986
procedures, by the adoption of rules in accordance with Chapter 50987
119. of the Revised Code. The commission shall not adopt rules 50988
under division (C) (5) of this section modifying any threshold 50989
planning quantity established in rules adopted under division 50990
(B) (1) (a) of this section, any threshold quantity established in 50991
rules adopted under division (B) (1) (b) of this section, or any 50992
reportable quantity established in rules adopted under division 50993
(B) (1) (c) of this section. 50994

If, after the commission has adopted rules under division 50995

(C) (5) of this section identifying or listing an extremely hazardous substance, hazardous chemical, or hazardous substance, the administrator of the United States environmental protection agency identifies or lists the substance or chemical as an extremely hazardous substance or hazardous chemical under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, or identifies or lists a substance as a hazardous substance under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, the commission shall rescind its rules adopted under division (C) (5) of this section pertaining to the substance or chemical and adopt the appropriate rules under division (B) (1) (a), (b), or (c) of this section.

(6) From time to time, request the director of environmental protection and the executive director of the emergency management agency to review implementation, administration, and enforcement of the chemical emergency response planning and reporting programs created by this chapter and rules adopted under it regarding their effectiveness in preparing for response to releases of extremely hazardous substances, hazardous chemicals, and hazardous substances. After completion of any such review, the director of environmental protection and the director of public safety shall report their findings to the commission. Upon receipt of their findings, the commission may make such recommendations for legislative and administrative action as the commission finds necessary or appropriate to promote achievement of the purposes of this chapter.

(D) Except as provided in section 3750.06 of the Revised Code, nothing in this chapter applies to the transportation,

including the storage incident to transportation, of any 51027
substance or chemical subject to the requirements of this 51028
chapter, including the transportation and distribution of 51029
natural gas. 51030

(E) This chapter authorizes the state, through the 51031
emergency response commission, the department of public safety, 51032
and the environmental protection agency, to establish and 51033
maintain chemical emergency response planning and preparedness, 51034
community right-to-know, and hazardous substance and extremely 51035
hazardous substance release reporting programs that are 51036
consistent with and equivalent in scope, coverage, and content 51037
to the "Emergency Planning and Community Right-To-Know Act of 51038
1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and regulations 51039
adopted under it, except as otherwise specifically required or 51040
authorized in this chapter. The commission, department, and 51041
agencies may do all things necessary, incidental, or appropriate 51042
to implement, administer, and enforce this chapter and to 51043
perform the duties and exercise the powers of the state 51044
emergency response commission under that act and regulations 51045
adopted under it and under this chapter. 51046

Sec. 3750.11. (A) Except as provided in division (E) of 51047
this section, no local emergency planning committee shall 51048
enforce any resolution, rule, or requirement for the reporting 51049
or providing of the names or amounts of extremely hazardous 51050
substances or hazardous chemicals produced, used, or stored at 51051
facilities under the jurisdiction of the committee; for the 51052
reporting or providing of information regarding locations where 51053
those substances or chemicals are stored at those facilities; or 51054
for the reporting of releases of extremely hazardous substances, 51055
hazardous substances, or oil, that is not consistent with and 51056
equivalent in scope, content, and coverage to the reporting and 51057

hazard communication provisions of this chapter and rules 51058
adopted under it, unless the committee first obtains a variance 51059
from the emergency response commission under division (B) of 51060
this section. 51061

(B) A committee shall, prior to commencing enforcement of 51062
any such requirement, submit a copy of it to the commission 51063
along with an application for a variance from division (A) of 51064
this section in accordance with rules adopted under division (B) 51065
(2) (e) of section 3750.02 of the Revised Code. On or before the 51066
date that the committee submits the variance application to the 51067
commission, the committee shall mail by certified mail, return 51068
receipt requested, notice of the application and a summary of 51069
the reporting requirement to the owner or operator of each 51070
facility within the emergency planning district that the 51071
committee determines would be subject to the reporting 51072
requirement. If the commission finds that the resolution, rule, 51073
or requirement meets the criteria for issuance of a variance 51074
established in those rules, it shall approve the application and 51075
issue an order granting the variance in accordance with section 51076
3750.18 of the Revised Code. The commission shall not issue any 51077
order approving a variance application unless at least sixty per 51078
cent of the voting members of the commission vote to approve the 51079
application and issuance of the order. If less than sixty per 51080
cent of the voting members of the commission vote to approve a 51081
variance application, the commission shall issue an order 51082
denying the variance. 51083

(C) Except as provided in division (G) of this section, no 51084
political subdivision shall enforce any ordinance, resolution, 51085
rule, or requirement adopted on or after ~~the effective date of~~ 51086
~~this section~~ December 14, 1988, or any amendment adopted on or 51087
after ~~the effective that~~ that date of ~~this section~~ to any such 51088

ordinance, resolution, rule, or requirement that was in effect 51089
on ~~the effective~~ that ~~date of this section~~, for the reporting or 51090
providing of the names or amounts of extremely hazardous 51091
substances or hazardous chemicals produced, used, or stored, at 51092
facilities within the political subdivision; for the reporting 51093
or providing of information regarding locations where those 51094
substances or chemicals are stored at those facilities; or for 51095
the reporting of releases of those extremely hazardous 51096
substances, hazardous substances, or oil that is not consistent 51097
with, equivalent to, and no more stringent than the reporting 51098
and hazard communication requirements of this chapter and rules 51099
adopted under it, unless the political subdivision first obtains 51100
a variance under this division. 51101

A political subdivision that seeks to obtain a variance 51102
under this division shall submit a copy of the ordinance, 51103
resolution, rule, or requirement to the committee of the 51104
district in which the political subdivision is located along 51105
with an application for a variance in accordance with rules 51106
adopted under division (B) (2) (e) of section 3750.02 of the 51107
Revised Code. On or before the date that the political 51108
subdivision submits the variance application to the committee, 51109
the political subdivision shall mail by certified mail, return 51110
receipt requested, notice of the application and a summary of 51111
the reporting requirement to the owner or operator of each 51112
facility within the political subdivision that the political 51113
subdivision determines would be subject to the reporting 51114
requirement. If, in the opinion of the committee, the ordinance, 51115
resolution, rule, or requirement of the political subdivision 51116
meets the criteria for issuance of a variance established in 51117
those rules and does not conflict with any resolution, rule, or 51118
requirement adopted by the committee, the committee shall, by 51119

resolution, approve issuance of the variance and send a copy of 51120
its resolution, of the political subdivision's variance 51121
application, and of the ordinance, resolution, rule or 51122
requirement, to the commission. The committee shall not approve 51123
issuance of a variance under this division unless at least sixty 51124
per cent of the voting members of the committee vote to approve 51125
it. If the commission finds that the committee has approved 51126
issuance of a variance and that the ordinance, resolution, rule, 51127
or requirement of the political subdivision meets the criteria 51128
for issuance of a variance established in those rules, it shall 51129
approve the application and issue an order in accordance with 51130
section 3750.18 of the Revised Code granting the variance. The 51131
commission shall not issue any order approving a variance 51132
application unless at least sixty per cent of the voting members 51133
of the commission vote to approve the application and issuance 51134
of an order granting the variance. If less than sixty per cent 51135
of the voting members of the commission vote to approve a 51136
variance application, the commission shall issue an order 51137
denying the variance. 51138

This division does not affect the validity or 51139
enforceability of any such ordinance, resolution, rule, or 51140
requirement of a political subdivision adopted prior to the 51141
effective date of this section. However, this division applies 51142
to any amendment to any such ordinance, resolution, rule, or 51143
requirement, which amendment is adopted on or after the 51144
effective date of this section and establishes a reporting 51145
requirement that is not consistent with, equivalent to, and no 51146
more stringent than the reporting and hazard communication 51147
requirements of this chapter and rules adopted under it. 51148

(D) No political subdivision shall enforce any ordinance, 51149
resolution, rule, or requirement adopted on or after the 51150

effective date of this chapter requiring the placement of 51151
emergency response lock box units at any facility where an 51152
extremely hazardous substance, hazardous chemical, or hazardous 51153
substance is produced, used, or stored. The fire department of a 51154
political subdivision having jurisdiction over a facility and 51155
the owner or operator of such a facility may enter into an 51156
agreement under which the owner or operator will place and 51157
maintain an emergency response lock box unit at ~~his~~the owner's 51158
or operator's facility in compliance with rules adopted under 51159
division (B) (6) of section 3750.02 of the Revised Code. If the 51160
fire department of a political subdivision and an owner or 51161
operator of such a facility are unable to enter into such an 51162
agreement and if the fire department believes that placement of 51163
a lock box unit at the facility is necessary to protect public 51164
health and safety and the environment or to protect emergency 51165
management personnel responding to a release of any such 51166
substance or chemical from the facility, the fire department, in 51167
accordance with rules adopted under division (B) (2) (f) of 51168
section 3750.02 of the Revised Code, may submit an application 51169
to the committee of the district in which the facility is 51170
located for issuance of an order requiring the owner or operator 51171
to place a lock box unit at ~~his~~the owner's or operator's 51172
facility that complies with the rules adopted under division (B) 51173
(6) of section 3750.02 of the Revised Code. On or before the 51174
date that the fire department submits the application for 51175
issuance of such an order, the fire department shall mail by 51176
certified mail, return receipt requested, notice of the 51177
application to the owner or operator of the facility for which 51178
issuance of the order is sought. If, in the opinion of the 51179
committee, the application meets the criteria for issuance of 51180
such an order established in the rules adopted under division 51181
(B) (2) (f) of that section, the committee shall, by resolution, 51182

approve issuance of the order and send a copy of its resolution 51183
and the fire department's application to the commission. The 51184
committee shall not approve an application for issuance of such 51185
an order unless at least sixty per cent of the voting members of 51186
the committee vote to approve it. If the commission finds that 51187
the committee has approved the application and that the 51188
application meets the criteria for issuance of such an order 51189
established in rules adopted under division (B) (2) (f) of that 51190
section, it shall approve the application and issue an order in 51191
accordance with section 3750.18 of the Revised Code requiring 51192
the owner or operator to place one or more emergency response 51193
lock box units at ~~his~~the owner's or operator's facility in 51194
accordance with the approved application and rules adopted under 51195
division (B) (6) of that section. The commission shall not 51196
approve an application for issuance of such an order unless at 51197
least sixty per cent of the voting members of the commission 51198
vote to approve the application and issuance of the order. If 51199
less than sixty per cent of the voting members of the commission 51200
vote to approve the application, the commission shall issue an 51201
order denying the application. No person shall violate an order 51202
issued under this division. 51203

(E) A committee may, by resolution, adopt rules requiring 51204
the placarding of bulk hazardous chemical storage areas within 51205
its district in accordance with rules adopted by the fire 51206
marshal under section 3750.12 of the Revised Code ~~and rules~~ 51207
~~establishing such procedures as are necessary to implement and~~ 51208
~~enforce that requirement.~~ The rules may exempt the owner or 51209
operator of a facility who, with the approval of the committee, 51210
installs and maintains an emergency lock box unit that complies 51211
with the rules adopted under division (B) (6) of section 3750.02 51212
of the Revised Code from compliance with requirements for 51213

placarding of bulk hazardous chemical storage areas. As used in 51214
this division, "bulk hazardous chemical storage area" has the 51215
same meaning as in division (D) of section 3750.12 of the 51216
Revised Code. No person shall violate a rule adopted under this 51217
division. 51218

(F) Except as provided in division (G) of this section, 51219
this section shall not be construed to authorize a political 51220
subdivision, other than a municipal corporation or county that 51221
has adopted a charter in accordance with Sections 3 and 4 of 51222
Article X, Ohio Constitution, to adopt or enforce any ordinance, 51223
resolution, rule, or requirement for the reporting or providing 51224
of the names or amounts of extremely hazardous substances or 51225
hazardous chemicals produced, used, or stored at facilities 51226
located within their boundaries; for the reporting or providing 51227
of information regarding locations where those substances or 51228
chemicals are stored at those facilities; or for the reporting 51229
of releases of extremely hazardous substances, hazardous 51230
substances, or oil. Nothing in this section or division (E) (5) 51231
of section 3750.03 of the Revised Code shall be construed to 51232
authorize a local emergency planning committee, municipal 51233
corporation, or charter county to enforce any ordinance, 51234
resolution, rule, or requirement that identifies or lists as an 51235
extremely hazardous substance any substance that is not so 51236
identified or listed in rules adopted under division (B) (1) (a) 51237
or (C) (5) of section 3750.02 of the Revised Code, that 51238
identifies as a hazardous chemical any chemical, other than a 51239
chemical identified in division (G) (3) of section 3750.01 of the 51240
Revised Code, that is not so identified or listed in rules 51241
adopted under division (B) (1) (b) or (C) (5) of that section, or 51242
that identifies as a hazardous substance any substance that is 51243
not so identified in rules adopted under division (B) (1) (c) or 51244

(C) (5) of that section. 51245

(G) A political subdivision that owns, operates, or is 51246
served by a public water system as defined in section 6109.01 of 51247
the Revised Code may establish and enforce requirements that 51248
provide for the protection of ground water resources that serve 51249
as a source of drinking water for its public water system and 51250
that are located within scientifically derived wellhead 51251
protection areas. 51252

Sec. 3751.02. The director of environmental protection may 51253
do ~~any both~~ of the following: 51254

~~(A) Adopt rules in accordance with Chapter 119. of the 51255
Revised Code establishing requirements or authorizations that 51256
the director considers necessary or appropriate to implement and 51257
administer this chapter. 51258~~

~~(B)~~ As the representative of the governor pursuant to 51259
EPCRA, request the administrator of the United States 51260
environmental protection agency to apply the toxic chemical 51261
release reporting requirements of that act to the owner or 51262
operator of any facility in this state that manufactures, 51263
processes, or otherwise uses a toxic chemical if, in the 51264
director's judgment, such reporting is warranted by the toxicity 51265
of the toxic chemical manufactured, processed, or otherwise used 51266
at the facility; the proximity of the facility to other 51267
facilities that release the toxic chemical or to population 51268
centers; or the history of releases of the toxic chemical at the 51269
facility; 51270

~~(C)~~ (B) As the representative of the governor pursuant to 51271
EPCRA, petition the administrator to, by regulation, add a 51272
chemical to or delete a chemical from the list of toxic 51273

chemicals subject to the toxic chemical release reporting 51274
requirements of that act if, in the director's judgment, the 51275
chemical meets the criteria required by that act. 51276

Sec. 3751.03. (A) (1) On or before the first day of July of 51277
each year or as otherwise prescribed by the administrator of the 51278
United States environmental protection agency under EPCRA, the 51279
owner or operator of a facility described in division (A) (2) of 51280
this section shall prepare and submit to the administrator a 51281
completed toxic chemical release form for each toxic chemical 51282
that was so manufactured, processed, or otherwise used at the 51283
facility during the preceding calendar year. The electronic 51284
submission of the form to the administrator constitutes 51285
simultaneous submission of the form to the director of 51286
environmental protection for purposes of EPCRA. 51287

(2) Division (A) (1) of this section applies to the owner 51288
or operator of a facility to which all of the following apply: 51289

(a) The facility is in standard industrial classification 51290
codes 20 to 39, as those codes were in effect on July 1, 1985, 51291
or in any other applicable code added by the administrator. 51292

(b) The owner or operator has ten or more full-time 51293
employees. 51294

(c) The facility manufactured, processed, or otherwise 51295
used during the calendar year immediately preceding the first 51296
day of July or date otherwise prescribed by the administrator, a 51297
toxic chemical in an amount exceeding the applicable threshold 51298
quantity established by the administrator under EPCRA. 51299

(3) The owner or operator shall submit the information on 51300
a uniform toxic chemical release form prescribed by the 51301
administrator under EPCRA. 51302

(B) The toxic chemical release forms required by this 51303
section are intended to provide information to federal, state, 51304
and local governments and the public, including residents of 51305
communities surrounding facilities covered by this section. 51306

(C) No owner or operator of a facility who is required by 51307
this section to file a toxic chemical release form shall fail to 51308
submit a toxic chemical release form as required by this 51309
section. 51310

(D) An owner or operator of a facility who is required 51311
under this section to file a toxic chemical release form and who 51312
knowingly makes a false statement on that form, on a record upon 51313
which the information on that form is based, or on other 51314
information or records required to be kept or submitted under 51315
this chapter ~~and the rules adopted under this chapter~~ is guilty 51316
of falsification under section 2921.13 of the Revised Code. 51317

Sec. 3751.05. All civil penalties received under division 51318
(B) of section 3751.10 of the Revised Code shall be credited to 51319
the toxic chemical release reporting fund, hereby created in the 51320
state treasury. Moneys credited to the fund shall be expended by 51321
the director exclusively for the purposes of implementing, 51322
administering, and enforcing this chapter ~~and the rules adopted~~ 51323
and orders issued under it. 51324

Sec. 3751.07. No person shall violate any section of this 51325
chapter ~~or a rule adopted~~ or order issued under it. 51326

Sec. 3751.08. The director of environmental protection or 51327
~~his~~ the director's authorized representative, upon proper 51328
identification and upon stating the purpose and necessity of an 51329
inspection, may enter at reasonable times upon any private or 51330
public property, real or personal, to inspect or investigate, 51331

obtain samples, and examine and copy records to determine 51332
compliance with this chapter ~~and rules adopted~~ and orders issued 51333
under it. The director or ~~his~~ the director's authorized 51334
representative may apply for, and any judge of a court of record 51335
may issue for use within the court's territorial jurisdiction, 51336
an administrative inspection warrant under division (F) of 51337
section 2933.21 of the Revised Code or other appropriate search 51338
warrant necessary to achieve the purposes of this chapter. 51339

Sec. 3751.09. The director of environmental protection may 51340
issue orders requiring the owner or operator of a facility where 51341
toxic chemicals are manufactured, processed, or otherwise used 51342
to abate a violation of this chapter ~~or a rule adopted~~ or order 51343
issued under it. The director may issue such orders as final 51344
orders without issuing a proposed action under section 3745.07 51345
of the Revised Code and, notwithstanding section 119.06 of the 51346
Revised Code, without the necessity to hold any adjudication 51347
hearing in connection with any such order. Issuance of an order 51348
under this section is not a condition precedent to bringing any 51349
civil, criminal, or civil penalty action under this chapter. 51350

Sec. 3751.10. (A) The attorney general, the prosecuting 51351
attorney of the county, or the city director of law of the city 51352
where a violation has occurred or is occurring, upon the written 51353
request of the director of environmental protection, shall 51354
prosecute to termination or bring an action for injunction 51355
against any person who has violated or is violating any section 51356
of this chapter ~~or any rule adopted~~ or order issued under it. 51357
The court of common pleas in which an action for injunction is 51358
filed has the jurisdiction to and shall grant preliminary and 51359
permanent injunctive relief upon a showing that the person 51360
against whom the action is brought has violated or is violating 51361
any section of this chapter ~~or a rule adopted~~ or order issued 51362

under it. The court shall give precedence to such an action over 51363
all other cases. 51364

Upon the certified written request of any person, the 51365
director shall conduct such investigations and make such 51366
inquiries as are necessary to secure compliance with this 51367
chapter ~~or rules adopted~~ or orders issued under it. The director 51368
may, upon request or upon the director's own initiative, 51369
investigate or make inquiries into any violation of this chapter 51370
~~or rules adopted~~ or orders issued under it. 51371

(B) Whoever violates division (C) of section 3751.03, 51372
division (B) (1) or (2) of section 3751.04 of the Revised Code, 51373
or an order issued under this chapter, shall pay a civil penalty 51374
of not more than twenty-five thousand dollars for each day of 51375
violation. The attorney general, the prosecuting attorney of the 51376
county, or the city director of law of the city where a 51377
violation of this chapter ~~or a rule adopted~~ or order issued 51378
under it has occurred or is occurring, upon the written request 51379
of the director, shall bring an action for imposition of a civil 51380
penalty under this division against any person who has committed 51381
or is committing any such violation. All civil penalties 51382
received under this division shall be credited to the toxic 51383
chemical release reporting fund created in section 3751.05 of 51384
the Revised Code. 51385

(C) Any action for injunction or civil penalties under 51386
division (A) or (B) of this section is a civil action governed 51387
by the Rules of Civil Procedure. 51388

Sec. 3752.03. (A) The director of environmental 51389
protection, in accordance with Chapter 119. of the Revised Code, 51390
shall adopt, and subsequently may amend or rescind, rules doing 51391
all of the following: 51392

(1) Establishing guidelines for the demonstrations 51393
required to be made in an application for a waiver under 51394
division (A) of section 3752.10 of the Revised Code; 51395

(2) Prescribing methods to be used in securing buildings, 51396
structures, and outdoor locations of operation in accordance 51397
with sections 3752.07, 3752.11, 3752.111, 3752.112, and 3752.113 51398
of the Revised Code; 51399

(3) Defining the phrase "contaminated with" as used in 51400
this chapter. The definition shall be consistent with and no 51401
more stringent than provisions in state and federal 51402
environmental laws dealing with the demonstration that tanks, 51403
drums, containers, pipelines, and other vessels are empty and 51404
free of regulated substances, including, without limitation, 51405
Chapters 3734., 3752., and 6111. of the Revised Code and rules 51406
adopted under those chapters; and the "Toxic Substances Control 51407
Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended, the 51408
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 51409
42 U.S.C.A. 6921, as amended, and the "Comprehensive 51410
Environmental Response, Compensation, and Liability Act of 51411
1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended, and 51412
regulations adopted under those acts. 51413

~~(B) The director, in accordance with Chapter 119. of the 51414
Revised Code, may adopt, amend, and rescind such other rules as 51415
he considers necessary or appropriate for the implementation, 51416
administration, and enforcement of this chapter. 51417~~

~~(C) No person shall violate a rule adopted under this 51418
section. 51419~~

Sec. 3752.13. (A) If the director of environmental 51420
protection determines that conditions at a reporting facility 51421

constitute an imminent and substantial threat to public health 51422
or safety or are causing or contributing to, or are threatening 51423
to cause or contribute to, air or water pollution or soil 51424
contamination, the director may expend moneys from the immediate 51425
removal fund created in section 3745.12 of the Revised Code to 51426
take such remedial actions as are necessary or appropriate to 51427
protect the public health or safety or the environment, provided 51428
that a violation or failure to comply with any of the following 51429
has occurred or is ~~occurring~~occurring at the facility: 51430

(1) Section 3752.06 of the Revised Code, ~~a rule adopted~~ 51431
~~under section 3752.03 of the Revised Code implementing that~~ 51432
~~section,~~ or a term or condition of an order issued under section 51433
3752.16 of the Revised Code to enforce that section or rule; 51434

(2) Section 3752.07 of the Revised Code, a rule adopted 51435
under section 3752.03 of the Revised Code implementing that 51436
section, or a term or condition of an order issued under section 51437
3752.16 of the Revised Code to enforce that section or rule; 51438

(3) Division (A) (2) of section 3752.09 of the Revised 51439
Code; 51440

(4) A term or condition of an order issued under division 51441
(A) (3) of section 3752.09 of the Revised Code; 51442

(5) An interim maintenance plan approved under division 51443
(A) of section 3752.10 of the Revised Code; 51444

(6) A term or condition of an order issued under division 51445
(A) of section 3752.10 of the Revised Code approving or 51446
disapproving an application for a waiver; 51447

(7) A term or condition of an order issued under division 51448
(B) of section 3752.10 of the Revised Code revoking a waiver; 51449

(8) Division (C) (1) of section 3752.10 of the Revised Code; 51450
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(9) A term or condition of an order issued under division (C) (2) of section 3752.10 of the Revised Code; 51452
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(10) Section 3752.11, 3752.111, or 3752.113 of the Revised Code or a rule adopted under section 3752.03 of the Revised Code pertaining to the securing of buildings, structures, and outdoor locations of operation in connection with any of those sections. 51454
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Expenditures from the fund to perform any such remedial action shall be made pursuant to contracts entered into by the director with persons who agree to furnish all of the materials, equipment, work, and labor as provided in the contract. Agents or employees of persons contracting with the director under this division may enter upon any land, public or private, as necessary to perform a remedial action under this division. The director shall keep a detailed accounting of the cost of each such remedial action. 51458
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(B) The owner or operator of a facility where a remedial action is undertaken under division (A) of this section is liable to the state for the total cost of the remedial action in addition to any other liabilities imposed by law. The total cost of the remedial action is a lien upon the facility. The director shall prepare and present for recording in the office of the county recorder of the county in which the facility is located notice of the lien. The county recorder shall not charge a fee for recording a notice of lien under this division. 51467
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(C) Upon completion of a remedial action under division (A) of this section, the director shall certify the total cost of the remedial action to the attorney general and shall send a 51476
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copy of the notice of the lien to ~~him~~the attorney general. Upon 51479
receiving the director's certification and notice, the attorney 51480
general shall do one or both of the following: 51481

(1) Bring a civil action to recover the total cost of the 51482
remedial action as certified by the director; 51483

(2) Upon the written request of the director, foreclose 51484
the lien imposed by division (B) of this section. 51485

All moneys recovered under this division shall be 51486
deposited in the state treasury to the credit of the immediate 51487
removal fund. 51488

Sec. 3753.01. As used in this chapter: 51489

(A) "Accidental release" means an unanticipated emission 51490
of a regulated substance into the ambient air from a stationary 51491
source. 51492

(B) "Clean Air Act Amendments" means the "Clean Air Act 51493
Amendments of 1990," 91104 Stat. ~~6852399~~, 42 U.S.C. 7401 et al., 51494
as amended, and regulations adopted under it. 51495

(C) "Covered process" means a process that has a regulated 51496
substance present in an amount that is in excess of the 51497
threshold quantity ~~established in rules adopted under section~~ 51498
~~3753.02 of the Revised Code.~~ 51499

(D) "Environmental receptor" means natural areas such as 51500
national or state parks, forests, or natural monuments; 51501
federally designated or state-designated wildlife sanctuaries, 51502
preserves, refuges, or areas; and federal wilderness areas, that 51503
could be exposed at any time to toxic concentrations, radiant 51504
heat, or overpressure greater than or equal to the endpoints 51505
~~prescribed in rules adopted under section 3753.02 of the Revised~~ 51506

~~Code~~—and that can be identified on United States geological 51507
survey maps. 51508

(E) "Owner or operator" means any person who owns, leases, 51509
operates, controls, or supervises a stationary source. 51510

(F) "Process" means any activity involving a regulated 51511
substance, including any use, storage, manufacturing, handling, 51512
or on-site movement of the substance or any combination of these 51513
activities. Any group of vessels that are interconnected, or 51514
separate vessels that are located in such a manner that a 51515
regulated substance potentially could be involved in a release, 51516
shall be considered a single process. 51517

(G) "Public" means any person except employees or 51518
contractors at a stationary source. 51519

(H) "Public receptor" means off-site residences, 51520
institutions such as schools or hospitals, industrial, 51521
commercial, and office buildings, parks, or recreational areas 51522
inhabited or occupied by the public at any time where the public 51523
could be exposed to toxic concentrations, radiant heat, or 51524
overpressure as a result of an accidental release. 51525

(I) "Regulated substance" means a toxic or flammable 51526
~~substance listed in rules adopted under section 3753.02 of the~~ 51527
~~Revised Code.~~ 51528

(J) "Risk management plan" means a risk management plan 51529
required under section 3753.03 of the Revised Code. 51530

(K) "Stationary source" means any buildings, structures, 51531
equipment, installations, or substance-emitting stationary 51532
activities that belong to the same industrial group as described 51533
in the standard industrial classification manual, 1987, that are 51534
located on one or more contiguous properties under the control 51535

of the same person or persons, and from which an accidental 51536
release may occur. Properties shall not be considered contiguous 51537
solely because of a railroad or pipeline right-of-way. 51538

(1) "Stationary source" includes transportation containers 51539
that are used for storage not incident to transportation and 51540
transportation containers that are connected to equipment at a 51541
stationary source for loading and unloading. "Stationary source" 51542
does not include the transportation, including storage incident 51543
to transportation, of any regulated substance under this 51544
chapter. "Stationary source" does not include naturally 51545
occurring hydrocarbon reservoirs. 51546

(2) "Transportation" includes, but is not limited to, 51547
transportation that is subject to oversight or regulation under 51548
49 C.F.R. part 192, 193, or 195, or to a state natural gas or 51549
hazardous liquid program for which the state has in effect a 51550
certification to the United States department of transportation 51551
under 49 U.S.C. 60105. 51552

(L) "Threshold quantity" means the quantity established 51553
for a regulated substance ~~in rules adopted under section 3753.02~~ 51554
~~of the Revised Code~~ that, if exceeded, subjects an owner or 51555
operator to compliance with this chapter and rules adopted under 51556
it. 51557

(M) "Vessel" means any reactor, tank, drum, barrel, 51558
cylinder, vat, kettle, boiler, pipe, hose, or other container. 51559

Sec. 3753.03. (A) Effective upon the date that the United 51560
States environmental protection agency delegates the program 51561
created under section 112(r) of the Clean Air Act Amendments to 51562
the environmental protection agency of this state, an owner or 51563
operator of a stationary source that has a covered process shall 51564

develop and submit a risk management plan no later than the 51565
latest of the following: 51566

(1) Not later than ten days after the notice of delegation 51567
of the program to the state appears in the federal register, or 51568
ten days after the effective date of this amendment, whichever 51569
occurs later; 51570

(2) The date on which a regulated substance is first 51571
present above a threshold quantity in a process at the 51572
stationary source; 51573

(3) Three years after the date on which a regulated 51574
substance at the stationary source is first listed under 40 51575
C.F.R. 68.130. 51576

(B) An owner or operator who is subject to division (A) of 51577
this section shall submit a single risk management plan that 51578
reflects all covered processes at the stationary source by the 51579
applicable deadline established under that division and that is 51580
in the form required by the director of environmental protection 51581
~~in rules adopted under section 3753.02 of the Revised Code.~~ The 51582
risk management plan shall include all of the following, as 51583
applicable: 51584

(1) A registration that reflects all covered processes at 51585
the stationary source pursuant to 40 C.F.R. 68.160; 51586

(2) The applicable information required to be submitted 51587
with the plan under section 3753.04 of the Revised Code; 51588

(3) A summary of the actions taken to comply with all of 51589
the other applicable requirements established under section 51590
3753.04 of the Revised Code. 51591

(C) An owner or operator who has submitted a risk 51592

management plan as required by division (A) of this section or 51593
submitted an update to a risk management plan under division (C) 51594
of this section shall revise, update, and submit the risk 51595
management plan in accordance with whichever of the following is 51596
applicable: 51597

(1) Not later than five years after the initial submission 51598
of the risk management plan under division (A) of this section; 51599

(2) Not later than five years after the most recent update 51600
of the risk management plan submitted under division (C) of this 51601
section; 51602

(3) As otherwise provided in rules adopted by the director 51603
~~under section 3753.02 of the Revised Code.~~ 51604

(D) No owner or operator who is required to submit, 51605
revise, or update a risk management plan shall fail to do so 51606
within the prescribed time. 51607

(E) An owner or operator who is required to submit a risk 51608
management plan and who knowingly makes a false statement in the 51609
plan, on a record upon which information in the plan is based, 51610
or on or pertaining to any other information or records required 51611
to be maintained under this chapter or rules adopted under it is 51612
guilty of falsification under section 2921.13 of the Revised 51613
Code. 51614

Sec. 3753.04. (A) In addition to complying with section 51615
3753.03 of the Revised Code, the owner or operator of a 51616
stationary source at which one or more covered processes are 51617
present, as part of the owner or operator's risk management 51618
program, shall comply with program 1, program 2, or program 3 51619
requirements established under this section or with a 51620
combination of those requirements. An owner or operator shall 51621

determine which of those requirements apply to the covered 51622
processes that are present at the stationary source as provided 51623
in divisions (B) to (D) of this section. An owner or operator 51624
shall comply with all levels of program requirements that apply 51625
to the covered processes at the owner or operator's stationary 51626
source. 51627

(B) The owner or operator of a stationary source at which 51628
a covered process is present is subject to program 1 51629
requirements established under division (E) of this section if 51630
the covered process meets all of the following conditions: 51631

(1) For the five years prior to the submission of a risk 51632
management plan, the process has not had an accidental release 51633
of a regulated substance where exposure to the substance, its 51634
reaction products, overpressure generated by an explosion 51635
involving the substance, or radiant heat generated by a fire 51636
involving the substance led to any of the following occurrences 51637
off-site: 51638

(a) Death of any person; 51639

(b) Injury to any person; 51640

(c) Response or restoration activities for an 51641
environmental receptor. 51642

(2) The distance to a toxic or flammable endpoint for a 51643
worst case release assessment conducted pursuant to a hazard 51644
assessment as specified in rules adopted under ~~section 3753.02~~ 51645
Chapter 119. of the Revised Code is less than the distance to 51646
any public receptor; 51647

(3) Emergency response procedures have been coordinated 51648
between the stationary source and local emergency planning and 51649
response organizations. 51650

(C) The owner or operator of a stationary source at which 51651
a covered process is present is subject to program 2 51652
requirements established under division (F) of this section if 51653
the covered process does not meet the conditions established 51654
under division (B) or (D) of this section. 51655

(D) The owner or operator of a stationary source at which 51656
a covered process is present is subject to program 3 51657
requirements established under division (G) of this section if 51658
the covered process does not meet the conditions established 51659
under division (B) of this section and either of the following 51660
conditions is met: 51661

(1) The process is in standard industrial classification 51662
code 2611, 2812, 2819, 2821, 2865, 2869, 2873, 2879, or 2911; 51663

(2) The process is subject to the United States 51664
occupational safety and health administration safety management 51665
standard under 29 C.F.R. 1910.119. 51666

(E) The owner or operator of a stationary source at which 51667
one or more covered processes are present that meet the 51668
conditions established under division (B) of this section shall 51669
comply with all of the following program 1 requirements: 51670

(1) Submit with the risk management plan an analysis of 51671
the worst case release scenario for each covered process and 51672
documentation that the nearest public receptor is beyond the 51673
distance to a toxic or flammable endpoint; 51674

(2) Submit with the risk management plan a five-year 51675
accident history for the process; 51676

(3) Ensure that response actions have been coordinated 51677
with local emergency planning and response agencies; 51678

(4) Certify in the risk management plan that "~~Based upon~~ 51679
~~criteria in rules adopted under section 3753.02 of the Revised~~ 51680
~~Code, the~~ The distance to the specified endpoint for the worst 51681
case release scenario for the following process(es) is less than 51682
the distance to the nearest public receptor: (list processes). 51683
Within the past five years, the process(es) has (have) had no 51684
accidental release that caused off-site impacts ~~as described in~~ 51685
~~rules adopted under section 3753.02 of the Revised Code.~~ No 51686
additional measures are necessary to prevent off-site impacts 51687
from accidental releases. In the event of fire, explosion, or a 51688
release of a regulated substance from the process(es), entry 51689
within the distance to the specified endpoints may pose a danger 51690
to public emergency responders. Therefore, public emergency 51691
responders should not enter this area except as arranged with 51692
the emergency contact indicated in the risk management plan. The 51693
undersigned certifies that, to the best of my knowledge, the 51694
information submitted is true, accurate, and complete. 51695
(signature, title, date signed)" 51696

(F) The owner or operator of a stationary source at which 51697
one or more covered processes are present that meet the 51698
conditions established under division (C) of this section shall 51699
comply with all of the following program 2 requirements: 51700

(1) Develop and implement a management system in 51701
accordance with rules adopted under ~~section 3753.02~~ Chapter 119. 51702
of the Revised Code; 51703

(2) Conduct a hazard assessment in accordance with rules 51704
adopted under ~~section 3753.02~~ Chapter 119. of the Revised Code; 51705

(3) Implement program 2 prevention requirements or 51706
implement program 3 prevention requirements in accordance with 51707
rules adopted under ~~section 3753.02~~ Chapter 119. of the Revised 51708

Code;	51709
(4) Submit as part of the risk management plan information on prevention program elements for covered processes that are subject to program 2 requirements;	51710 51711 51712
(5) Develop and implement an emergency response program in accordance with rules adopted under section 3753.02 <u>Chapter 119.</u> of the Revised Code.	51713 51714 51715
(G) The owner or operator of a stationary source at which one or more covered processes are present that meet the conditions established under division (D) of this section shall comply with all of the following program 3 requirements:	51716 51717 51718 51719
(1) Develop and implement a management system in accordance with rules adopted under section 3753.02 <u>Chapter 119.</u> of the Revised Code;	51720 51721 51722
(2) Conduct a hazard assessment in accordance with rules adopted under section 3753.02 <u>Chapter 119.</u> of the Revised Code;	51723 51724
(3) Implement program 3 prevention requirements in accordance with rules adopted under section 3753.02 <u>Chapter 119.</u> of the Revised Code;	51725 51726 51727
(4) Submit as part of the risk management plan information on prevention program elements for covered processes that are subject to program 3 requirements;	51728 51729 51730
(5) Develop and implement an emergency response program in accordance with rules adopted under section 3753.02 <u>Chapter 119.</u> of the Revised Code.	51731 51732 51733
(H) If at any time a covered process at a stationary source no longer meets the conditions established under this section for its program level, the owner or operator shall	51734 51735 51736

comply with the requirements of the new program level that 51737
applies to the covered process and shall update the risk 51738
management plan and information submitted with it not later than 51739
six months after the change in compliance with this chapter and 51740
rules adopted under it. 51741

Sec. 3753.05. (A) Except as provided in division (G) of 51742
this section, an owner or operator who is required to submit a 51743
risk management plan under this chapter shall pay annually to 51744
the environmental protection agency a fee of fifty dollars 51745
together with any of the following applicable fees: 51746

(1) A fee of sixty-five dollars if a covered process in 51747
the stationary source includes propane and propane is the only 51748
regulated substance at the stationary source over the threshold 51749
quantity; 51750

(2) A fee of sixty-five dollars if a covered process in 51751
the stationary source includes anhydrous ammonia that is sold 51752
for use as an agricultural nutrient and is on-site over the 51753
threshold quantity; 51754

(3) A fee of two hundred dollars for each regulated 51755
substance over the threshold quantity. Propane shall be 51756
considered a regulated substance subject to the fee levied under 51757
division (A)(3) of this section only if it is not the only 51758
regulated substance over the threshold quantity. Anhydrous 51759
ammonia shall be considered a regulated substance subject to the 51760
fee levied under division (A)(3) of this section only if it is 51761
not sold for use as an agricultural nutrient. 51762

(B) ~~In accordance with rules adopted under section 3753.02~~ 51763
~~of the Revised Code, the~~The fees assessed under division (A) of 51764
this section shall be collected for the year 1999 no later than 51765

ten days after the notice of delegation of the risk management 51766
program to the state appears in the federal register, or ten 51767
days after ~~the effective date of this amendment~~ June 30, 1999, 51768
whichever occurs later. Thereafter, the fees shall be collected 51769
no later than the first day of September of each year. The fees 51770
assessed under division (A) of this section for a stationary 51771
source shall be based upon the regulated substances present over 51772
the threshold quantity identified in the risk management plan on 51773
file for calendar year 1999 as of the twenty-first day of June 51774
and for each subsequent calendar year as of the first day of 51775
September. 51776

(C) An owner or operator who is required to submit a risk 51777
management plan under this chapter and who fails to submit such 51778
a plan within thirty days after the applicable filing date 51779
prescribed in section 3753.03 of the Revised Code shall submit 51780
with the risk management plan a late filing fee of three per 51781
cent of the total fees due under division (A) of this section. 51782

(D) The director of environmental protection may establish 51783
fees to be paid by persons, other than public officers or 51784
employees, to cover the costs of obtaining copies of documents 51785
or information submitted to the director under this chapter and 51786
rules adopted under it. The director shall not charge more than 51787
the actual cost of making and delivering such copies or of 51788
accessing any computerized data base established or used for the 51789
purposes of assisting in the administration of this chapter. 51790

(E) All moneys received by the agency under divisions (A), 51791
(C), and (D) of this section shall be transmitted to the 51792
treasurer of state to be credited to the risk management plan 51793
reporting fund, which is hereby created in the state treasury. 51794
The fund shall be administered by the director and used 51795

exclusively for the administration and enforcement of this 51796
chapter and rules adopted under it. 51797

(F) Beginning in fiscal year 2001, and every two years 51798
thereafter, the director shall review the total amount of moneys 51799
in the risk management plan reporting fund to determine if that 51800
amount exceeds seven hundred fifty thousand dollars in either of 51801
the two preceding fiscal years. If the total amount of moneys in 51802
the fund exceeded seven hundred fifty thousand dollars in either 51803
fiscal year, the director, after review of the fee structure and 51804
consultation with affected persons, shall issue an order 51805
reducing the amount of the fees levied under division (A) of 51806
this section so that the estimated amount of moneys resulting 51807
from the fees will not exceed seven hundred fifty thousand 51808
dollars in any fiscal year. 51809

If, upon review of the fees under this division and after 51810
the fees have been reduced, the director determines that the 51811
total amount of moneys collected and accumulated is less than 51812
seven hundred fifty thousand dollars, the director, after review 51813
of the fee structure and consultation with affected persons, may 51814
issue an order increasing the amount of the fees levied under 51815
division (A) of this section so that the estimated amount of 51816
moneys resulting from the fees will be approximately seven 51817
hundred fifty thousand dollars. Fees shall never be increased to 51818
an amount exceeding the amount specified in division (A) of this 51819
section. 51820

Notwithstanding section 119.06 of the Revised Code, the 51821
director may issue an order under this division without the 51822
necessity to hold an adjudicatory hearing in connection with the 51823
order. The issuance of an order under this division is not an 51824
act or action for purposes of section 3745.04 of the Revised 51825

Code. 51826

(G) This section does not apply to the owner or operator 51827
of a business that employs one hundred or fewer individuals and 51828
is a small business concern as defined in the "Small Business 51829
Act," 72 Stat. 384 (1958), 15 U.S.C.A. 632, as amended. 51830

Sec. 3769.082. (A) There is hereby created in the state 51831
treasury the Ohio fairs fund. The director of agriculture shall 51832
distribute money in the fund annually, on or before the first 51833
day of March, as follows: 51834

(1) To each county agricultural society and to each 51835
independent agricultural society conducting an annual fair, 51836
twelve per cent of the total money in the Ohio fairs fund, to be 51837
allocated for general operations; 51838

(2) To the Ohio expositions commission, the sum of one 51839
hundred twenty thousand dollars annually, to be divided equally 51840
as purse money among four stake races for two-year-old and 51841
three-year-old colts and for four stake races for two-year-old 51842
and three-year-old fillies at each gait of trotting and pacing; 51843
provided, that five thousand dollars and all entry fees shall be 51844
added to each race by the Ohio expositions commission. 51845

(3) To each county agricultural society and each 51846
independent agricultural society conducting horse races during 51847
its annual fair, the sum of four thousand dollars, to be used as 51848
purse money for horse races in accordance with this section, and 51849
the additional sum of one thousand dollars to each such county 51850
agricultural society and independent agricultural society to be 51851
used for race track maintenance and other expenses necessary for 51852
the conduct of such horse races or colt stakes. 51853

A grant of four thousand dollars shall be available to 51854

each county or independent agricultural society for the conduct 51855
of four stake races for two-year-old and three-year-old colts 51856
and for four stake races for two-year-old and three-year-old 51857
fillies at each gait of trotting and pacing; provided, that at 51858
least five hundred dollars shall be added to each race. 51859
Exclusive of entrance fees and the excess money provided in 51860
division (A) (4) of this section from the grant of four thousand 51861
dollars for purse money provided in this division, a sum not to 51862
exceed three thousand dollars may be used by a society to reach 51863
the required purse for each of the eight stake races. Such stake 51864
races shall be distributed as evenly as possible throughout the 51865
racing season. 51866

(4) In the event that the money available on the first day 51867
of March of any year ~~are~~is less than that required to carry out 51868
divisions (A) (1), (2), and (3) of this section, the money so 51869
available in the Ohio fairs fund shall be prorated equally to 51870
the items set forth in such divisions. In the event that the 51871
money available on the first day of March of any year ~~are~~is in 51872
excess of that required to carry out divisions (A) (1), (2), and 51873
(3) of this section, such excess shall be distributed equally to 51874
those county agricultural societies and independent agricultural 51875
societies conducting stake races, such excess to be added to the 51876
stake races conducted under division (A) (3) of this section. The 51877
balance of such excess shall be distributed to provide four per 51878
cent of such excess to the Ohio expositions commission to be 51879
added to the purses pursuant to division (A) (2) of this section, 51880
and the balance shall be distributed to the county and 51881
independent agricultural societies conducting stake races, such 51882
excess to be added to and divided equally among the stake races 51883
conducted under division (A) (3) of this section. 51884

(B) County agricultural societies and independent 51885

agricultural societies participating under division (A) (3) of 51886
this section shall, on or before the first day of November in 51887
the year immediately preceding the year in which the money ~~are~~ 51888
is to be distributed, make application for participation in such 51889
distribution to the director of agriculture on forms provided by 51890
the director. 51891

(C) Distribution of money pursuant to division (A) (3) of 51892
this section shall not be paid to county agricultural societies 51893
and independent agricultural societies that conduct on their 51894
race courses automobile or motorcycle races during any year for 51895
which such distribution is requested, unless such automobile or 51896
motorcycle races are not conducted during the days and nights 51897
that horse racing is being conducted at such fair. 51898

(D) All the foals in stake races conducted for two-year- 51899
old and three-year-old colts and fillies under this section 51900
shall have been sired by a stallion registered with the state 51901
racing commission. To be eligible for registration, a stallion 51902
shall be one of the following: 51903

(1) Owned by a resident of Ohio and regularly standing the 51904
entire stud season in Ohio; 51905

(2) Owned by a resident of a state other than Ohio but 51906
regularly standing the entire stud season in Ohio and leased by 51907
a resident of Ohio for a term of not less than ten years; 51908

(3) Owned jointly by a resident of a state other than Ohio 51909
and a resident of Ohio, regularly standing the entire stud 51910
season in Ohio, and leased by a resident of Ohio for a term of 51911
not less than ten years. 51912

Each race shall be conditioned to admit only registered 51913
two-year-old and three-year-old colts and fillies sired by a 51914

registered stallion owned or leased and permanently standing for 51915
service at and within this state at the time of the foal's 51916
conception. All other conditions for the scheduling and conduct 51917
of these races shall be approved by the state racing commission. 51918
The races shall be scheduled subject to the right of the 51919
commission to prevent conflicts in the event of contemporaneous 51920
meetings. 51921

Such stake races shall be open for nomination not earlier 51922
than the fifteenth day of February in the year the race is to be 51923
held. All entrance fees in such events shall be added to the 51924
money distributed under this section as purse money. 51925

(E) The state racing commission shall make unannounced 51926
periodic urine, saliva, or blood tests of horses competing in 51927
the events raced under this section. 51928

(F) The director of agriculture shall provide forms for 51929
application for distribution under division (A) (3) of this 51930
section, ~~shall adopt such rules as are necessary for carrying-~~ 51931
~~out this section,~~ and may make such investigations as are 51932
necessary to determine the validity of any claims and 51933
applications for distribution of money under this section. 51934

(G) Any county agricultural society or independent 51935
agricultural society which uses the money distributed under this 51936
section for any purpose other than that provided in this section 51937
is not eligible to receive distribution from the Ohio fairs fund 51938
for a period of two years after such misuse of such money 51939
occurs. 51940

(H) As used in this section, "horse races" and "stake 51941
races" include either harness races or running races. 51942

Sec. 3769.083. (A) As used in this section: 51943

(1) An "accredited Ohio thoroughbred horse" means a horse 51944
conceived in this state and born in this state which is both of 51945
the following: 51946

(a) Born of a mare that is domiciled in this state at the 51947
time of the horse's conception, that remains continuously in the 51948
state through the date on which the horse is born, and that is 51949
registered as required by the rules of the state racing 51950
commission; 51951

(b) By a stallion that stands for breeding purposes only 51952
in this state in the year in which the horse is conceived, and 51953
that is registered as required by the rules of the commission. 51954

(2) An "Ohio foaled horse" means a horse registered as 51955
required by the rules of the state racing commission which is 51956
either of the following: 51957

(a) A horse born of a mare that enters this state before 51958
foaling and remains continuously in this state until the horse 51959
is born; 51960

(b) A thoroughbred foal produced within the state by any 51961
broodmare shipped into the state to foal and be bred to a 51962
registered Ohio stallion. To qualify this foal as an Ohio foaled 51963
horse, the broodmare shall remain in this state one year 51964
continuously after foaling or continuously through foaling to 51965
the cover of the Ohio stallion, whichever is sooner. All horses 51966
previously registered as Ohio conceived and foaled shall be 51967
considered as Ohio foaled horses effective January 1, 1976. 51968

Any thoroughbred mare may leave this state for periods of 51969
time for purposes of activities such as veterinary treatment or 51970
surgery, sales purposes, breeding purposes, racing purposes, and 51971
similar activities if permission is granted by the state racing 51972

commission and the mare is returned to this state immediately 51973
upon the conclusion of the requested activity. 51974

(3) "Horse," "stallion," "mare," or "foal" means a horse 51975
of the thoroughbred breed as distinguished from a horse of the 51976
standard breed or any other breed, and "race" means a race for 51977
thoroughbred horses conducted by a permit holder of the state 51978
racing commission. 51979

(4) "Horse" includes animals of all ages and of both 51980
sexes. 51981

(B) There is hereby created in the state treasury the Ohio 51982
thoroughbred race fund, to consist of moneys paid into it 51983
pursuant to sections 3769.08 and 3769.087 of the Revised Code. 51984
All investment earnings on the cash balances in the fund shall 51985
be credited to it. Moneys to the credit of the fund shall be 51986
distributed on order of the state racing commission. The 51987
commission, with the advice and assistance of the Ohio 51988
thoroughbred racing advisory committee, shall use the fund, 51989
except as provided in divisions (C) (2) and (3) and (D) of this 51990
section, to promote races and provide purses for races for 51991
horses in the following classes: 51992

(1) Accredited Ohio thoroughbred horses; 51993

(2) Ohio foaled horses. 51994

Not less than ten nor more than twenty-five per cent of 51995
the total money to be paid from the fund for all types of races 51996
shall be allocated to races restricted to accredited Ohio 51997
thoroughbred horses. The commission may combine the classes of 51998
horses described in divisions (B) (1) and (2) of this section in 51999
one race, except in stakes races. 52000

(C) (1) Each permit holder conducting thoroughbred races 52001

shall schedule races each week for horses in the classes named 52002
in division (B) of this section; the number of the races shall 52003
be prescribed by the state racing commission. The commission, 52004
pursuant to division (B) of this section, shall prescribe the 52005
class or classes of the races to be held by each permit holder 52006
and, with the advice of the Ohio thoroughbred racing advisory 52007
committee, shall fix the dates and conditions of the races and 52008
the amount of moneys to be paid from the Ohio thoroughbred race 52009
fund to be added in each race to the minimum purse established 52010
by the permit holder for the class of race held. 52011

(2) The commission, with the advice of the Ohio 52012
thoroughbred racing advisory committee, may provide for stakes 52013
races to be run each year, and fix the number of stakes races 52014
and the time, place, and conditions under which each shall be 52015
run. The commission shall fix the amount of moneys to be paid 52016
from the Ohio thoroughbred race fund to be added to the purse 52017
provided for each stakes race by the permit holder, except that, 52018
in at least four stakes races each year, the commission shall 52019
require, if four stakes races can be arranged, that the permit 52020
holder conducting the stakes race provide no less than fifteen 52021
thousand dollars for the purse for the stakes race, and the 52022
commission shall provide moneys from the fund to be added to the 52023
purse in an amount equal to or greater than the amount provided 52024
by the permit holder. The commission may require a nominating, 52025
sustaining, and entry fee not to exceed one per cent of the 52026
money added from the fund for each horse in any stakes race, 52027
which fee shall be added to the purse for the race. 52028

Stakes races where money is added from the Ohio 52029
thoroughbred race fund shall be open only to accredited Ohio 52030
thoroughbred horses and Ohio foaled horses. Twenty-five per cent 52031
of the total moneys to be paid from the fund for stakes races 52032

shall be allocated to races for only accredited Ohio thoroughbred horses. The commission may require a nominating, sustaining, and entry fee, not to exceed one per cent of the money added from the fund, for each horse in any of these stakes races. These fees shall be accumulated by the commission and shall be paid out by the commission at its discretion as part of the purse money for additional races.

(3) The commission may pay from the Ohio thoroughbred race fund to the breeder of a horse of class (1) or (2) of division (B) of this section winning first, second, or third prize money of a purse for a thoroughbred race an amount not to exceed fifteen per cent of the first, second, or third prize money of the purse. For the purposes of this division, the term "breeder" shall be defined by rule of the commission.

The commission also may provide for stallion owners' awards in an amount equal to not less than three nor more than ten per cent of the first, second, or third place share of the purse. The award shall be paid to the owner of the stallion, provided that the stallion was standing in this state as provided in division (A) (1) (b) of this section at the time the horse placing first, second, or third was conceived.

(D) The state racing commission may provide for the expenditure of moneys from the Ohio thoroughbred race fund in an amount not to exceed in any one calendar year ten per cent of the total amount received in the account that year to provide for research projects directed toward improving the breeding, raising, racing, and health and soundness of thoroughbred horses in the state and toward education or promotion of the industry. Research for which the moneys from the fund may be used may include, but shall not be limited to, studies of pre-race blood

testing, post-race testing, improvement of the breed, and 52063
nutrition. 52064

(E) The state racing commission shall appoint qualified 52065
personnel as may be required to supervise registration of horses 52066
under the terms of this section, to determine the eligibility of 52067
horses for accredited Ohio thoroughbred races, Ohio foaled 52068
races, and the stakes races authorized by division (C)(2) of 52069
this section, and to assist the Ohio thoroughbred racing 52070
advisory committee and the commission in determining the 52071
conditions, class, and quality of the race program to be 52072
established under this section so as to carry out the purposes 52073
of this section. The personnel shall serve at the pleasure of 52074
the commission, and compensation shall be fixed by the 52075
commission. The compensation of the personnel and necessary 52076
expenses shall be paid out of the Ohio thoroughbred race fund. 52077

~~The commission shall adopt rules as are necessary to carry~~ 52078
~~out this section and shall~~ administer the stakes race program 52079
and other races supported by the Ohio thoroughbred race fund in 52080
a manner best designed to aid in the development of the 52081
thoroughbred horse industry in the state, to upgrade the quality 52082
of horse racing in the state, and to improve the quality of 52083
horses conceived and foaled in the state. 52084

(F) The state racing commission shall adopt rules 52085
regarding the maintenance and use of money collected for quarter 52086
horse development and purses under division (C) of section 52087
3769.08 and division (A) of section 3769.087 of the Revised 52088
Code. 52089

Sec. 3769.10. The state racing commission and the tax 52090
commissioner shall enforce this chapter and may incur such 52091
expenses as are necessary; provided, that the power of the tax 52092

commissioner shall extend only to enforcement and administration 52093
of the taxes levied by sections 3769.08, 3769.087, 3769.26, and 52094
3769.28 of the Revised Code as provided in those sections and in 52095
sections 3769.088, 3769.101, 3769.102, 3769.103, 5703.05, 52096
5703.17 to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised 52097
Code. ~~The commissioner may adopt, in accordance with section 52098
5703.14 of the Revised Code, such rules as the commissioner 52099
considers necessary to administer sections 3769.08, 3769.087, 52100
3769.088, 3769.101, 3769.102, 3769.103, 3769.26, and 3769.28 of 52101
the Revised Code.~~ 52102

Except as otherwise provided in section 3769.03 of the 52103
Revised Code, all taxes, fees, and moneys due the state under 52104
sections 3769.01 to 3769.071 and 3769.09 to 3769.14 of the 52105
Revised Code shall be paid to, and receipted for by, the 52106
secretary of the state racing commission, and shall be paid by 52107
the secretary weekly into the state treasury to the credit of 52108
the general revenue fund. All taxes due the state under sections 52109
3769.08, 3769.087, and 3769.26 of the Revised Code shall be paid 52110
to, and receipted for by, the tax commissioner, and shall be 52111
paid by the commissioner monthly into the proper funds. 52112

All vouchers of the commission shall be approved by the 52113
commission chairperson or secretary, or both, as authorized by 52114
the commission. 52115

Sec. 3770.02. (A) Subject to the advice and consent of the 52116
senate, the governor shall appoint a director of the state 52117
lottery commission who shall serve at the pleasure of the 52118
governor. The director shall devote full time to the duties of 52119
the office and shall hold no other office or employment. The 52120
director shall meet all requirements for appointment as a member 52121
of the commission and shall, by experience and training, possess 52122

management skills that equip the director to administer an 52123
enterprise of the nature of a state lottery. The director shall 52124
receive an annual salary in accordance with pay range 48 of 52125
section 124.152 of the Revised Code. 52126

(B) (1) The director shall attend all meetings of the 52127
commission and shall act as its secretary. The director shall 52128
keep a record of all commission proceedings and shall keep the 52129
commission's records, files, and documents at the commission's 52130
principal office. All records of the commission's meetings shall 52131
be available for inspection by any member of the public, upon a 52132
showing of good cause and prior notification to the director. 52133

(2) The director shall be the commission's executive 52134
officer and shall be responsible for keeping all commission 52135
records and supervising and administering the state lottery in 52136
accordance with this chapter, and carrying out all commission 52137
rules adopted under section 3770.03 of the Revised Code. 52138

(C) (1) The director shall appoint deputy directors as 52139
necessary and as many regional managers as are required. The 52140
director may also appoint necessary professional, technical, and 52141
clerical assistants. All such officers and employees shall be 52142
appointed and compensated pursuant to Chapter 124. of the 52143
Revised Code. Regional and assistant regional managers, sales 52144
representatives, and any lottery executive account 52145
representatives shall remain in the unclassified service. The 52146
assistant director shall act as director in the absence or 52147
disability of the director. If the director does not appoint an 52148
assistant director, the director shall designate a deputy 52149
director to act as director in the absence or disability of the 52150
director. 52151

(2) The director, in consultation with the director of 52152

administrative services, may establish standards of proficiency 52153
and productivity for commission field representatives. 52154

(D) The director shall request the bureau of criminal 52155
identification and investigation, the department of public 52156
safety, or any other state, local, or federal agency to supply 52157
the director with the criminal records of any job applicant and 52158
may periodically request the criminal records of commission 52159
employees. At or prior to the time of making such a request, the 52160
director shall require a job applicant or commission employee to 52161
obtain fingerprint cards prescribed by the superintendent of the 52162
bureau of criminal identification and investigation at a 52163
qualified law enforcement agency, and the director shall cause 52164
these fingerprint cards to be forwarded to the bureau of 52165
criminal identification and investigation and the federal bureau 52166
of investigation. The commission shall assume the cost of 52167
obtaining the fingerprint cards and shall pay to each agency 52168
supplying criminal records for each investigation under this 52169
division a reasonable fee, as determined by the agency. 52170

(E) The director shall license lottery sales agents 52171
pursuant to section 3770.05 of the Revised Code and, when it is 52172
considered necessary, may revoke or suspend the license of any 52173
lottery sales agent. The director may license video lottery 52174
technology providers, independent testing laboratories, and 52175
gaming employees, ~~and promulgate rules relating thereto.~~ When 52176
the director considers it necessary, the director may suspend or 52177
revoke the license of a video lottery technology provider, 52178
independent testing laboratory, or gaming employee, including 52179
suspension or revocation without affording an opportunity for a 52180
prior hearing under section 119.07 of the Revised Code when the 52181
public safety, convenience, or trust requires immediate action. 52182

(F) The director shall confer at least once each month with the commission, at which time the director shall advise it regarding the operation and administration of the lottery. The director shall make available at the request of the commission all documents, files, and other records pertaining to the operation and administration of the lottery. The director shall prepare and make available to the commission each month a complete and accurate accounting of lottery revenues, prize money disbursements and the cost of goods and services awarded as prizes, operating expenses, and all other relevant financial information, including an accounting of all transfers made from any lottery funds in the custody of the treasurer of state to benefit education.

(G) The director may enter into contracts for the operation or promotion of the lottery pursuant to Chapter 125. of the Revised Code.

(H) (1) Pursuant to rules adopted by the commission under section 3770.03 of the Revised Code, the director shall require any lottery sales agents to deposit to the credit of the state lottery fund, in banking institutions designated by the treasurer of state, net proceeds due the commission as determined by the director.

(2) Pursuant to rules adopted by the commission under Chapter 119. of the Revised Code, the director may impose penalties for the failure of a sales agent to transfer funds to the commission in a timely manner. Penalties may include monetary penalties, immediate suspension or revocation of a license, or any other penalty the commission adopts by rule.

(I) The director may arrange for any person, or any banking institution, to perform functions and services in

connection with the operation of the lottery as the director may 52213
consider necessary to carry out this chapter. 52214

(J) (1) As used in this chapter, "statewide joint lottery 52215
game" means a lottery game that the commission sells solely 52216
within this state under an agreement with other lottery 52217
jurisdictions to sell the same lottery game solely within their 52218
statewide or other jurisdictional boundaries. 52219

(2) If the governor directs the director to do so, the 52220
director shall enter into an agreement with other lottery 52221
jurisdictions to conduct statewide joint lottery games. If the 52222
governor signs the agreement personally or by means of an 52223
authenticating officer pursuant to section 107.15 of the Revised 52224
Code, the director then may conduct statewide joint lottery 52225
games under the agreement. 52226

(3) The entire net proceeds from any statewide joint 52227
lottery games shall be used to fund elementary, secondary, 52228
vocational, and special education programs in this state. 52229

(4) The commission shall conduct any statewide joint 52230
lottery games in accordance with rules it adopts under division 52231
(B) (5) of section 3770.03 of the Revised Code. 52232

(K) (1) The director shall enter into an agreement with the 52233
department of mental health and addiction services under which 52234
the department shall provide a program of gambling addiction 52235
services on behalf of the commission. The commission shall pay 52236
the costs of the program provided pursuant to the agreement. 52237

(2) As used in this section, "gambling addiction services" 52238
has the same meaning as in section 5119.01 of the Revised Code. 52239

Sec. 3770.03. (A) (1) The state lottery commission shall 52240
~~promulgate rules pursuant to Chapter 119. of the Revised Code,~~ 52241

~~and shall~~ adopt operating procedures, under which a statewide lottery and statewide joint lottery may be conducted, which ~~includes~~ include, and since the original enactment of this section has included, the authority for the commission to operate video lottery terminal games and all other lottery games. Any reference in this chapter to tickets shall not be construed to in any way limit the authority of the commission to operate video lottery terminal games or lottery sports gaming.

(2) ~~Except regarding matters about which this chapter explicitly requires the commission to promulgate rules under Chapter 119. of the Revised Code, the~~ The commission instead may adopt operating procedures for the conduct of lottery games. Those operating procedures shall include, but need not be limited to, the following:

(a) The type of lottery to be conducted;

(b) The prices of tickets in the lottery;

(c) The number, nature, and value of prize awards, the manner and frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets.

(3) The commission shall publish all of its operating procedures on its official web site and shall make copies of its operating procedures available to the public upon request.

(4) An operating procedure adopted under this section is not considered a rule under section 111.15 of the Revised Code.

(5) All rules of the commission that are in effect on ~~the effective date of this amendment~~ October 3, 2023, remain effective unless the commission rescinds them.

(B) The commission shall promulgate rules pursuant to

Chapter 119. of the Revised Code concerning all of the 52270
following: 52271

(1) The locations at which lottery tickets may be sold and 52272
the manner in which they are to be sold. These rules may 52273
authorize the sale of lottery tickets by commission personnel or 52274
other licensed individuals from traveling show wagons at the 52275
state fair, and at any other expositions the director of the 52276
commission considers acceptable. These rules shall prohibit 52277
commission personnel or other licensed individuals from 52278
soliciting from an exposition the right to sell lottery tickets 52279
at that exposition, but shall allow commission personnel or 52280
other licensed individuals to sell lottery tickets at an 52281
exposition if the exposition requests commission personnel or 52282
licensed individuals to do so. These rules may also address the 52283
accessibility of sales agent locations to commission products in 52284
accordance with the "Americans with Disabilities Act of 1990," 52285
104 Stat. 327, 42 U.S.C. 12101 et seq. 52286

(2) The manner in which lottery sales revenues are to be 52287
collected, including authorization for the director to impose 52288
penalties for failure by lottery sales agents to transfer 52289
revenues to the commission in a timely manner; 52290

(3) The amount of compensation to be paid to licensed 52291
lottery sales agents; 52292

(4) The substantive criteria for the licensing of lottery 52293
sales agents consistent with section 3770.05 of the Revised 52294
Code, and procedures for revoking or suspending their licenses 52295
consistent with Chapter 119. of the Revised Code. If 52296
circumstances, such as the nonpayment of funds owed by a lottery 52297
sales agent, or other circumstances related to the public 52298
safety, convenience, or trust, require immediate action, the 52299

director may suspend a license without affording an opportunity 52300
for a prior hearing under section 119.07 of the Revised Code. 52301

(5) Special game rules to implement any agreements signed 52302
by the governor that the director enters into with other lottery 52303
jurisdictions under division (J) of section 3770.02 of the 52304
Revised Code to conduct statewide joint lottery games. The rules 52305
shall require that the entire net proceeds of those games that 52306
remain, after associated operating expenses, prize 52307
disbursements, lottery sales agent bonuses, commissions, and 52308
reimbursements, and any other expenses necessary to comply with 52309
the agreements or the rules are deducted from the gross proceeds 52310
of those games, be transferred to the lottery profits education 52311
fund under division (B) of section 3770.06 of the Revised Code. 52312

(6) Rules establishing any of the following with respect 52313
to the operation of video lottery terminal games: 52314

(a) Any fees, fines, or payment schedules; 52315

(b) Any voluntary exclusion program. 52316

(C) Chapter 2915. of the Revised Code does not apply to, 52317
affect, or prohibit lotteries conducted pursuant to this 52318
chapter. 52319

(D) The commission may promulgate rules pursuant to 52320
Chapter 119. of the Revised Code that establish any standards 52321
governing the display of advertising and celebrity images on 52322
lottery tickets and on other items that are used in the conduct 52323
of, or to promote, the statewide lottery and statewide joint 52324
lottery games. Any revenue derived from the sale of advertising 52325
displayed on lottery tickets and on those other items shall be 52326
considered, for purposes of section 3770.06 of the Revised Code, 52327
to be related proceeds in connection with the statewide lottery 52328

or gross proceeds from statewide joint lottery games, as 52329
applicable. 52330

(E) (1) The commission shall meet with the director at 52331
least once each month and shall convene other meetings at the 52332
request of the chairperson or any five of the members. No action 52333
taken by the commission shall be binding unless at least five of 52334
the members present vote in favor of the action. A written 52335
record shall be made of the proceedings of each meeting and 52336
shall be transmitted forthwith to the governor, the president of 52337
the senate, the senate minority leader, the speaker of the house 52338
of representatives, and the house minority leader. 52339

(2) The director shall present to the commission a report 52340
each month, showing the total revenues, prize disbursements, and 52341
operating expenses of the state lottery for the preceding month. 52342
As soon as practicable after the end of each fiscal year, the 52343
commission shall prepare and transmit to the governor and the 52344
general assembly a report of lottery revenues, prize 52345
disbursements, and operating expenses for the preceding fiscal 52346
year and any recommendations for legislation considered 52347
necessary by the commission. 52348

Sec. 3770.24. (A) The state lottery commission shall 52349
operate lottery sports gaming as part of the statewide lottery 52350
in accordance with this section and with Chapter 3775. of the 52351
Revised Code. ~~The state lottery commission may adopt rules under 52352
Chapter 119. of the Revised Code, in consultation with the Ohio 52353
casino control commission, to implement sections 3770.23 to 52354
3770.25 of the Revised Code, so long as those rules are not in 52355
conflict with the rules of the Ohio casino control commission. 52356~~

(B) (1) Each type C sports gaming proprietor shall contract 52357
with the state lottery commission to operate lottery sports 52358

gaming on behalf of the state lottery commission in exchange for 52359
a portion of the state's proceeds from lottery sports gaming. 52360

(2) All provisions of Chapter 3775. of the Revised Code 52361
that apply to type C sports gaming proprietors and type C sports 52362
gaming hosts apply to those persons when they operate or offer 52363
lottery sports gaming. 52364

(3) A type C sports gaming proprietor may adapt any 52365
existing self-service or clerk-operated lottery terminals owned 52366
or operated by the sports gaming proprietor or the state lottery 52367
commission also to serve as lottery sports gaming terminals, 52368
subject to the rules of the Ohio casino control commission and 52369
the state lottery commission. 52370

Sec. 3772.03. (A) To ensure the integrity of casino 52371
gaming, the commission shall have authority to complete the 52372
functions of licensing, regulating, investigating, and 52373
penalizing casino operators, management companies, holding 52374
companies, key employees, casino gaming employees, and gaming- 52375
related vendors. The commission also shall have jurisdiction 52376
over all persons participating in casino gaming authorized by 52377
Section 6(C) of Article XV, Ohio Constitution, and this chapter. 52378

(B) All rules adopted by the commission under this chapter 52379
shall be adopted under procedures established in Chapter 119. of 52380
the Revised Code. The commission may contract for the services 52381
of experts and consultants to assist the commission in carrying 52382
out its duties under this section. 52383

(C) ~~The commission shall adopt rules as are necessary for~~ 52384
~~completing the functions stated in division (A) of this section~~ 52385
~~and for addressing the subjects enumerated in division (D) of~~ 52386
~~this section.~~ 52387

~~(D) The commission shall adopt, and as advisable and necessary shall amend or repeal,~~ rules that include all of the following: 52388
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(1) The prevention of practices detrimental to the public interest; 52391
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(2) Prescribing the method of applying, and the form of application, that an applicant for a license under this chapter must follow as otherwise described in this chapter; 52393
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(3) Prescribing the information to be furnished by an applicant or licensee as described in section 3772.11 of the Revised Code; 52396
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(4) Describing the certification standards and duties of an independent testing laboratory certified under section 3772.31 of the Revised Code and the relationship between the commission, the laboratory, the gaming-related vendor, and the casino operator; 52399
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(5) The minimum amount of insurance that must be maintained by a casino operator, management company, holding company, or gaming-related vendor; 52404
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(6) The approval process for a significant change in ownership or transfer of control of a licensee as provided in section 3772.091 of the Revised Code; 52407
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(7) The design of gaming supplies, devices, and equipment to be distributed by gaming-related vendors; 52410
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(8) Identifying the casino gaming that is permitted, identifying the gaming supplies, devices, and equipment, that are permitted, defining the area in which the permitted casino gaming may be conducted, and specifying the method of operation 52412
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according to which the permitted casino gaming is to be 52416
conducted as provided in section 3772.20 of the Revised Code, 52417
and requiring gaming devices and equipment to meet the standards 52418
of this state; 52419

(9) Tournament play in any casino facility; 52420

(10) Establishing and implementing a voluntary exclusion 52421
program that provides all of the following: 52422

(a) Except as provided by commission rule, a person who 52423
participates in the program shall agree to refrain from entering 52424
a casino facility. 52425

(b) The name of a person participating in the program 52426
shall be included on a list of persons excluded from all casino 52427
facilities. 52428

(c) Except as provided by commission rule, no person who 52429
participates in the program shall petition the commission for 52430
admittance into a casino facility. 52431

(d) The list of persons participating in the program and 52432
the personal information of those persons shall be confidential 52433
and shall only be disseminated by the commission to the state 52434
lottery commission, casino operators, sports gaming proprietors, 52435
and their agents and employees for purposes of enforcement and 52436
to other entities, upon request of the participant and agreement 52437
by the commission. 52438

(e) A casino operator shall make all reasonable attempts 52439
as determined by the commission to cease all direct marketing 52440
efforts to a person participating in the program. 52441

(f) A casino operator shall not cash the check of a person 52442
participating in the program or extend credit to the person in 52443

any manner. However, the program shall not exclude a casino operator from seeking the payment of a debt accrued by a person before participating in the program.

(g) Any and all locations at which a person may register as a participant in the program shall be published.

(11) Requiring the commission to adopt standards regarding the marketing materials of a licensed casino operator, including allowing the commission to prohibit marketing materials that are contrary to the adopted standards;

(12) Requiring that the records, including financial statements, of any casino operator, management company, holding company, and gaming-related vendor be maintained in the manner prescribed by the commission and made available for inspection upon demand by the commission, but shall be subject to section 3772.16 of the Revised Code;

(13) Permitting a licensed casino operator, management company, key employee, or casino gaming employee to question a person suspected of violating this chapter;

(14) The chips, tokens, tickets, electronic cards, or similar objects that may be purchased by means of an agreement under which credit is extended to a wagerer by a casino operator;

(15) Establishing standards for provisional key employee licenses for a person who is required to be licensed as a key employee and is in exigent circumstances and standards for provisional licenses for casino gaming employees who submit complete applications and are compliant under an instant background check. A provisional license shall be valid not longer than three months. A provisional license may be renewed

one time, at the commission's discretion, for an additional 52473
three months. In establishing standards with regard to instant 52474
background checks the commission shall take notice of criminal 52475
records checks as they are conducted under section 311.41 of the 52476
Revised Code using electronic fingerprint reading devices. 52477

(16) Establishing approval procedures for third-party 52478
engineering or accounting firms, as described in section 3772.09 52479
of the Revised Code; 52480

(17) Prescribing the manner in which winnings, 52481
compensation from casino gaming, and gross revenue must be 52482
computed and reported by a licensee as described in Chapter 52483
5753. of the Revised Code; 52484

(18) Prescribing conditions under which a licensee's 52485
license may be suspended or revoked as described in section 52486
3772.04 of the Revised Code; 52487

(19) Prescribing the manner and procedure of all hearings 52488
to be conducted by the commission or by any hearing examiner; 52489

(20) Prescribing technical standards and requirements that 52490
are to be met by security and surveillance equipment that is 52491
used at and standards and requirements to be met by personnel 52492
who are employed at casino facilities, and standards and 52493
requirements for the provision of security at and surveillance 52494
of casino facilities; 52495

(21) Prescribing requirements for a casino operator to 52496
provide unarmed security services at a casino facility by 52497
licensed casino employees, and the training that shall be 52498
completed by these employees; 52499

(22) Prescribing standards according to which casino 52500
operators shall keep accounts and standards according to which 52501

casino accounts shall be audited, and establish means of 52502
assisting the tax commissioner in levying and collecting the 52503
gross casino revenue tax levied under section 5753.02 of the 52504
Revised Code; 52505

(23) Defining penalties for violation of commission rules 52506
and a process for imposing such penalties; 52507

(24) Establishing standards for decertifying contractors 52508
that violate statutes or rules of this state or the federal 52509
government; 52510

(25) Establishing standards for the repair of casino 52511
gaming equipment; 52512

(26) Establishing procedures to ensure that casino 52513
operators, management companies, and holding companies are 52514
compliant with the compulsive and problem gambling plan 52515
submitted under section 3772.18 of the Revised Code; 52516

(27) Prescribing, for institutional investors in or 52517
holding companies of a casino operator, management company, 52518
holding company, or gaming-related vendor that fall below the 52519
threshold needed to be considered an institutional investor or a 52520
holding company, standards regarding what any employees, 52521
members, or owners of those investors or holding companies may 52522
do and shall not do in relation to casino facilities and casino 52523
gaming in this state, which standards shall rationally relate to 52524
the need to proscribe conduct that is inconsistent with passive 52525
institutional investment status; 52526

(28) Providing for any other thing necessary and proper 52527
for successful and efficient regulation of casino gaming under 52528
this chapter. 52529

~~(E)~~(D) The commission shall employ and assign gaming 52530

agents as necessary to assist the commission in carrying out the 52531
duties of this chapter and Chapters 2915. and 3775. of the 52532
Revised Code. In order to maintain employment as a gaming agent, 52533
the gaming agent shall successfully complete all continuing 52534
training programs required by the commission and shall not have 52535
been convicted of or pleaded guilty or no contest to an offense 52536
that makes the gaming agent ineligible for appointment or 52537
retention under section 3772.07 of the Revised Code. 52538

~~(F)~~(E) The commission, as a law enforcement agency, and 52539
its gaming agents, as law enforcement officers as defined in 52540
section 2901.01 of the Revised Code, shall have authority with 52541
regard to the detection and investigation of, the seizure of 52542
evidence allegedly relating to, and the apprehension and arrest 52543
of persons allegedly committing violations of this chapter or 52544
gambling offenses as defined in section 2915.01 of the Revised 52545
Code or violations of any other law of this state that may 52546
affect the integrity of casino gaming, the operation of skill- 52547
based amusement machines, or the operation of sports gaming, and 52548
shall have access to casino facilities, skill-based amusement 52549
machine facilities, and sports gaming facilities to carry out 52550
the requirements of this chapter and Chapter 3775. of the 52551
Revised Code. 52552

~~(G)~~(F) The commission may eject or exclude or authorize 52553
the ejection or exclusion of and a gaming agent may eject a 52554
person from a casino facility for any of the following reasons: 52555

(1) The person's name is on the list of persons 52556
voluntarily excluding themselves from all casinos in a program 52557
established according to rules adopted by the commission; 52558

(2) The person violates or conspires to violate this 52559
chapter or a rule adopted thereunder; or 52560

(3) The commission determines that the person's conduct or reputation is such that the person's presence within a casino facility may call into question the honesty and integrity of the casino gaming operations or interfere with the orderly conduct of the casino gaming operations. 52561
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~~(H)~~(G) A person, other than a person participating in a voluntary exclusion program, may petition the commission for a public hearing on the person's ejection or exclusion under this chapter. 52566
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~~(I)~~(H) A casino operator or management company shall have the same authority to eject or exclude a person from the management company's casino facilities as authorized in division ~~(G)~~(F) of this section. The licensee shall immediately notify the commission of an ejection or exclusion. 52570
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~~(J)~~(I) The commission shall submit a written annual report with the governor, president and minority leader of the senate, and the speaker and minority leader of the house of representatives before the first day of September each year. The annual report shall cover the previous fiscal year and shall include all of the following: 52575
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(1) A statement describing the receipts and disbursements of the commission; 52581
52582

(2) Relevant financial data regarding casino gaming, including gross revenues and disbursements made under this chapter; 52583
52584
52585

(3) Actions taken by the commission; 52586

(4) An update on casino operators', management companies', and holding companies' compulsive and problem gambling plans and the voluntary exclusion program and list; 52587
52588
52589

(5) Information regarding prosecutions for conduct 52590
described in division (H) of section 3772.99 of the Revised 52591
Code, including, but not limited to, the total number of 52592
prosecutions commenced and the name of each person prosecuted; 52593

(6) Any additional information that the commission 52594
considers useful or that the governor, president or minority 52595
leader of the senate, or speaker or minority leader of the house 52596
of representatives requests. 52597

~~(K)~~ (J) To ensure the integrity of skill-based amusement 52598
machine operations, the commission shall have jurisdiction over 52599
all persons conducting or participating in the conduct of skill- 52600
based amusement machine operations authorized by this chapter 52601
and Chapter 2915. of the Revised Code, including the authority 52602
to complete the functions of licensing, regulating, 52603
investigating, and penalizing those persons in a manner that is 52604
consistent with the commission's authority to do the same with 52605
respect to casino gaming. To carry out this division, the 52606
commission may adopt rules under Chapter 119. of the Revised 52607
Code, ~~including rules~~ establishing fees and penalties related to 52608
the operation of skill-based amusement machines. 52609

~~(L)~~ (K) To ensure the integrity of fantasy contests, the 52610
commission shall have jurisdiction over all persons conducting 52611
or participating in the conduct of a fantasy contest authorized 52612
by Chapter 3774. of the Revised Code, including the authority to 52613
license, regulate, investigate, and penalize those persons in a 52614
manner that is consistent with the commission's authority to do 52615
the same with respect to skill-based amusement machines. To 52616
carry out this division, the commission may adopt rules under 52617
Chapter 119. of the Revised Code, ~~including rules~~ establishing 52618
fees and penalties related to the operation of fantasy contests. 52619

~~(M)~~(L) All fees imposed pursuant to the rules adopted 52620
under divisions ~~(K)~~(J) and ~~(L)~~(K) of this section shall be 52621
deposited into the casino control commission fund. 52622

Sec. 3772.37. (A) Pursuant to section 131.02 of the 52623
Revised Code, the attorney general shall develop and implement a 52624
real time data match program and make it available to each 52625
casino operator and management company to identify patrons who 52626
owe amounts to the state or a political subdivision. 52627

(B) (1) Before disbursing any casino winnings to a patron 52628
that meet or exceed the reportable winnings amount set by 26 52629
U.S.C. 6041, a casino operator or management company shall 52630
consult the data match program to determine whether the patron 52631
owes any amounts to the state or a political subdivision. If the 52632
data match program indicates that the patron owes any amounts to 52633
the state or a political subdivision, the casino operator or 52634
management company shall withhold from the patron's winnings an 52635
amount sufficient to satisfy those amounts, up to the amount of 52636
the winnings. 52637

(2) If the data match program described in section 3123.90 52638
of the Revised Code indicates that the patron also is in default 52639
under a support order, the casino operator or management company 52640
shall transmit to the department of job and family services an 52641
amount sufficient to satisfy any past due support owed by the 52642
patron, up to the amount of the winnings, before transmitting 52643
any remaining amount to the attorney general under division (C) 52644
of this section. 52645

(C) (1) Not later than seven days after withholding an 52646
amount under division (B) of this section, the casino operator 52647
or management company shall transmit to the attorney general any 52648
amount withheld and not already disbursed to the department of 52649

job and family services under section 3123.90 of the Revised Code as payment on the amount owed. 52650
52651

(2) If the patron owes more than one amount to the state or a political subdivision as identified by the data match program described in this section, the amount owed to the state shall be satisfied first, except that any amounts owed under section 5739.33 and division (G) of section 5747.07 of the Revised Code shall have first priority. 52652
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(D) Except as otherwise provided in section 131.021 of the Revised Code, this section applies only to amounts owed that have become final. 52658
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~~(E) The attorney general, in consultation with the commission, may adopt rules under Chapter 119. of the Revised Code as necessary to implement this section.~~ 52661
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52663

Sec. 3774.01. As used in this chapter: 52664

(A) "Commission" means the Ohio casino control commission. 52665

(B) "Entry fee" means cash or cash equivalent that a fantasy contest operator requires to be paid by a fantasy contest player to participate in a fantasy contest. 52666
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(C) "Fantasy contest" means a simulated game or contest with an entry fee that satisfies all of the following conditions: 52669
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(1) The value of all prizes and awards offered to winning fantasy contest players is established and made known to the players in advance of the contest. 52672
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(2) All winning outcomes reflect the relative knowledge and skill of the fantasy contest players and are determined predominantly by accumulated statistical results of the 52675
52676
52677

performance of managing rosters of athletes whose performance 52678
directly corresponds with the actual performance of athletes in 52679
professional sports competitions. 52680

(3) Winning outcomes are not based on randomized or 52681
historical events, or on the score, point spread, or any 52682
performance of any single actual team or combination of teams or 52683
solely on any single performance of an individual athlete or 52684
player in any single actual event. 52685

(4) The game or contest does not involve horses or horse 52686
racing. 52687

(D) "Fantasy contest operator" means a person that offers 52688
fantasy contests with an entry fee for a prize or award to the 52689
general public. Fantasy contest operator does not include a 52690
person that offers a pool not conducted for profit as defined 52691
under division (XX) of section 2915.01 of the Revised Code. 52692

(E) "Fantasy contest platform" means any digital or online 52693
method through which a fantasy contest operator provides access 52694
to a fantasy contest. 52695

(F) "Fantasy contest player" means a person who 52696
participates in a fantasy contest offered by a fantasy contest 52697
operator. 52698

(G) "Holding company" means any corporation, firm, 52699
partnership, limited partnership, limited liability company, 52700
trust, or other form of business organization not a natural 52701
person that directly or indirectly does any of the following: 52702

(1) Has the power or right to control a fantasy contest 52703
operator; 52704

(2) Holds an ownership interest of ten per cent or more, 52705

as determined by the commission, in a fantasy contest operator; 52706

(3) Holds voting rights with the power to vote ten per 52707
cent or more of the outstanding voting rights of a fantasy 52708
contest operator. 52709

(H) "Key employee" means a person, employed by a fantasy 52710
contest operator, who is responsible for ensuring, and has the 52711
authority necessary to ensure, that all requirements under this 52712
chapter and the rules adopted under this chapter and division 52713
~~(L)~~(K) of section 3772.03 of the Revised Code are met. 52714

(I) "Management company" means an organization retained by 52715
a fantasy contest operator to manage a fantasy contest platform 52716
and provide services such as accounting, general administration, 52717
maintenance, recruitment, and other operational services. 52718

(J) "Material nonpublic information" means information 52719
related to the play of a fantasy contest by a fantasy contest 52720
player that is not readily available to the general public and 52721
is obtained as a result of a person's employment. 52722

(K) "Script" means a list of commands that a fantasy- 52723
contest-related computer program can execute and that is created 52724
by a fantasy contest player, or by a third party for a fantasy 52725
contest player, to automate processes on a fantasy contest 52726
platform. 52727

Sec. 3774.02. (A) A fantasy contest operator may not offer 52728
a fantasy contest in this state without first obtaining a 52729
license from the commission. 52730

(B) (1) In order to obtain or renew a license to operate 52731
fantasy contests in this state, a fantasy contest operator shall 52732
pay to the commission a nonrefundable license fee. 52733

(2) Unless a license issued under this chapter is suspended, expires, or is revoked, a license may be renewed. After a determination by the commission that the licensee is in compliance with this chapter and rules adopted by the commission under this chapter or division ~~(I)~~(K) of section 3772.03 of the Revised Code, the license shall be renewed for not more than three years, as determined by commission rule adopted under this chapter or division ~~(I)~~(K) of section 3772.03 of the Revised Code.

(C) Notwithstanding division (B) of this section, the commission may investigate a licensee at any time the commission determines it is necessary to ensure that the licensee remains in compliance with this chapter and the rules adopted under this chapter or division ~~(I)~~(K) of section 3772.03 of the Revised Code. Any fantasy contest operator that applies for or holds a license under this chapter shall establish the operator's suitability for a license by clear and convincing evidence.

Sec. 3774.03. The commission shall adopt rules under Chapter 119. of the Revised Code as are necessary to complete the functions and address the subjects enumerated in division (A) of this section.

(A) The commission may adopt, ~~and as advisable and necessary may amend,~~ or repeal, ~~rules that include to do~~ all of the following:

(1) ~~Prohibiting~~Prohibit fantasy contest operator's employees, relatives living in the same household as those employees, and athletes and referees in the underlying professional sports competitions from competing in any public fantasy contest offered by a fantasy contest operator or from sharing any material nonpublic information with third parties;

- (2) ~~Ensuring~~Ensure fantasy contest operators prohibit 52764
access to both of the following: 52765
- (a) Individuals under eighteen years of age; 52766
- (b) Individuals who, upon request, seek to restrict 52767
themselves from entering fantasy contests. 52768
- (3) ~~Ensuring~~Ensure fantasy contest operators segregate 52769
fantasy contest player funds from operational funds or maintain 52770
a reserve that exceeds the amount of player funds on deposit, 52771
which reserve may not be used for operational activities. These 52772
reserve funds may take the form of cash, cash equivalents, 52773
payment processor reserves, payment processor receivables, an 52774
irrevocable letter of credit, a bond, any other method approved 52775
by the commission, or a combination thereof, in an amount that 52776
must exceed the total balances of the fantasy contest player's 52777
accounts. All reserve funds, except payment processor reserves, 52778
shall be maintained by or otherwise under the control of a 52779
licensed fantasy contest operator, unless otherwise authorized 52780
by the commission. 52781
- (4) ~~Prescribing~~Prescribe requirements related to 52782
beginning players and highly experienced players; 52783
- (5) ~~Prescribing~~Prescribe requirements for internal 52784
procedures, ~~including at a minimum, procedures~~ for all of the 52785
following: 52786
- (a) Complying with all applicable state and federal 52787
requirements to protect the privacy and online security of 52788
fantasy contest players and their accounts; 52789
- (b) Suspending the accounts of players who violate this 52790
chapter and the rules adopted by the commission under this 52791
chapter or division ~~(L)~~(K) of section 3772.03 of the Revised 52792

Code; 52793

(c) Providing fantasy contest players with access to 52794
information on playing responsibly and seeking assistance for 52795
compulsive behavior; 52796

(d) Establishing the maximum number of entries that a 52797
fantasy contest player may submit to each fantasy contest; 52798

(e) Any other procedure that the commission determines 52799
necessary in the rules adopted under ~~this chapter or division~~ 52800
~~(I)~~ (K) of section 3772.03 of the Revised Code. 52801

(6) ~~Requiring~~ Require a license application to require an 52802
applicant for a fantasy contest operator license to designate at 52803
least one key employee as a condition to obtain a license; 52804

(7) ~~Establishing~~ Establish the length of time, which shall 52805
be not more than three years, that a fantasy contest operator 52806
license and renewal license shall be valid; 52807

(8) ~~Establishing~~ Establish the fee for obtaining or 52808
renewing a license, which shall not exceed ten thousand dollars 52809
for each year of a license and a total of thirty thousand 52810
dollars for a three-year license, and which may be paid in equal 52811
installments on an annual basis over the term of the license; ~~—~~ 52812
~~and~~ 52813

~~(9) Any other procedure or thing that the commission~~ 52814
~~determines necessary to ensure the integrity of fantasy~~ 52815
~~contests.~~ 52816

(B) The commission may not adopt rules to do either of the 52817
following: 52818

(1) Limit or regulate the statistical makeup of a game or 52819
contest, or the digital platform of a fantasy contest operator; 52820

or 52821

(2) Require licensure of any persons other than fantasy 52822
contest operators, holding companies, or management companies. 52823

~~(C) Nothing in this section prohibits the commission from-~~ 52824
~~adopting rules establishing consumer protections.~~ 52825

Sec. 3774.04. (A) Each fantasy contest operator shall 52826
retain and maintain in a place secure from theft, loss, or 52827
destruction all of the records required to be maintained by this 52828
chapter for at least five years from the date of the record's 52829
creation. 52830

(B) Each fantasy contest operator shall retain and 52831
maintain accurate, complete, legible, and permanent records, 52832
whether in electronic or other format, of any books, records, or 52833
documents relating to the fantasy contest operator's business 52834
and accounting operations, which includes all of the following: 52835

(1) The fantasy contest operator's business and 52836
organizational structure; 52837

(2) Correspondence with or by, or reports to or from, the 52838
commission, or any local, state, or federal governmental agency, 52839
foreign or domestic; 52840

(3) The fantasy contest operator's financial statements, 52841
accounting records, ledgers, and internal and external audit 52842
records; 52843

(4) All records related to the conduct of fantasy contests 52844
by the fantasy contest operator in this state; 52845

(5) Any materials used to advertise, publicize, or 52846
otherwise promote the fantasy contest operator's fantasy 52847
contests in this state; 52848

(6) Any other books, records, or documents the commission 52849
requires the fantasy contest operator to retain and maintain, in 52850
rules adopted by the commission under this chapter or division 52851
~~(L)~~(K) of section 3772.03 of the Revised Code. 52852

(C) Each fantasy contest operator shall organize all 52853
required records in a manner that enables the commission to 52854
locate, inspect, review, and analyze the records with reasonable 52855
ease and efficiency and, upon request, provide the commission or 52856
its executive director, or duly authorized designee thereof, 52857
with the records required to be retained and maintained by this 52858
section. 52859

Sec. 3774.09. Fantasy contests offered in accordance with 52860
this chapter and the rules adopted by the commission under this 52861
chapter or division ~~(L)~~(K) of section 3772.03 of the Revised 52862
Code are exempt from Chapter 2915. of the Revised Code. 52863

Sec. 3775.16. (A) Pursuant to section 131.02 of the 52864
Revised Code, the attorney general shall develop and implement a 52865
real time data match program and make it available to each 52866
sports gaming proprietor to identify patrons who owe amounts to 52867
the state or a political subdivision. 52868

(B)(1) Subject to division (E) of this section, before 52869
disbursing any sports gaming winnings to a patron in an amount 52870
for which reporting to the internal revenue service of the 52871
amount is required by section 6041 of the Internal Revenue Code, 52872
as amended, a sports gaming proprietor shall consult the data 52873
match program to determine whether the patron owes any amounts 52874
to the state or a political subdivision. If the data match 52875
program indicates that the patron owes any amounts to the state 52876
or a political subdivision, the sports gaming proprietor shall 52877
withhold from the patron's winnings an amount sufficient to 52878

satisfy those amounts, up to the amount of the winnings. 52879

(2) If the data match program described in section 3123.90 52880
of the Revised Code indicates that the patron also is in default 52881
under a support order, the sports gaming proprietor shall 52882
transmit to the department of job and family services an amount 52883
sufficient to satisfy any past due support owed by the patron, 52884
up to the amount of the winnings, before transmitting any 52885
remaining amount to the attorney general under division (C) of 52886
this section. 52887

(C) (1) Not later than fourteen days after withholding an 52888
amount under division (B) of this section, the sports gaming 52889
proprietor shall transmit to the attorney general any amount 52890
withheld and not already disbursed to the department of job and 52891
family services under section 3123.90 of the Revised Code as 52892
payment on the amount owed. 52893

(2) If the patron owes more than one amount to the state 52894
or a political subdivision as identified by the data match 52895
program described in this section, the amount owed to the state 52896
shall be satisfied first, except that any amounts owed under 52897
section 5739.33 and division (G) of section 5747.07 of the 52898
Revised Code shall have first priority. 52899

(D) Except as otherwise provided in section 131.021 of the 52900
Revised Code, this section applies only to amounts owed that 52901
have become final. 52902

(E) A sports gaming proprietor that offers lottery sports 52903
gaming through a terminal described in division (B) (3) of 52904
section 3770.24 of the Revised Code shall not withhold amounts 52905
under this section from winnings from wagers placed through that 52906
terminal. The state lottery commission shall withhold amounts 52907

from those winnings under section 3770.073 of the Revised Code. 52908

~~(F) The attorney general, in consultation with the 52909
commission, may adopt rules under Chapter 119. of the Revised 52910
Code as necessary to implement this section. 52911~~

Sec. 3776.03. (A) The director of health shall adopt and 52912
may amend or rescind rules in accordance with Chapter 119. of 52913
the Revised Code governing all of the following: 52914

(1) The manner in which the passage of an examination 52915
required by section 3776.06 of the Revised Code is verified; 52916

(2) The form for application; 52917

(3) The establishment of criteria for determining what 52918
courses may be included toward fulfillment of the science course 52919
requirements of section 3776.05 of the Revised Code; 52920

(4) The determination of the continuing education program 52921
requirements of section 3776.07 of the Revised Code; 52922

(5) The administration and enforcement of this chapter. 52923

(B) The director may adopt, in accordance with Chapter 52924
119. of the Revised Code, rules of a general application 52925
throughout the state for the practice of environmental health 52926
~~that are necessary to administer and enforce this chapter, 52927
including rules governing all of the following: 52928~~

(1) The registration, advancement, and reinstatement of 52929
applicants to practice as an environmental health specialist or 52930
environmental health specialist in training; 52931

(2) Educational requirements necessary for qualification 52932
for registration as an environmental health specialist or an 52933
environmental health specialist in training under division of 52934

(B) of section 3776.05 of the Revised Code, including criteria 52935
for determining what courses may be included toward fulfillment 52936
of the science course requirements of that section; 52937

(3) Continuing education requirements for environmental 52938
health specialists and environmental health specialists in 52939
training, including the process for applying for continuing 52940
education credits; 52941

(4) The terms of office for members of the environmental 52942
health specialist advisory board created in section 3776.02 of 52943
the Revised Code; 52944

~~(5) Any other rule necessary for the administration and 52945
enforcement of this chapter. 52946~~

**Sec. 3780.03. Establishment and authority of division of 52947
cannabis control; adoption of rules. 52948**

(A) There is hereby established a division of cannabis control 52949
within the department of commerce. 52950

(B) To ensure the proper oversight and control of the adult use 52951
cannabis industry, the division of cannabis control shall have 52952
the authority to license, regulate, investigate, and penalize 52953
adult use cannabis operators, adult use testing laboratories, 52954
and individuals required to be licensed under this chapter. 52955

(C) The division of cannabis control shall adopt, ~~and as~~ 52956
~~advisable and necessary shall amend or repeal,~~ rules on the 52957
following: 52958

(1) Prevention of practices detrimental to the public interest 52959
consistent with this chapter, and also ways to educate the 52960
public about this chapter; 52961

(2) Establishing application, licensure, and renewal standards 52962

and procedures for license applicants or license holders related 52963
to adult use cannabis operators, adult use testing laboratories, 52964
and individuals required to be licensed, including any 52965
additional background check requirements, the disqualifying 52966
offenses under section 3780.01 of the Revised Code that prohibit 52967
licensure, and any exemption criteria from licensing 52968
requirements for institutional or private investors who do not 52969
have significant control or influence over a license applicant 52970
or license holder, and whose ownership in a license is for 52971
investment purposes only; 52972

(3) Establishing reasonable application, licensure, and renewal 52973
fees amounts to ensure license applicants and license holders 52974
under this chapter pay for the actual costs for administration 52975
and licensure for the division of cannabis control; 52976

(4) Establishing standards for provisional licenses for an 52977
individual who is required to be licensed and who has exigent 52978
circumstances. Such standards for provisional licenses must 52979
include submission of a complete application and compliance with 52980
a required background check. A provisional license shall be 52981
valid not longer than three months. A provisional license may be 52982
renewed, at the division of cannabis control's discretion, for 52983
an additional three months. In establishing standards with 52984
regard to instant background checks the division of cannabis 52985
control may use all available resources. 52986

(5) Specifying the process and reasons for which a license 52987
holder may be fined, suspended either with or without a prior 52988
hearing, revoked, or not renewed or issued; 52989

(6) The process and requirements for division of cannabis 52990
control approval of any requested change in ownership or 52991
transfer of control of an adult use cannabis operator or adult 52992

use testing laboratory;	52993
(7) Establishing processes and standards for expanding the size of the cultivation area for a cultivation facility;	52994
	52995
(8) Establishing standards and procedures for the testing of adult use cannabis by an adult use testing laboratory licensed under this chapter. When establishing standards and procedures for the testing of cannabis, the division of cannabis control shall do all of the following:	52996
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(a) Specify when testing must be conducted;	53001
(b) Determine the minimum amount of adult use cannabis that must be tested;	53002
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(c) Specify the manner in which testing is to be conducted in an effort to ensure uniformity of cannabis products processed and dispensed; and	53004
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	53006
(d) Specify the manner in which test results are provided.	53007
(9) The minimum amount of insurance or surety bond that must be maintained by an adult use cannabis operator and adult use testing laboratory;	53008
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(10) Requiring the division of cannabis control to adopt reasonable standards for any adult use cannabis samples, and advertising as prescribed in section 3780.21 of the Revised Code;	53011
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(11) Requiring that the records, including financial statements, of an adult use cannabis operator or adult use testing laboratory be maintained in the manner up to two years as prescribed by the division of cannabis control and which shall be made available for inspection upon demand by the division of cannabis control, but shall be subject to section 3780.31 of the	53015
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Revised Code;	53021
(12) Prescribing technical standards and requirements consistent with industry standards that must be met for security and surveillance equipment necessary for the provision of security and surveillance of adult use cannabis operators and adult use testing laboratories;	53022 53023 53024 53025 53026
(13) Prescribing requirements for a license holder's provision of security services for an adult use cannabis operator and adult use testing laboratories which shall include the license holder's option to use armed or unarmed services including through agents of the license holder;	53027 53028 53029 53030 53031
(14) Prescribing standards according to which license holders shall keep accounts and standards according to which adult use cannabis operators and adult use testing laboratories accounts shall be audited, and establish guidance for assisting the department of taxation in levying and collecting the adult use tax levied under section 3780.22 of the Revised Code;	53032 53033 53034 53035 53036 53037
(15) Determining penalties for violation of division of cannabis control rules or this chapter, and a process for imposing such penalties;	53038 53039 53040
(16) Training requirements for employees and agents of adult use cannabis operators and adult use laboratories;	53041 53042
(17) Prescribing standards and procedures to allow for adult use cannabis delivery to adult use consumers, and online and mobile ordering procedures, which may only be conducted by an adult use dispensary or their agent;	53043 53044 53045 53046
(18) Prescribing cannabis inventory requirements to be maintained in an electronic database consistent with section 3780.05 of the Revised Code;	53047 53048 53049

(19) Prescribing standards and procedures for product packaging and labeling of adult use cannabis products; 53050
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(20) Establishing a tetrahydrocannabinol content limit for adult use cannabis, which for plant material the content limit shall be not less than thirty-five per cent and for extracts the content limit shall be not less than ninety per cent, but that such content limits may be increased or eliminated by the division of cannabis control; and 53052
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(21) Prescribing duty to update requirements for license holders. 53058
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(D) All rules adopted under this section and chapter shall be adopted in accordance with Chapter 119. of the Revised Code. 53060
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~~(E) In addition to the rules described in division (C) of this section, the division of cannabis control may adopt any other rules it considers necessary for the administration, implementation, and enforcement of this chapter consistent with this chapter.~~ 53062
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~~(F)~~ When adopting rules under this section, the division of cannabis control shall consider standards and procedures that have been found to be best practices relative to the use and regulation of adult use cannabis and shall harmonize any rules with the rules adopted pursuant to sections 3796.03 and 3796.04 of the Revised Code to minimize duplication of operational requirements and fees as much as possible. If there is a conflict with Chapter 3796. of the Revised Code and related rules, and Chapter 3780. of the Revised Code and related rules, then Chapter 3780. of the Revised Code and related rules shall govern. 53067
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Sec. 3780.04. Allowable forms of adult use cannabis. 53078

(A) Only adult use cannabis may be sold under this chapter in 53079
the following forms: plant material and seeds, live plants, 53080
clones, extracts, drops, lozenges, oils, tinctures, edibles, 53081
patches, smoking or combustible product, vaporization of 53082
product, beverages, pills, capsules, suppositories, oral 53083
pouches, oral strips, oral and topical sprays, salves, lotions 53084
or similar cosmetic products, and inhalers. 53085

(B) Any person may submit a petition to the division of cannabis 53086
control requesting that an additional form or method of adult 53087
use cannabis be approved. A petition shall be submitted to the 53088
division of cannabis control in a manner prescribed by the 53089
division of cannabis control. 53090

(C) On receipt of a petition, the division of cannabis control 53091
shall determine whether or not to approve the form or method of 53092
adult use cannabis described in the petition within sixty days 53093
of petition receipt. 53094

~~(D) The division of cannabis control may adopt rules as 53095
necessary to implement this section. 53096~~

Sec. 3780.07. Facilities. 53097

(A) Except as provided in divisions (B), (C), and (D) of this 53098
section, no adult use cannabis operator or adult use testing 53099
laboratory shall be located within five hundred feet of the end 53100
boundaries of a parcel of real estate having situated on it a 53101
prohibited facility. 53102

If a relocation of an adult use cannabis operator or adult use 53103
testing laboratory licensed under this chapter results in the 53104
adult use cannabis operator or adult use testing laboratory 53105
being located within five hundred feet of the boundaries of a 53106
prohibited facility, the division of cannabis control shall deny 53107

the relocation and the adult use cannabis operator or adult use testing laboratory may apply with the division of cannabis control to request a relocation to a different location. 53108
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(B) Division (A) does not apply to: 53111

(1) Current facilities and properties of adult use cannabis operators if the license holder or applicant, or the owners of the license holder or applicant, also have a certificate of operation and is doing business at that same location; or 53112
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(2) Research related to adult use cannabis conducted at a state university, academic medical center, or private or public research and development organization as part of a research protocol approved by an institutional review board or equivalent entity, or any other entity as approved by the division of cannabis control. 53116
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(C) Upon a level I cultivator or level II cultivator with a certificate of operation, or the same owners of the level I or level II cultivator, receiving a license from the division of cannabis control as a level I adult use cultivator or level II adult use cultivator, the license holder may expand its cultivation area and facility as authorized in this chapter notwithstanding any limitation resulting from Chapter 3796. of the Revised Code or Chapter 3796. of the Administrative Code. 53122
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(D) Upon the division of cannabis control's receipt of a request from an adult use cultivator or level III adult use cultivator for expansion beyond what is authorized in this chapter, the division of cannabis control shall have ninety days to review and approve or deny a request for expansion consistent with division of cannabis control rule. 53130
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(E) After the review and approval from the division of cannabis 53136

control, an adult use cultivator may relocate all or a portion 53137
of the authorized cultivation area to more than one cultivation 53138
facility as long as any relocation complies with this chapter, 53139
the relocated facility is operated under the same license, and 53140
so long as the aggregate square footage for all related 53141
cultivation area and facilities does not exceed the square 53142
footage limitations under the license as authorized under this 53143
chapter. A level I adult use cultivator or level II adult use 53144
cultivator who also has, or whose same owner also has, a 53145
certification of operation, may only relocate cultivation area 53146
that is above the original approved cultivation area under 53147
Chapter 3796. of the Revised Code and Chapter 3796. of the 53148
Administrative Code. 53149

(F) A level III adult use cultivator's cultivation area shall 53150
not exceed five thousand square feet unless authorized by the 53151
division of cannabis control under this chapter. 53152

~~(G) The division of cannabis control may adopt rules as~~ 53153
~~necessary to implement this section.~~ 53154

Sec. 3780.10. Adult use cannabis operator and adult use 53155
testing laboratory licenses. 53156

(A) No person shall operate as an adult use cannabis operator or 53157
adult use testing laboratory without a license issued pursuant 53158
to this chapter. 53159

(B) The following licenses shall be issued by the division of 53160
cannabis control within nine months of December 7, 2023, if the 53161
license applicant is in compliance with section 3780.11 of the 53162
Revised Code and this chapter, and the license applicant has, or 53163
the same owners of the license applicant have, a certificate of 53164
operation or medical provisional license issued as of December 53165

7, 2023: 53166

(1) A dispensary issued a certificate of operation or medical 53167
provisional license shall be issued an adult use dispensary 53168
license under this chapter for the current location of the 53169
dispensary; 53170

(2) A level I cultivator issued a certificate of operation or 53171
medical provisional license shall be issued under this chapter 53172
three adult use dispensary licenses at locations designated in a 53173
license application, and one level I adult use cultivator 53174
license for the current location of the level I cultivation 53175
facility; 53176

(3) A level II cultivator issued a certificate of operation or 53177
medical provisional license shall be issued under this chapter 53178
one adult use dispensary license at a location designated in the 53179
license application, and one level II adult use cultivator 53180
license for the current location of the level II cultivation 53181
facility; 53182

(4) A dispensary issued a certificate of operation or medical 53183
provisional license shall be issued under this chapter one adult 53184
use dispensary license at a different location as designated in 53185
the license application if the dispensary does not have any 53186
common ownership or control with any level I adult use 53187
cultivator, level II adult use cultivator, or adult use 53188
processor license applicant or licensee; 53189

(5) A processor issued a certificate of operation or medical 53190
provisional license shall be issued under this chapter one adult 53191
use processor license for the current location of the processor; 53192
and 53193

(6) A testing laboratory issued a certificate of operation shall 53194

be issued under this chapter one adult use testing laboratory 53195
license for the current location of the testing laboratory. 53196

Notwithstanding anything in this section, a license shall not be 53197
issued pursuant to division (B) of this section to a license 53198
applicant holding only a related medical provisional license 53199
unless the medical provisional license holder is issued a 53200
certificate of operation within two years of December 7, 2023. 53201

(C) The division of cannabis control shall issue up to forty 53202
level III adult use cultivator licenses consistent with this 53203
chapter. No person may have any ownership or control in more 53204
than one level III adult use cultivator license under this 53205
chapter. No adult use cultivator or adult use processor may have 53206
any ownership or control in a level III adult use cultivator 53207
license. 53208

(D) The division of cannabis control shall issue up to fifty 53209
additional adult use dispensary licenses in conformity with this 53210
chapter. 53211

(E) Following twenty-four months from the first date of issuance 53212
of an adult use operator license, the division of cannabis 53213
control shall review the number of adult use cannabis operator 53214
licenses on a biannual basis and may authorize additional 53215
licenses after considering: 53216

(1) The current and anticipated market growth and consumer 53217
demand, including the number of adult use consumers seeking 53218
adult use cannabis; 53219

(2) The current and projected supply of adult use cannabis 53220
produced by licensed adult use cultivators, level III adult use 53221
cultivators, and adult use processors; and 53222

(3) The geographic distribution of adult use dispensary sites in 53223

an effort to ensure adult use customer access to adult use
cannabis. 53224
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(F) (1) The division of cannabis control shall provide a report 53226
and recommendation within ninety days of the conclusion of the 53227
requirements in division (E) of this section to the director for 53228
consideration. 53229

~~(2) The division of cannabis control may adopt rules as~~ 53230
~~necessary to implement this division.~~ 53231

~~(3)~~The division of cannabis control shall adopt a rule 53232
regarding the number of licenses a license holder may hold for 53233
each type of license consistent with this chapter. As of 53234
December 7, 2023, and notwithstanding any other provision of 53235
this chapter, no person shall be issued more than eight adult 53236
use dispensary licenses, not more than one adult use cultivator 53237
license, and not more than one adult use processor license at 53238
any time, unless authorized by the division of cannabis control 53239
after an analysis supporting the licensing pursuant to rule. 53240

(G) The division of cannabis control may authorize additional 53241
adult use testing laboratory licenses at any time. 53242

Sec. 3780.20. Operations. 53243

(A) Adult use cannabis operators and adult use testing 53244
laboratories shall adopt operating procedures and comply with 53245
operation requirements required by rules under section 3780.03 53246
of the Revised Code, which include, but are not limited to, the 53247
following as applicable: 53248

(1) Quality assurance; 53249

(2) Package and labeling; 53250

(3) Waste disposal; 53251

(4) Inventory control and storage;	53252
(5) Monitoring, surveillance, and security requirements;	53253
(6) Laboratory testing;	53254
(7) Records and reporting requirements;	53255
(8) Hours of operation and procedures when location is closed;	53256
(9) Receipt of adult use cannabis;	53257
(10) Dispensing errors reporting and review;	53258
(11) Destruction and disposal of adult cannabis;	53259
(12) Recall procedures; and	53260
(13) Transportation of adult use cannabis.	53261
(B) No adult use cannabis operator may sell or dispense adult use cannabis without remuneration unless authorized under rule pursuant to <u>section 3780.03 of this chapter the Revised Code.</u>	53262 53263 53264
(C) The division of cannabis control may adopt other operation rules as necessary consistent with this chapter.	53265 53266
Sec. 3780.24. Tax administration and enforcement.	53267
The tax commissioner shall administer and enforce section 3780.22 of the Revised Code. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:	53268 53269 53270 53271
(A) Prescribe all forms that are required to be filed under section 3780.22 of the Revised Code;	53272 53273
(B) Adopt rules that are necessary and proper to carry out section 3780.22 of the Revised Code; and	53274 53275
(C) Appoint professional, technical, and clerical employees as	53276

are necessary to carry out the tax commissioner's duties under 53277
section 3780.22 of the Revised Code. 53278

Sec. 3781.10. (A) (1) The board of building standards shall 53279
formulate and adopt rules governing the erection, construction, 53280
repair, alteration, and maintenance of all buildings or classes 53281
of buildings specified in section 3781.06 of the Revised Code, 53282
including land area incidental to those buildings, the 53283
construction of industrialized units, the installation of 53284
equipment, and the standards or requirements for materials used 53285
in connection with those buildings. The board shall incorporate 53286
those rules into separate residential and nonresidential 53287
building codes. The standards shall relate to the conservation 53288
of energy and the safety and sanitation of those buildings. 53289

(2) (a) The rules governing nonresidential buildings are 53290
the lawful minimum requirements specified for those buildings 53291
and industrialized units, except that no rule other than as 53292
provided in division (C) of section 3781.108 of the Revised Code 53293
that specifies a higher requirement than is imposed by any 53294
section of the Revised Code is enforceable. 53295

(b) The rules governing residential buildings are uniform 53296
requirements in any area with a building department certified to 53297
enforce the state residential building code in accordance with 53298
division (E) of this section, for both of the following: 53299

(i) The erection and construction of new residential 53300
buildings; 53301

(ii) The repair and alteration of existing residential 53302
buildings. 53303

(c) In no case shall any local code or regulation differ 53304
from the state residential building code for either the erection 53305

and construction of new residential buildings or for the repair 53306
and alteration of existing residential buildings unless that 53307
code or regulation addresses subject matter not addressed by the 53308
state residential building code or is adopted pursuant to 53309
section 3781.01 of the Revised Code. 53310

(3) The rules adopted pursuant to this section are 53311
complete, lawful alternatives to any requirements specified for 53312
buildings or industrialized units in any section of the Revised 53313
Code. ~~Except as otherwise provided in division (I) of this~~ 53314
~~section, the board shall, on its own motion or on application~~ 53315
~~made under sections 3781.12 and 3781.13 of the Revised Code,~~ 53316
~~formulate, propose, adopt, modify, amend, or repeal the rules to~~ 53317
~~the extent necessary or desirable to effectuate the purposes of~~ 53318
~~sections 3781.06 to 3781.18 of the Revised Code.~~ 53319

(B) The board shall report to the general assembly 53320
proposals for amendments to existing statutes relating to the 53321
purposes declared in section 3781.06 of the Revised Code that 53322
public health and safety and the development of the arts require 53323
and shall recommend any additional legislation to assist in 53324
carrying out fully, in statutory form, the purposes declared in 53325
that section. The board shall prepare and submit to the general 53326
assembly a summary report of the number, nature, and disposition 53327
of the petitions filed under sections 3781.13 and 3781.14 of the 53328
Revised Code. 53329

(C) On its own motion or on application made under 53330
sections 3781.12 and 3781.13 of the Revised Code, and after 53331
thorough testing and evaluation, the board shall determine by 53332
rule that any particular fixture, device, material, process of 53333
manufacture, manufactured unit or component, method of 53334
manufacture, system, or method of construction complies with 53335

performance standards adopted pursuant to section 3781.11 of the Revised Code. The board shall make its determination with regard to adaptability for safe and sanitary erection, use, or construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction described in that section of the Revised Code is permitted by law. The board shall amend or annul any rule or issue an authorization for the use of a new material or manufactured unit on any like application. No department, officer, board, or commission of the state other than the board of building standards or the board of building appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule the board of building standards adopts or issues or that is authorized by any section of the Revised Code. Nothing in this section shall be construed as requiring approval, by rule, of plans for an industrialized unit that conforms with the rules the board of building standards adopts pursuant to section 3781.11 of the Revised Code.

(D) The board shall recommend rules, codes, and standards to help carry out the purposes of section 3781.06 of the Revised Code and to help secure uniformity of state administrative rulings and local legislation and administrative action to the bureau of workers' compensation, the director of commerce, any other department, officer, board, or commission of the state, and to legislative authorities and building departments of counties, townships, and municipal corporations, and shall recommend that they audit those recommended rules, codes, and standards by any appropriate action that they are allowed pursuant to law or the constitution.

(E) (1) The board shall certify municipal, township, and county building departments, the personnel of those building departments, persons described in division (E) (7) of this section, and employees of individuals, firms, the state, or corporations described in division (E) (7) of this section to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and persons to enforce the state residential building code for the erection and construction of new residential buildings, to enforce the nonresidential building code, or to enforce both the residential and the nonresidential building codes. A department certified to enforce the state residential building code for the erection and construction of new residential buildings may also enforce the state residential building code for the repair and alteration of existing residential buildings upon obtaining the appropriate certification from the board, in accordance with this section, for the department and its personnel. Any department, personnel, or person may enforce only the type of building code for which certified.

(3) The board shall not require a building department, its personnel, or any persons that it employs to be certified for residential building code enforcement if that building department does not enforce the state residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall

include, but are not limited to, the satisfactory completion of 53398
an initial examination and, to remain certified, the completion 53399
of a specified number of hours of continuing building code 53400
education within each three-year period following the date of 53401
certification which shall be not less than thirty hours. The 53402
rules shall provide that continuing education credits and 53403
certification issued by the council of American building 53404
officials, national model code organizations, and agencies or 53405
entities the board recognizes are acceptable for purposes of 53406
this division. The rules shall specify requirements that are 53407
consistent with the provisions of section 5903.12 of the Revised 53408
Code relating to active duty military service and are 53409
compatible, to the extent possible, with requirements the 53410
council of American building officials and national model code 53411
organizations establish. 53412

(4) The board shall establish and collect a certification 53413
and renewal fee for building department personnel, and persons 53414
and employees of persons, firms, or corporations as described in 53415
this section, who are certified pursuant to this division. 53416

(5) Any individual certified pursuant to this division 53417
shall complete the number of hours of continuing building code 53418
education that the board requires or, for failure to do so, 53419
forfeit certification. 53420

(6) This division does not require or authorize the board 53421
to certify personnel of municipal, township, and county building 53422
departments, and persons and employees of persons, firms, or 53423
corporations as described in this section, whose 53424
responsibilities do not include the exercise of enforcement 53425
authority, the approval of plans and specifications, or making 53426
inspections under the state residential and nonresidential 53427

building codes. 53428

(7) Enforcement authority for approval of plans and 53429
specifications and enforcement authority for inspections may be 53430
exercised, and plans and specifications may be approved and 53431
inspections may be made on behalf of a municipal corporation, 53432
township, or county, by any of the following who the board of 53433
building standards certifies: 53434

(a) Officers or employees of the municipal corporation, 53435
township, or county; 53436

(b) Persons, or employees of persons, firms, or 53437
corporations, pursuant to a contract to furnish architectural, 53438
engineering, or other services to the municipal corporation, 53439
township, or county; 53440

(c) Officers or employees of, and persons under contract 53441
with, a municipal corporation, township, county, health 53442
district, or other political subdivision, pursuant to a contract 53443
to furnish architectural, engineering, or other services; 53444

(d) Officers or employees of the division of industrial 53445
compliance in the department of commerce pursuant to a contract 53446
authorized by division (B) of section 121.083 of the Revised 53447
Code. 53448

(8) Municipal, township, and county building departments 53449
have jurisdiction within the meaning of sections 3781.03, 53450
3791.04, and 4104.43 of the Revised Code, only with respect to 53451
the types of buildings and subject matters for which they are 53452
certified under this section. 53453

(9) A certified municipal, township, or county building 53454
department may exercise enforcement authority, accept and 53455
approve plans and specifications, and make inspections pursuant 53456

to sections 3781.03, 3791.04, and 4104.43 of the Revised Code 53457
for a park district created pursuant to Chapter 1545. of the 53458
Revised Code upon the approval, by resolution, of the board of 53459
park commissioners of the park district requesting the 53460
department to exercise that authority and conduct those 53461
activities, as applicable. 53462

(10) Certification shall be granted upon application by 53463
the municipal corporation, the board of township trustees, or 53464
the board of county commissioners and approval of that 53465
application by the board of building standards. The application 53466
shall set forth: 53467

(a) Whether the certification is requested for residential 53468
or nonresidential buildings, or both; 53469

(b) If the certification is requested for residential 53470
buildings, whether the requested certification is for only the 53471
erection and construction of new residential buildings or also 53472
the repair and alteration of existing residential buildings; 53473

(c) The number and qualifications of the staff composing 53474
the building department; 53475

(d) The names, addresses, and qualifications of persons, 53476
firms, or corporations contracting to furnish work or services 53477
pursuant to division (E) (7) (b) of this section; 53478

(e) The names of any other municipal corporation, 53479
township, county, health district, or political subdivision 53480
under contract to furnish work or services pursuant to division 53481
(E) (7) of this section; 53482

(f) The proposed budget for the operation of the building 53483
department; 53484

(g) Whether the building department intends to accept 53485
plans examination and inspection reports from a third-party 53486
examiner or inspector in accordance with rules adopted by the 53487
board of building standards pursuant to division (E) (15) of this 53488
section. 53489

(11) The board of building standards shall adopt rules 53490
governing all of the following: 53491

(a) The certification of building department personnel and 53492
persons and employees of persons, firms, or corporations 53493
exercising authority pursuant to division (E) (7) of this 53494
section. The rules shall disqualify any employee of the 53495
department or person who contracts for services with the 53496
department from performing services for the department when that 53497
employee or person would have to pass upon, inspect, or 53498
otherwise exercise authority over any labor, material, or 53499
equipment the employee or person furnishes for the construction, 53500
alteration, or maintenance of a building or the preparation of 53501
working drawings or specifications for work within the 53502
jurisdictional area of the department. The department shall 53503
provide other similarly qualified personnel to enforce the 53504
residential and nonresidential building codes as they pertain to 53505
that work. 53506

(b) The minimum services to be provided by a certified 53507
building department. 53508

(12) The board of building standards may revoke or suspend 53509
certification to enforce the residential and nonresidential 53510
building codes, on petition to the board by any person affected 53511
by that enforcement or approval of plans, or by the board on its 53512
own motion. Hearings shall be held and appeals permitted on any 53513
proceedings for certification or revocation or suspension of 53514

certification in the same manner as provided in section 3781.101 53515
of the Revised Code for other proceedings of the board of 53516
building standards. 53517

(13) Upon certification, and until that authority is 53518
revoked, any county or township building department shall 53519
enforce the residential and nonresidential building codes for 53520
which it is certified without regard to limitation upon the 53521
authority of boards of county commissioners under Chapter 307. 53522
of the Revised Code or boards of township trustees under Chapter 53523
505. of the Revised Code. 53524

(14) The board shall certify a person to exercise 53525
enforcement authority, to accept and approve plans and 53526
specifications, or to make inspections in this state in 53527
accordance with Chapter 4796. of the Revised Code if either of 53528
the following applies: 53529

(a) The person holds a license or certificate in another 53530
state. 53531

(b) The person has satisfactory work experience, a 53532
government certification, or a private certification as 53533
described in that chapter in the same profession, occupation, or 53534
occupational activity as the profession, occupation, or 53535
occupational activity for which the certificate is required in 53536
this state in a state that does not issue that license or 53537
certificate. 53538

(15) (a) In addition to the personnel and persons certified 53539
by the board of building standards pursuant to this section to 53540
enforce the state residential building code and nonresidential 53541
building code, the board may adopt rules authorizing certified 53542
municipal, township, and county building departments to accept 53543

plans examination and inspection reports from a third-party 53544
examiner or inspector. 53545

(b) The rules may require the third-party examiner or 53546
inspector be certified pursuant to sections 3781.10 and 3783.03 53547
of the Revised Code and authorized to conduct such plans 53548
examination or inspection elsewhere in this state or to 53549
demonstrate equivalent competency as specified and determined by 53550
the board of building standards. 53551

(c) Fees charged by a third-party examiner or inspector 53552
are in addition to any fees prescribed by the political 53553
subdivision pursuant to section 3781.102 of the Revised Code and 53554
are the responsibility of the building owner. 53555

(d) The issuance of certificates of plan approval under 53556
section 3791.04 of the Revised Code and certificates of 53557
occupancy or completion remains the exclusive authority of the 53558
certified personnel employed by or under contract with a 53559
certified municipal, township, and county building department 53560
and shall not be issued by a third-party examiner or inspector. 53561

(F) In addition to hearings sections 3781.06 to 3781.18 53562
and 3791.04 of the Revised Code require, the board of building 53563
standards shall make investigations and tests, and require from 53564
other state departments, officers, boards, and commissions 53565
information the board considers necessary or desirable to assist 53566
it in the discharge of any duty or the exercise of any power 53567
mentioned in this section or in sections 3781.06 to 3781.18, 53568
3791.04, and 4104.43 of the Revised Code. 53569

(G) The board shall adopt rules and establish reasonable 53570
fees for the review of all applications submitted where the 53571
applicant applies for authority to use a new material, assembly, 53572

or product of a manufacturing process. The fee shall bear some 53573
reasonable relationship to the cost of the review or testing of 53574
the materials, assembly, or products and for the notification of 53575
approval or disapproval as provided in section 3781.12 of the 53576
Revised Code. 53577

(H) The residential construction advisory committee shall 53578
provide the board with a proposal for a state residential 53579
building code that the committee recommends pursuant to division 53580
(D) (1) of section 4740.14 of the Revised Code. Upon receiving a 53581
recommendation from the committee that is acceptable to the 53582
board, the board shall adopt rules establishing that code as the 53583
state residential building code. 53584

(I) (1) The committee may provide the board with proposed 53585
rules to update or amend the state residential building code 53586
that the committee recommends pursuant to division (E) of 53587
section 4740.14 of the Revised Code. 53588

(2) If the board receives a proposed rule to update or 53589
amend the state residential building code as provided in 53590
division (I) (1) of this section, the board either may accept or 53591
reject the proposed rule for incorporation into the residential 53592
building code. If the board does not act to either accept or 53593
reject the proposed rule within ninety days after receiving the 53594
proposed rule from the committee as described in division (I) (1) 53595
of this section, the proposed rule shall become part of the 53596
residential building code. 53597

(J) The board shall cooperate with the director of 53598
children and youth when the director promulgates rules pursuant 53599
to section 5104.05 of the Revised Code regarding safety and 53600
sanitation in type A family child care homes. 53601

(K) The board shall adopt rules to implement the requirements of section 3781.108 of the Revised Code.

Sec. 3781.105. (A) The board of building standards shall certify individuals who design fire protection systems for buildings and who meet the requirements specified in this section. The board may establish separate certification categories for specific types of fire protection systems.

(B) Any individual who wishes to obtain certification shall make application to the board on a form prescribed by the board. The application shall be accompanied by an application fee and an initial certification fee. The initial certification fee shall be refunded if the applicant fails to obtain certification. Certification may be renewed annually upon payment of a renewal fee.

Fees required to be paid under this division shall be established by rule adopted by the board. The application fee shall bear a reasonable relationship to processing the individual's application, the certification fee shall bear a reasonable relationship to certifying the individual, and the certification renewal fee shall bear a reasonable relationship to renewing the individual's certification.

(C) Each applicant shall submit evidence satisfactory to the board that the applicant has directly engaged in designing and preparing drawings for the category of the type of fire protection system for which the applicant seeks certification.

(D) The board shall certify any qualified applicant who passes an examination prescribed either by the board or by the national institute for certification in engineering technologies. The examination shall demonstrate the applicant's

knowledge and understanding of the category of the type of fire protection system for which the applicant seeks certification. 53631
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(E) The board, after a hearing in accordance with Chapter 119. of the Revised Code, may suspend or revoke any category of certification of any individual who proves at any time to be incompetent to submit and certify plans and specifications for that category to the appropriate building department under section 3791.04 of the Revised Code, and may suspend or revoke all categories of certification of any individual who engages in any illegal or fraudulent acts in connection with the design of fire protection systems. 53633
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~~(F) The board may adopt rules in accordance with Chapter 119. of the Revised Code for the administration and enforcement of this section.~~ 53642
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~~(G)~~ Notwithstanding any other provision of this section to the contrary, the board shall certify an applicant in accordance with Chapter 4796. of the Revised Code if either of the following applies: 53645
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(1) The applicant is licensed or certified in another state. 53649
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(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as a designer of fire protection systems in a state that does not issue that license or certificate. 53651
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Sec. 3781.21. (A) (1) Any appeal of an order requested under section 3781.19 or 3781.20 of the Revised Code may be requested to be expedited. If the expedited appeal is requested, the state board of building appeals or a certified municipal or 53656
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county board of appeals shall do both of the following: 53660

(a) Commence the appeal within one day after the request 53661
was made, excluding Saturdays, Sundays, and legal holidays as 53662
defined in section 1.14 of the Revised Code; 53663

(b) Hold a hearing within five days after the request was 53664
made, excluding Saturdays, Sundays, and legal holidays as 53665
defined in section 1.14 of the Revised Code. 53666

(2) (a) If a person requests an appeal of an order pursuant 53667
to section 3781.19 or 3781.20 of the Revised Code and the person 53668
did not request the appeal to be expedited under division (A) (1) 53669
of this section, the person may request the remainder of the 53670
appeal proceeding be expedited if, during the course of the 53671
appeal, the board issues a continuance of the hearing, such that 53672
no decision is made and additional evidence is requested in 53673
order to continue the proceeding. A person may request that any 53674
follow-up hearing be expedited within five days of the 53675
continuance being issued. 53676

(b) If the expedited appeal is requested under division 53677
(A) (2) (a) of this section, the board shall hold the follow-up 53678
hearing within five days of the request, excluding Saturdays, 53679
Sundays, and legal holidays as defined in section 1.14 of the 53680
Revised Code. 53681

(3) Any expedited appeal under this division shall apply 53682
notwithstanding the seven-day notice requirement under section 53683
119.07 of the Revised Code or any other conflicting provision of 53684
the Revised Code. However, a board conducting an expedited 53685
appeal under this section shall provide all parties a notice of 53686
the hearing prior to conducting the hearing. 53687

(B) The person making the request for an expedited appeal 53688

pursuant to division (A) of this section shall pay any fee 53689
established by the state board of building appeals under section 53690
3781.19 of the Revised Code or a certified municipal or county 53691
board of appeals under section 3781.20 of the Revised Code, 53692
which shall not exceed five hundred dollars for each day the 53693
appeal is pending and shall not exceed a total of one thousand 53694
dollars for the entire expedited appeal. 53695

(C) Notwithstanding any provision of the Revised Code to 53696
the contrary, the state board of building appeals or a certified 53697
municipal or county board of appeals may conduct an expedited 53698
hearing, as described under this section, by means of 53699
teleconference, video conference, or any other similar 53700
electronic technology. 53701

~~(D) The board of building standards may adopt rules to 53702
implement this section. 53703~~

~~**Sec. 3783.05.** The board of building standards, in 53704
accordance with Chapters 119., 3781., and 3791. of the Revised 53705
Code, shall adopt, amend, or repeal such rules as may be 53706
reasonably necessary to administer this chapter. All fees 53707
collected by the board pursuant to this chapter shall be paid 53708
into the state treasury to the credit of the industrial 53709
compliance operating fund created in section 121.084 of the 53710
Revised Code. 53711~~

Sec. 3794.07. Duties of the Department of Health. 53712

This chapter shall be enforced by the department of health 53713
and its designees. The director of health shall within six 53714
months of December 7, 2006: 53715

~~(A) Promulgate rules in accordance with Chapter 119. of 53716
the Revised Code to implement and enforce all provisions of this 53717~~

~~chapter;~~ 53718

~~(B)~~ Promulgate rules in accordance with Chapter 119. of 53719
the Revised Code to prescribe a schedule of fines for violations 53720
of this chapter designed to foster compliance with the 53721
provisions of this chapter. The amount of a fine for a violation 53722
of divisions (A) and (B) of section 3794.02 and divisions (A) 53723
and (B) of section 3794.06 of the Revised Code shall not be less 53724
than one hundred dollars and the maximum for a violation shall 53725
be twenty five hundred dollars. The amount of a fine for a 53726
violation of division (D) of section 3794.02 of the Revised Code 53727
shall be up to a maximum of one hundred dollars per violation. 53728
Each day of a violation shall constitute a separate violation. 53729
The schedule of fines that apply to a proprietor shall be 53730
progressive based on the number of prior violations by the 53731
proprietor. Violations which occurred more than two years prior 53732
to a subsequent violation shall not be considered if there has 53733
been no finding of a violation in the intervening time period. 53734
The fine schedule shall set forth specific factors that may be 53735
considered to decrease or waive the amount of a fine that 53736
otherwise would apply. Fines shall be doubled for intentional 53737
violations~~;~~; 53738

~~(C)~~ (B) Promulgate rules in accordance with Chapter 119. of 53739
the Revised Code to prescribe a procedure for providing a 53740
proprietor or individual written notice of a report of a 53741
violation and the opportunity to present in writing any 53742
statement or evidence to contest the report, and prescribing 53743
procedures for making findings whether a proprietor or 53744
individual violated a provision of this chapter and for imposing 53745
fines for violations; 53746

~~(D)~~ (C) Establish a system for receiving reports of 53747

violations of the provisions of this chapter from any member of 53748
the public, including, but not limited to, by mail and one or 53749
more e-mail addresses and toll-free telephone numbers 53750
exclusively for such purpose. A person shall not be required to 53751
disclose his or her identity in order to report a violation; 53752

~~(E)~~ (D) Inform proprietors of public places and places of 53753
employment of the requirements of this chapter and how to comply 53754
with its provisions, including, but not limited to, by providing 53755
printed and other materials and a toll-free telephone number and 53756
e-mail address exclusively for such purposes; ~~and~~ 53757

~~(F)~~ (E) Design and implement a program to educate the 53758
public regarding the provisions of this chapter, including, but 53759
not limited to, through the establishment of an internet web 53760
site and how a violation may be reported; ~~;~~ 53761

~~(G)~~ (F) Adopt rules to prescribe fines for a violation of 53762
division (E) of section 3794.03 of the Revised Code. Division 53763
~~(B)~~ (A) of this section does not apply to a fine for a violation 53764
of division (E) of section 3794.03 of the Revised Code. 53765

Sec. 3796.03. (A) The division of marijuana control shall 53766
adopt rules establishing standards and procedures for the 53767
medical marijuana control program. 53768

All rules adopted under this section shall be adopted in 53769
accordance with Chapter 119. of the Revised Code. 53770

(B) The rules shall do all of the following: 53771

(1) Establish application procedures and fees for licenses 53772
it issues under this chapter; 53773

(2) Specify both of the following: 53774

(a) The conditions that must be met to be eligible for 53775

licensure;	53776
(b) In accordance with section 9.79 of the Revised Code, the criminal offenses for which an applicant will be disqualified from licensure pursuant to that section.	53777 53778 53779
(3) Establish, in accordance with section 3796.05 of the Revised Code, the number of cultivator licenses and retail dispensary licenses that will be permitted at any one time;	53780 53781 53782
(4) Establish a license renewal schedule, renewal procedures, and renewal fees;	53783 53784
(5) Specify reasons for which a license may be suspended, including without prior hearing, revoked, or not be renewed or issued and the reasons for which a civil penalty may be imposed on a license holder;	53785 53786 53787 53788
(6) Establish standards under which a license suspension may be lifted;	53789 53790
(7) Establish procedures for registration of patients and caregivers and requirements that must be met to be eligible for registration;	53791 53792 53793
(8) Establish training requirements for employees of retail dispensaries;	53794 53795
(9) Specify if a cultivator, processor, retail dispensary, or laboratory that is licensed under this chapter and that existed at a location before a school, church, public library, public playground, or public park became established within five hundred feet of the cultivator, processor, retail dispensary, or laboratory, may remain in operation or shall relocate or have its license revoked by the division;	53796 53797 53798 53799 53800 53801 53802
(10) Specify, by form and tetrahydrocannabinol content, a	53803

maximum ninety-day supply of medical marijuana that may be possessed; 53804
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(11) Specify the paraphernalia or other accessories that may be used in the administration to a registered patient of medical marijuana; 53806
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(12) Establish procedures for the issuance of patient or caregiver identification cards; 53809
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(13) Specify the forms of or methods of using medical marijuana that are attractive to children; 53811
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(14) Specify both of the following: 53813

(a) Subject to division (B) (14) (b) of this section, the criminal offenses for which a person will be disqualified from employment with a license holder; 53814
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(b) Which of the criminal offenses specified pursuant to division (B) (14) (a) of this section will not disqualify a person from employment with a license holder if the person was convicted of or pleaded guilty to the offense more than five years before the date the employment begins. 53817
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(15) Establish a program to assist patients who are veterans or indigent in obtaining medical marijuana in accordance with this chapter; 53822
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(16) Establish, in accordance with section 3796.05 of the Revised Code, standards and procedures for the testing of medical marijuana by a laboratory licensed under this chapter. 53825
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~~(C) In addition to the rules described in division (B) of this section, the division may adopt any other rules it considers necessary for the program's administration and the implementation and enforcement of this chapter.~~ 53828
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~~(D)~~—When adopting rules under this section, the division 53832
shall consider standards and procedures that have been found to 53833
be best practices relative to the use and regulation of medical 53834
marijuana. 53835

Sec. 3796.061. (A) Any person may submit a petition to the 53836
state division of marijuana control requesting that a form of or 53837
method of using medical marijuana be approved for the purposes 53838
of section 3796.06 of the Revised Code. A petition shall be 53839
submitted to the division in a manner prescribed by the 53840
division. A petition shall not seek to approve a method of using 53841
medical marijuana that involves smoking or combustion. 53842

(B) On receipt of a petition, the division shall review it 53843
to determine whether to approve the form of or method of using 53844
medical marijuana described in the petition. The division may 53845
consolidate the review of petitions for the same or similar 53846
forms or methods. In making its determination, the division 53847
shall consult with one or more experts and review any relevant 53848
scientific evidence. 53849

(C) The division shall approve or deny the petition in 53850
accordance with any rules adopted by the division under this 53851
section. The division's decision is final. 53852

~~(D) The division may adopt rules as necessary to implement 53853
this section. The rules shall be adopted in accordance with 53854
Chapter 119. of the Revised Code. 53855~~

Sec. 3796.16. (A) (1) The division of marijuana control 53856
shall attempt in good faith to negotiate and enter into a 53857
reciprocity agreement with any other state under which a medical 53858
marijuana registry identification card or equivalent 53859
authorization that is issued by the other state is recognized in 53860

this state, if the division determines that both of the 53861
following apply: 53862

(a) The eligibility requirements imposed by the other 53863
state for that authorization are substantially comparable to the 53864
eligibility requirements for a patient or caregiver registration 53865
and identification card issued under this chapter. 53866

(b) The other state recognizes a patient or caregiver 53867
registration and identification card issued under this chapter. 53868

(2) The division shall not negotiate any agreement with 53869
any other state under which an authorization issued by the other 53870
state is recognized in this state other than as provided in 53871
division (A) (1) of this section. 53872

(B) If a reciprocity agreement is entered into in 53873
accordance with division (A) of this section, the authorization 53874
issued by the other state shall be recognized in this state, 53875
shall be accepted and valid in this state, and grants the 53876
patient or caregiver the same right to use, possess, obtain, or 53877
administer medical marijuana in this state as a patient or 53878
caregiver who was registered and issued an identification card 53879
under this chapter. 53880

~~(C) The division may adopt any rules as necessary to 53881
implement this section. 53882~~

Sec. 3797.08. The attorney general shall do all of the 53883
following: 53884

(A) In consultation with county sheriffs and not later 53885
than July 1, 2006, adopt rules that do all of the following: 53886

~~(1) Contain guidelines necessary for the implementation of 53887
this chapter; 53888~~

~~(2)~~ Prescribe the registration, notice of intent to reside, and verification of current address forms to be used by registrants and sheriffs under sections 3797.02, 3797.03, and 3797.04 of the Revised Code;

~~(3)~~ (2) Establish procedures for the forwarding of forms by the sheriff to the attorney general;

~~(4)~~ (3) Designate a geographic area or areas within which the notice described in division (B) of section 3797.06 of the Revised Code must be given to the persons identified in divisions (A) (2) to (8) of that section;

~~(5)~~ (4) At the attorney general's discretion, establish one or more categories of neighbors of a registrant who, in addition to the occupants of residential premises and other persons specified in division (A) of section 3797.06 of the Revised Code, must be given the notice described in division (B) of that section.

(B) Make copies of the forms described in division ~~(A) (2)~~ (A) (1) of this section available to sheriffs and judges;

(C) Not later than January 1, 2007, establish and operate on the internet a civil registry of persons against whom a court has entered a declaratory judgment under section 2721.21 of the Revised Code that contains information for each of those persons who registers in any county in this state pursuant to section 3797.02 of the Revised Code. The attorney general shall determine the information to be provided on the registry for each registrant. The information provided for each registrant shall include at least the name, current residential and employment addresses, and photograph of the registrant, the name of the court that entered a declaratory judgment against the

registrant pursuant to section 2721.21 of the Revised Code, and 53918
the date on which the judgment was entered. The registry shall 53919
be a public record open for inspection under section 149.43 of 53920
the Revised Code, and it shall be searchable by registrant name, 53921
by county, by zip code, and by school district. The registry 53922
shall provide a link to the web site of each sheriff of a county 53923
who has established and operates on the internet a database that 53924
contains information for registrants who register in that county 53925
pursuant to section 3797.02 or 3797.03 of the Revised Code. 53926

(D) Upon the request of any sheriff, provide technical 53927
guidance to the requesting sheriff in establishing on the 53928
internet a database of registrants for the public dissemination 53929
of information that relates to registrants who are registered in 53930
the sheriff's county and that is a public record. 53931

Sec. 3901.041. The superintendent of insurance shall 53932
~~adopt, amend, and rescind rules and make adjudications,~~ 53933
necessary to discharge the superintendent's duties and exercise 53934
the superintendent's powers, including, but not limited to, the 53935
superintendent's duties and powers under Chapters 1751. and 53936
1753. and Title XXXIX of the Revised Code, subject to Chapter 53937
119. of the Revised Code. 53938

Sec. 3901.042. The superintendent of insurance may adopt 53939
rules in accordance with Chapter 119. of the Revised Code ~~for~~ 53940
~~the purpose of implementing amended substitute House Bill 478 of~~ 53941
~~the 119th General Assembly, including rules that establish fees~~ 53942
for any service or transaction that is required by ~~that act~~ H.B. 53943
478 of the 119th general assembly. The rules shall specify each 53944
such service or transaction and the amount of the fee that is so 53945
charged. Any fee collected pursuant to those rules shall be paid 53946
into the state treasury to the credit of the department of 53947

insurance operating fund. 53948

Sec. 3901.074. (A) (1) An insurer or insurance group shall 53949
have discretion regarding the format of its corporate governance 53950
annual disclosure. 53951

(2) The CGAD shall be prepared consistent with ~~the~~ rules 53952
adopted by the superintendent pursuant to ~~section 3901.077~~ 53953
Chapter 119. of the Revised Code regarding the required content 53954
of the CGAD and shall contain the material information necessary 53955
for the superintendent to gain an understanding of the insurer's 53956
or group's corporate governance structure, policies, and 53957
practices. 53958

(3) All documentation and supporting information shall be 53959
maintained and made available for examination upon request of 53960
the superintendent. 53961

(B) The superintendent may request additional information 53962
the superintendent considers material and necessary to provide a 53963
clear understanding of the insurer's or insurance group's 53964
corporate governance policies and the reporting or information 53965
system or controls implementing those policies. 53966

Sec. 3901.212. (A) As used in sections 3901.212 to 53967
3901.213 of the Revised Code, "consumer" means a policyholder, 53968
potential policyholder, certificate holder, potential 53969
certificate holder, insured, potential insured, or applicant. 53970

(B) The superintendent may adopt rules pursuant to Chapter 53971
119. of the Revised Code ~~to implement the practices set forth in~~ 53972
~~section 3901.213 of the Revised Code to ensure consumer~~ 53973
~~protection. Such regulations,~~ consistent with applicable law, 53974
~~may to~~ address all of the following regarding practices set 53975
forth in section 3901.213 of the Revised Code: 53976

(1) Consumer data protections and privacy;	53977
(2) Consumer disclosure;	53978
(3) Unfair discrimination;	53979
(4) Any other matter the superintendent considers	53980
pertinent.	53981
Sec. 3901.31. (A) Every person who is directly or	53982
indirectly the beneficial owner of more than ten per cent of any	53983
class of any equity security of a domestic stock insurance	53984
company which is not a wholly owned subsidiary of an insurance	53985
holding company system or who is a director or officer of such	53986
company, shall file with the superintendent of insurance within	53987
ten days after the person becomes such beneficial owner,	53988
director, or officer, a statement in such form as the	53989
superintendent of insurance may prescribe, of the amount of all	53990
equity securities of such company of which the person is the	53991
beneficial owner, and within ten days after the close of each	53992
calendar month thereafter, if there has been a change in such	53993
ownership during such month, shall file with the superintendent	53994
of insurance a statement, in such form as the superintendent of	53995
insurance may prescribe, indicating the person's ownership at	53996
the close of the calendar month and such changes in the person's	53997
ownership as have occurred during such calendar month.	53998
(B) For the purpose of preventing the unfair use of	53999
information which may have been obtained by such beneficial	54000
owner, director, or officer by reason of the beneficial owner's,	54001
director's, or officer's relationship to such company, any	54002
profit realized by the beneficial owner, director, or officer	54003
from any purchase and sale, or any sale and purchase, of any	54004
equity security of such company within any period of less than	54005

six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director, or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company fails or refuses to bring such suit within sixty days after request or fails diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. Division (B) of this section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of purchase and sale, or the sale and purchase, of the security involved, ~~or any transaction or transactions which the superintendent of insurance by rules may exempt as not comprehended within the purpose of division (B) of this section.~~

(C) No such beneficial owner, director, or officer, directly or indirectly, shall sell any equity security of such company if the person selling the security or the person's principal does not own the security sold, or if owning the security, does not deliver it against such sale within twenty days thereafter, or does not within five days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated division (C) of this section if the person proves that notwithstanding the exercise of good faith the person was unable to make such delivery or deposit within such time, or that to do

so would cause undue inconvenience or expense. 54037

(D) A domestic insurance company having at least fifty 54038
shareholders or any other person soliciting proxies with respect 54039
to such domestic insurance company shall not solicit voting 54040
proxies from any shareholder or other person except upon a proxy 54041
statement and pursuant to a notice of meeting, which statement 54042
and notice have been submitted to the superintendent of 54043
insurance at least ten days prior to being mailed to the 54044
intended recipients. Such proxy statement and notice of meeting 54045
shall make such disclosures pertinent to the business to be 54046
carried on at the meeting or meetings with respect to which such 54047
proxies are solicited and such notices are given as the 54048
superintendent by rule requires. The superintendent shall retain 54049
such proxy material for examination by any interested party for 54050
at least one year. 54051

(E) Division (B) of this section does not apply to any 54052
purchase and sale, or sale and purchase, and division (C) of 54053
this section does not apply to any sale, of an equity security 54054
of a domestic stock insurance company not then or theretofore 54055
held in an investment account, by a dealer in the ordinary 54056
course of the dealer's business and incident to the 54057
establishment or maintenance by the dealer of a primary or 54058
secondary market for such security. ~~The superintendent of~~ 54059
~~insurance may, by such rules as the superintendent considers~~ 54060
~~necessary or appropriate in the public interest, describe and~~ 54061
~~define the terms and conditions with respect to securities held~~ 54062
~~in an investment account and transactions made in the ordinary~~ 54063
~~course of business and incident to the establishment or~~ 54064
~~maintenance of a primary or secondary market.~~ 54065

(F) Divisions (A), (B), and (C) of this section do not 54066

apply to foreign or domestic arbitrage transactions unless made 54067
in contravention of such rules as the superintendent of 54068
insurance may adopt in order to carry out the purposes of this 54069
section. 54070

(G) "Equity security" when used in this section means any 54071
stock or similar security; or any security convertible, with or 54072
without consideration, into such a security, or carrying any 54073
warrant or right to subscribe to or purchase such a security; or 54074
any such warrant or right; ~~or any other security which the~~ 54075
~~superintendent of insurance determines to be of similar nature~~ 54076
~~and considers necessary or appropriate, by such rules as the~~ 54077
~~superintendent may prescribe in the public interest or for the~~ 54078
~~protection of investors, to treat as an equity security.~~ 54079

(H) ~~The superintendent of insurance may adopt, amend, and~~ 54080
~~rescind rules, pursuant to Chapter 119. of the Revised Code,~~ 54081
~~which will enable the superintendent to carry out the duties~~ 54082
~~imposed by this section.~~ 54083

~~(I)~~ This section applies to health insuring corporations 54084
in the same manner in which this section applies to domestic 54085
stock insurance companies. 54086

Sec. 3901.321. (A) For the purposes of this section: 54087

(1) "Acquiring party" means any person by whom or on whose 54088
behalf a merger or other acquisition of control is to be 54089
effected. 54090

(2) "Domestic insurer" includes any person controlling a 54091
domestic insurer unless the person, as determined by the 54092
superintendent of insurance, is either directly or through its 54093
affiliates primarily engaged in business other than the business 54094
of insurance. 54095

(3) "Person" does not include any securities broker 54096
holding, in the usual and customary broker's function, less than 54097
twenty per cent of the voting securities of an insurance company 54098
or of any person that controls an insurance company. 54099

(B) (1) Subject to compliance with division (B) (2) of this 54100
section, no person other than the issuer shall do any of the 54101
following if, as a result, the person would, directly or 54102
indirectly, including by means of conversion or the exercise of 54103
any right to acquire, be in control of a domestic insurer: 54104

(a) Make a tender offer for any voting security of a 54105
domestic insurer; 54106

(b) Make a request or invitation for tenders of any voting 54107
security of a domestic insurer; 54108

(c) Enter into any agreement to exchange securities of a 54109
domestic insurer; 54110

(d) Seek to acquire or acquire, in the open market or 54111
otherwise, any voting security of a domestic insurer; 54112

(e) Enter into an agreement to merge with, or otherwise to 54113
acquire control of, a domestic insurer. 54114

(2) (a) No person shall engage in any transaction described 54115
in division (B) (1) of this section, unless all of the following 54116
conditions are met: 54117

(i) The person has filed with the superintendent of 54118
insurance a statement containing the information required by 54119
division (C) of this section; 54120

(ii) The person has sent the statement to the domestic 54121
insurer; 54122

(iii) The offer, request, invitation, agreement, or acquisition has been approved by the superintendent in the manner provided in division (F) of this section.

(b) The requirements of division (B)(2)(a) of this section shall be met at the time any offer, request, or invitation is made, or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved.

(3) Any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer shall file a confidential notice of its proposed divestiture with the superintendent at least thirty days prior to the cessation of control, and provide a copy of the confidential notice to the insurer. The superintendent may require the person seeking to divest the controlling interest to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the superintendent, in the superintendent's discretion, determines that the confidential treatment will interfere with enforcement of this section. If the statement required by division (B)(2) of this section is otherwise filed with the superintendent in relation to all parties that acquire a controlling interest as a result of the divestiture, this division shall not apply.

(C) The statement required by division (B)(2) of this section shall be made under oath or affirmation, and shall contain all of the following information:

- (1) The name and address of each acquiring party;
- (2) If the acquiring party is an individual, the individual's principal occupation and all offices and positions

held during the past five years, and any conviction of crimes 54152
other than minor traffic violations during the past ten years; 54153

(3) If the acquiring party is not an individual, a report 54154
of the nature of its business operations during the past five 54155
years or for such lesser period as the acquiring party and any 54156
of its predecessors shall have been in existence; an informative 54157
description of the business intended to be done by the acquiring 54158
party and the acquiring party's subsidiaries; and a list of all 54159
individuals who are or who have been selected to become 54160
directors or executive officers of the acquiring party, who 54161
perform or will perform functions appropriate to such positions. 54162
The list shall include for each individual the information 54163
required by division (C) (2) of this section. 54164

(4) The source, nature, and amount of the consideration 54165
used or to be used in effecting the merger or other acquisition 54166
of control, a description of any transaction in which funds were 54167
or are to be obtained for any such purpose, including any pledge 54168
of the domestic insurer's stock, or the stock of any of its 54169
subsidiaries or controlling affiliates, and the identity of 54170
persons furnishing such consideration; 54171

(5) Fully audited financial information as to the earnings 54172
and financial condition of each acquiring party for its 54173
preceding five fiscal years, or for such lesser period as the 54174
acquiring party and any of its predecessors shall have been in 54175
existence, and similar unaudited information as of a date not 54176
earlier than ninety days prior to the filing of the statement; 54177

(6) Any plans or proposals which each acquiring party may 54178
have to liquidate such domestic insurer, to sell its assets or 54179
merge or consolidate it with any person, or to make any other 54180
material change in its business or corporate structure or 54181

management; 54182

(7) The number of shares of any security of such issuer or 54183
such controlling person that each acquiring party proposes to 54184
acquire, and the terms of the offer, request, invitation, 54185
agreement, or acquisition, and a statement as to the method by 54186
which the fairness of the proposal was determined; 54187

(8) The amount of each class of any security of such 54188
issuer or such controlling person which is beneficially owned or 54189
concerning which there is a right to acquire beneficial 54190
ownership by each acquiring party; 54191

(9) A full description of any contracts, arrangements, or 54192
understandings with respect to any security of such issuer or 54193
such controlling person in which any acquiring party is 54194
involved, including but not limited to transfer of any of the 54195
securities, joint ventures, loan or option arrangements, puts or 54196
calls, guarantees of loans, guarantees against loss or 54197
guarantees of profits, division of losses or profits, or the 54198
giving or withholding of proxies. The description shall identify 54199
the persons with whom such contracts, arrangements, or 54200
understandings have been made. 54201

(10) A description of the purchase of any security of such 54202
issuer or such controlling person during the year preceding the 54203
filing of the statement, by any acquiring party, including the 54204
dates of purchase, names of the purchasers, and consideration 54205
paid or agreed to be paid therefor; 54206

(11) A description of any recommendations to purchase any 54207
security of such issuer or such controlling person made during 54208
the year preceding the filing of the statement, by any acquiring 54209
party, or by anyone based upon interviews or at the suggestion 54210

of the acquiring party; 54211

(12) Copies of all tender offers for, requests, or 54212
invitations for tenders of, exchange offers for, and agreements 54213
to acquire or exchange any securities of such issuer or such 54214
controlling person, and, if distributed, of additional 54215
solicitation material relating thereto; 54216

(13) The terms of any agreement, contract, or 54217
understanding made with or proposed to be made with any broker 54218
or dealer as to solicitation of securities of such issuer or 54219
such controlling person for tender, and the amount of any fees, 54220
commissions, or other compensation to be paid to brokers or 54221
dealers with regard thereto; 54222

(14) With respect to proposed affiliations between 54223
depository institutions or any affiliate thereof, within the 54224
meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 54225
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 54226
insurer, the proposed effective date of the acquisition or 54227
change of control; 54228

(15) An agreement by the person required to file the 54229
statement required by division (B) of this section that the 54230
person will provide the annual registration required by division 54231
(K) of section 3901.33 of the Revised Code for so long as the 54232
person has control of the domestic insurer; 54233

(16) An acknowledgment by the person required to file the 54234
statement required by division (B) of this section that the 54235
person and all subsidiaries within the person's control in the 54236
insurance holding company system will provide information to the 54237
superintendent upon request as necessary to evaluate enterprise 54238
risk to the insurer; 54239

~~(17) Such additional information as the superintendent may~~ 54240
~~by rule prescribe as necessary or appropriate for the protection~~ 54241
~~of policyholders of the domestic insurer or in the public~~ 54242
~~interest.~~ 54243

(D) (1) If the person required to file the statement 54244
required by division (B) (2) of this section is a partnership, 54245
limited partnership, syndicate, or other group, the 54246
superintendent may require that the information required by 54247
division (C) of this section be furnished with respect to each 54248
partner of such partnership or limited partnership, each member 54249
of such syndicate or group, and each person that controls such 54250
partner or member. If any such partner, member, or person is a 54251
corporation, or the person required to file the statement is a 54252
corporation, the superintendent may require that the information 54253
required by division (C) of this section be furnished with 54254
respect to the corporation, each officer and director of the 54255
corporation, and each person that is directly or indirectly the 54256
beneficial owner of more than ten per cent of the outstanding 54257
voting securities of the corporation. 54258

(2) If any material change occurs in the facts set forth 54259
in the statement required by division (B) (2) of this section, an 54260
amendment setting forth such change, together with copies of all 54261
documents and other material relevant to the change, shall be 54262
filed with the superintendent by the person subject to division 54263
(B) (2) of this section and sent to the domestic insurer within 54264
two business days after such person learns of the occurrence of 54265
the material change. 54266

(E) If any offer, request, invitation, agreement, or 54267
acquisition described in division (B) (1) of this section is 54268
proposed to be made by means of a registration statement under 54269

the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. 78a, or 54270
in circumstances requiring the disclosure of similar information 54271
under the "Securities Exchange Act of 1934," 48 Stat. 881, 15 54272
U.S.C.A. 78a, or under a state law requiring similar 54273
registration or disclosure, the person required to file the 54274
statement required by division (B) (2) of this section may use 54275
such documents in furnishing the information required by that 54276
statement. 54277

(F) (1) The superintendent shall approve any merger or 54278
other acquisition of control described in division (B) (1) of 54279
this section unless, after a public hearing, the superintendent 54280
finds that any of the following apply: 54281

(a) After the change of control, the domestic insurer 54282
would not be able to satisfy the requirements for the issuance 54283
of a license to write the line or lines of insurance for which 54284
it is presently licensed; 54285

(b) The effect of the merger or other acquisition of 54286
control would be substantially to lessen competition in 54287
insurance in this state or tend to create a monopoly; 54288

(c) The financial condition of any acquiring party is such 54289
as might jeopardize the financial stability of the domestic 54290
insurer, or prejudice the interests of its policyholders; 54291

(d) The plans or proposals that the acquiring party has to 54292
liquidate the domestic insurer, sell its assets, or consolidate 54293
or merge it with any person, or to make any other material 54294
change in its business or corporate structure or management, are 54295
unfair and unreasonable to policyholders of the domestic insurer 54296
and not in the public interest; 54297

(e) The competence, experience, and integrity of those 54298

persons that would control the operation of the domestic insurer 54299
are such that it would not be in the interest of policyholders 54300
of the domestic insurer and of the public to permit the merger 54301
or other acquisition of control; 54302

(f) The acquisition is likely to be hazardous or 54303
prejudicial to the insurance-buying public. 54304

(2) (a) Chapter 119. of the Revised Code, except for 54305
section 119.09 of the Revised Code, applies to any hearing held 54306
under division (F) (1) of this section, including the notice of 54307
the hearing, the conduct of the hearing, the orders issued 54308
pursuant to it, the review of the orders, and all other matters 54309
relating to the holding of the hearing, but only to the extent 54310
that Chapter 119. of the Revised Code is not inconsistent or in 54311
conflict with this section. 54312

(b) The notice of a hearing required under this division 54313
shall be transmitted in accordance with sections 119.05 and 54314
119.07 of the Revised Code to the persons and addresses 54315
designated to receive notices and correspondence in the 54316
information statement filed under division (B) (2) of this 54317
section. 54318

(c) The hearing shall be held at the offices of the 54319
superintendent within ten calendar days, but not earlier than 54320
seven calendar days, of the date of transmission of the notice 54321
of hearing by any means, unless it is postponed or continued; 54322
but in no event shall the hearing be held unless notice is 54323
received at least three days prior to the hearing. The 54324
superintendent may postpone or continue the hearing upon receipt 54325
of a written request by an acquiring party, or upon the 54326
superintendent's motion, provided, however, a hearing in 54327
connection with a proposed change of control involving a 54328

depository institution or any affiliate thereof, within the 54329
meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 54330
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 54331
insurer, may be postponed or continued only upon the request of 54332
an acquiring party, or upon the superintendent's motion when the 54333
acquiring party agrees in writing to extend the sixty-day period 54334
provided for in section 104(c) of the "Gramm-Leach-Bliley Act," 54335
by a number of days equal to the number of days of such 54336
postponement or continuance. 54337

(d) For the purpose of conducting any hearing held under 54338
this section, the superintendent may require the attendance of 54339
such witnesses and the production of such books, records, and 54340
papers as the superintendent desires, and may take the 54341
depositions of witnesses residing within or without the state in 54342
the same manner as is prescribed by law for the taking of 54343
depositions in civil actions in the court of common pleas, and 54344
for that purpose the superintendent may, and upon the request of 54345
an acquiring party shall, issue a subpoena for any witnesses or 54346
a subpoena duces tecum to compel the production of any books, 54347
records, or papers, directed to the sheriff of the county where 54348
such witness resides or is found, which shall be served and 54349
returned in the same manner as a subpoena in a criminal case is 54350
served and returned. The fees of the sheriff shall be the same 54351
as that allowed in the court of common pleas in criminal cases. 54352
Witnesses shall be paid the fees and mileage provided for under 54353
section 119.094 of the Revised Code. Fees and mileage shall be 54354
paid from the fund in the state treasury for the use of the 54355
superintendent in the same manner as other expenses of the 54356
superintendent are paid. In any case of disobedience or neglect 54357
of any subpoena served on any person or the refusal of any 54358
witness to testify in any matter regarding which the witness may 54359

lawfully be interrogated, the court of common pleas of any 54360
county where such disobedience, neglect, or refusal occurs or 54361
any judge thereof, on application by the superintendent, shall 54362
compel obedience by attachment proceedings for contempt, as in 54363
the case of disobedience of the requirements of a subpoena 54364
issued from the court or a refusal to testify therein. 54365

In any hearing held under this section, a record of the 54366
testimony, as provided by stenographic means or by use of audio 54367
electronic recording devices, as determined by the 54368
superintendent, and other evidence submitted shall be taken at 54369
the expense of the superintendent. The record shall include all 54370
of the testimony and other evidence, and rulings on the 54371
admissibility thereof, presented at the hearing. 54372

The superintendent shall pass upon the admissibility of 54373
evidence, but a party to the proceedings may at that time object 54374
to the rulings of the superintendent, and if the superintendent 54375
refuses to admit evidence, the party offering the evidence shall 54376
proffer the evidence. The proffer shall be made a part of the 54377
record of the hearing. 54378

In any hearing held under this section, the superintendent 54379
may call any person to testify under oath as upon cross- 54380
examination. The superintendent, or any one delegated by the 54381
superintendent to conduct a hearing, may administer oaths or 54382
affirmations. 54383

In any hearing under this section, the superintendent may 54384
appoint a hearing officer to conduct the hearing; the hearing 54385
officer has the same powers and authority in conducting the 54386
hearing as is granted to the superintendent. The hearing officer 54387
shall have been admitted to the practice of law in the state and 54388
be possessed of any additional qualifications as the 54389

superintendent requires. The hearing officer shall submit to the 54390
superintendent a written report setting forth the hearing 54391
officer's finding of fact and conclusions of law and a 54392
recommendation of the action to be taken by the superintendent. 54393
A copy of the written report and recommendation shall, within 54394
seven days of the date of filing thereof, be served upon the 54395
acquiring party or the acquiring party's attorney or other 54396
representative of record in accordance with section 119.05 of 54397
the Revised Code. The acquiring party may, within three days of 54398
receipt of the copy of the written report and recommendation, 54399
file with the superintendent written objections to the report 54400
and recommendation, which objections the superintendent shall 54401
consider before approving, modifying, or disapproving the 54402
recommendation. The superintendent may grant extensions of time 54403
to the acquiring party within which to file such objections. No 54404
recommendation of the hearing officer shall be approved, 54405
modified, or disapproved by the superintendent until after three 54406
days following the service of the report and recommendation as 54407
provided in this section. The superintendent may order 54408
additional testimony to be taken or permit the introduction of 54409
further documentary evidence. The superintendent may approve, 54410
modify, or disapprove the recommendation of the hearing officer, 54411
and the order of the superintendent based on the report, 54412
recommendation, transcript of testimony, and evidence, or the 54413
objections of the acquiring party, and additional testimony and 54414
evidence shall have the same effect as if the hearing had been 54415
conducted by the superintendent. No such recommendation is final 54416
until confirmed and approved by the superintendent as indicated 54417
by the order entered in the record of proceedings, and if the 54418
superintendent modifies or disapproves the recommendations of 54419
the hearing officer, the reasons for the modification or 54420
disapproval shall be included in the record of proceedings. 54421

After the order is entered, the superintendent shall 54422
transmit in the manner and by any of the methods set forth in 54423
division (F) (2) (b) of this section a certified copy of the order 54424
and a statement of the time and method by which an appeal may be 54425
perfected. A copy of the order shall be mailed to the attorneys 54426
or other representatives of record representing the acquiring 54427
party. 54428

(e) An order of disapproval issued by the superintendent 54429
may be appealed to the court of common pleas in accordance with 54430
section 119.12 of the Revised Code by filing a notice of appeal 54431
with the superintendent and a copy of the notice of appeal with 54432
the court, within fifteen calendar days after the transmittal of 54433
the copy of the order of disapproval. The notice of appeal shall 54434
set forth the order appealed from and the grounds for appeal, in 54435
accordance with section 119.12 of the Revised Code. 54436

(3) The superintendent may retain at the acquiring party's 54437
expense any attorneys, actuaries, accountants, and other experts 54438
not otherwise a part of the superintendent's staff as may be 54439
reasonably necessary to assist the superintendent in reviewing 54440
the proposed acquisition of control. 54441

(G) This section does not apply to either of the 54442
following: 54443

(1) Any transaction that is subject to section 3921.14, or 54444
sections 3925.27 to 3925.31, 3941.35 to 3941.46, or section 54445
3953.19 of the Revised Code; 54446

(2) Any offer, request, invitation, agreement, or 54447
acquisition that the superintendent by order exempts from this 54448
section on either of the following bases: 54449

(a) It has not been made or entered into for the purpose 54450

and does not have the effect of changing or influencing the 54451
control of a domestic insurer; 54452

(b) It is not otherwise comprehended within the purposes 54453
of this section. 54454

(H) Nothing in this section or in any other section of 54455
Title XXXIX of the Revised Code shall be construed to impair the 54456
authority of the attorney general to investigate or prosecute 54457
actions under any state or federal antitrust law with respect to 54458
any merger or other acquisition involving domestic insurers. 54459

(I) In connection with a proposed change of control 54460
involving a depository institution or any affiliate thereof, 54461
within the meaning of Title I, section 104(c) of the "Gramm- 54462
Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), 54463
and a domestic insurer, not later than sixty days after the date 54464
of the notification of the proposed change in control submitted 54465
pursuant to division (B)(2) of this section, the superintendent 54466
shall make any determination that the person acquiring control 54467
of the insurer shall maintain or restore the capital of the 54468
insurer to the level required by the laws and regulations of 54469
this state. 54470

Sec. 3901.352. (A)(1) The superintendent of insurance is 54471
authorized to act as the group-wide supervisor for any 54472
internationally active insurance group in accordance with this 54473
section. However, the superintendent may otherwise acknowledge a 54474
regulatory official from another jurisdiction as the group-wide 54475
supervisor for an internationally active insurance group, if the 54476
group meets any of the following conditions: 54477

(a) Does not have substantial insurance operations in the 54478
United States; 54479

(b) Has substantial operations in the United States, but not in this state;	54480 54481
(c) Has substantial insurance operations in the United States and this state, but the superintendent has determined pursuant to the factors set forth in divisions (B) and (F) of this section that the other regulatory official is the appropriate group-wide supervisor.	54482 54483 54484 54485 54486
(2) An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the superintendent make a determination or acknowledgment as to a group-wide supervisor for the insurance holding company system pursuant to this section.	54487 54488 54489 54490 54491
(B) (1) In cooperation with other state, federal, and international regulatory agencies, the superintendent shall identify one group-wide supervisor for each internationally active insurance group. The superintendent may determine that the superintendent is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state. However, the superintendent may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. The superintendent shall consider the following factors when making a determination or acknowledgment under division (B) (1) of this section:	54492 54493 54494 54495 54496 54497 54498 54499 54500 54501 54502 54503 54504
(a) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities;	54505 54506 54507
(b) The place of domicile of the top-tiered insurer in the	54508

internationally active insurance group's insurance holding 54509
company system; 54510

(c) The location of the executive offices or largest 54511
operational offices of the internationally active insurance 54512
group; 54513

(d) For the purposes of division (C) (1) of this section, 54514
whether another regulatory official is acting or is seeking to 54515
act as the group-wide supervisor for the internationally active 54516
insurance group under a regulatory system that the 54517
superintendent determines to be either of the following: 54518

(i) Substantially similar to the regulatory system under 54519
the laws of this state; 54520

(ii) Otherwise sufficient in terms of providing for group- 54521
wide supervision, enterprise risk analysis, and cooperation with 54522
other regulatory officials. 54523

(e) Whether another regulatory official acting, or seeking 54524
to act, as the group-wide supervisor for the internationally 54525
active insurance group provides the superintendent with 54526
reasonably reciprocal recognition and cooperation. 54527

(2) If the superintendent is identified in division (B) (1) 54528
of this section as the group-wide supervisor of an 54529
internationally active insurance group, the superintendent may 54530
determine that it is appropriate to acknowledge another 54531
supervisor to serve as the group-wide supervisor. The 54532
acknowledgment of the new group-wide supervisor shall be made in 54533
accordance with all of the following: 54534

(a) After consideration of the factors listed in division 54535
(B) (1) of this section; 54536

(b) In cooperation with and subject to the acknowledgment 54537
of other regulatory officials involved with supervision of 54538
members of the internationally active insurance group; 54539

(c) In consultation with the internationally active 54540
insurance group. 54541

(C) (1) Notwithstanding any other provision of law, when 54542
another regulatory official is acting as the group-wide 54543
supervisor of an internationally active insurance group, the 54544
superintendent shall acknowledge that regulatory official as the 54545
group-wide supervisor. 54546

(2) The superintendent shall make a determination or 54547
acknowledgment under division (B) of this section as to the 54548
appropriate group-wide supervisor for an internationally active 54549
insurance group if a material change in the internationally 54550
active insurance group results in either of the following: 54551

(a) The internationally active insurance group's insurers 54552
domiciled in this state holding the largest share of the group's 54553
premiums, assets, or liabilities; 54554

(b) This state being the place of domicile of the top- 54555
tiered insurer in the internationally active insurance group's 54556
insurance holding company system. 54557

(D) (1) Pursuant to section 3901.35 of the Revised Code, 54558
the superintendent may collect from any insurer registered under 54559
section 3901.33 of the Revised Code all information necessary to 54560
determine whether the superintendent may act as the group-wide 54561
supervisor of an internationally active insurance group or if 54562
the superintendent may acknowledge another regulatory official 54563
to act as the group-wide supervisor. 54564

(2) Prior to issuing a determination that an 54565

internationally active insurance group is subject to group-wide supervision by the superintendent, the superintendent shall notify the insurer registered under section 3901.33 of the Revised Code and the ultimate controlling person within the internationally active insurance group. The superintendent shall give the internationally active insurance group not less than thirty days to provide the superintendent with additional information pertinent to the pending determination.

(3) The superintendent shall publish on its internet web site the identity of internationally active insurance groups that the superintendent has determined are subject to group-wide supervision by the superintendent.

(E) If the superintendent is the group-wide supervisor for an internationally active insurance group, the superintendent may engage in any of the following activities:

(1) Assess the enterprise risks within the internationally active insurance group to ensure all of the following:

(a) That the material financial condition and liquidity risks to members of the internationally active insurance group that are engaged in the business of insurance are identified by management;

(b) That reasonable and effective mitigation measures are in place.

(2) Request from any member of an internationally active insurance group subject to the superintendent's supervision information necessary and appropriate to assess enterprise risk, including information about the members of the internationally active insurance group regarding all of the following:

(a) Governance, risk assessment, and management;

(b) Capital adequacy;	54595
(c) Material intercompany transactions.	54596
(3) Coordinate and, through the authority of the	54597
regulatory officials of the jurisdictions in which members of	54598
the internationally active insurance group are domiciled, compel	54599
development and implementation of reasonable measures designed	54600
to ensure that the internationally active insurance group is	54601
able to timely recognize and mitigate enterprise risks to	54602
members of the internationally active insurance group that are	54603
engaged in the business of insurance;	54604
(4) Communicate with other state, federal, and	54605
international regulatory agencies for members of the	54606
internationally active insurance group and share relevant	54607
information, subject to the confidentiality provisions of	54608
section 3901.36 of the Revised Code, through a supervisory	54609
college as set forth in section 3901.351 of the Revised Code or	54610
otherwise;	54611
(5) Enter into agreements with or obtain documentation	54612
from any insurer registered under section 3901.33 of the Revised	54613
Code, any member of the internationally active insurance group,	54614
and any other state, federal, and international regulatory	54615
agency for members of the internationally active insurance	54616
group, that provides the basis for or otherwise clarifies the	54617
superintendent's role as group-wide supervisor. The agreements	54618
or documentation may include provisions for resolving disputes	54619
with other regulatory officials. The agreements or documentation	54620
shall not serve as evidence in any proceeding to show that any	54621
insurer or person within an insurance holding company system not	54622
domiciled or incorporated in this state is doing business in	54623
this state or is otherwise subject to jurisdiction in this	54624

state. 54625

(6) Any other group-wide supervision activities consistent 54626
with this section that the superintendent considers necessary. 54627

(F) If the superintendent acknowledges that another 54628
regulatory official from a jurisdiction that is not accredited 54629
by the national association of insurance commissioners is the 54630
group-wide supervisor of an internationally active insurance 54631
group, the superintendent may reasonably cooperate, through a 54632
supervisory college as set forth in section 3901.351 of the 54633
Revised Code or otherwise, with group-wide supervision 54634
undertaken by the group-wide supervisor if all of the following 54635
are true: 54636

(1) The superintendent's cooperation is in compliance with 54637
the Revised Code. 54638

(2) The regulatory official also recognizes and cooperates 54639
with the superintendent's activities as a group-wide supervisor 54640
for other internationally active insurance groups, as 54641
applicable. If such recognition and cooperation is not 54642
reasonably reciprocal, the superintendent may refuse to 54643
recognize and cooperate with the regulatory official as group- 54644
wide supervisor. 54645

(G) The superintendent may enter into agreements with or 54646
obtain documentation from any insurer registered under section 54647
3901.33 of the Revised Code, any affiliate of the insurer, and 54648
other state, federal, and international regulatory agencies for 54649
members of the internationally active insurance group that 54650
provides the basis for or otherwise clarifies a regulatory 54651
official's role as group-wide supervisor of an internationally 54652
active insurance group. 54653

(H) An insurer registered under section 3901.33 of the Revised Code shall be liable for and shall pay the reasonable expenses of the superintendent's participation in the administration of this section, including engaging attorneys, actuaries, and any other professionals and all reasonable travel expenses. 54654
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~~(I) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.~~ 54660
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Sec. 3901.382. Beginning six months after the date specified in section 262 of the "Health Insurance Portability and Accountability Act of 1996," 110 Stat. 2027, 42 U.S.C.A. 1320d-4, on which a third-party payer is initially required to comply with a standard or implementation specification for the electronic exchange of health information, as adopted or established by the United States secretary of health and human services pursuant to that act, sections 3901.381, 3901.384, 3901.385, 3901.389, 3901.3810, 3901.3811, and 3901.3812,~~and 3901.3813~~ of the Revised Code apply to a claim submitted to a third-party payer for payment for health care services only if the claim is submitted electronically. A provider and third-party payer may enter into a contractual arrangement under which the third-party payer agrees to process claims that are not submitted electronically because of the financial hardship that electronic submission of claims would create for the provider or any other extenuating circumstance. 54663
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Sec. 3901.383. (A) A provider and a third-party payer may do either of the following: 54680
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(1) Enter into a contractual agreement under which time periods shorter than those set forth in section 3901.381 of the 54682
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Revised Code are applicable to the third-party payer in paying a claim for any amount due for health care services rendered by the provider;

(2) Enter into a contractual agreement under which the timing of payments by the third-party payer is not directly related to the receipt of a claim form. The contractual arrangement may include periodic interim payment arrangements, capitation payment arrangements, or other periodic payment arrangements acceptable to the provider and the third-party payer. Under a capitation payment arrangement, the third-party payer shall begin paying the capitated amounts to the beneficiary's primary care provider not later than sixty days after the date the beneficiary selects or is assigned to the provider. Under any other contractual periodic payment arrangement, the contractual agreement shall state, with specificity, the timing of payments by the third-party payer.

(B) Regardless of whether a third-party payer is exempted under division (D) of section 3901.3814 from sections 3901.38 and 3901.381 to ~~3901.3813~~ 3901.3812 of the Revised Code, a provider and the third-party payer, including a third-party payer that provides coverage under the medicaid program, shall not enter into a contractual arrangement under which time periods longer than those provided for in paragraph (c) (1) of 42 C.F.R. 447.46 are applicable to the third-party payer in paying a claim for any amount due for health care services rendered by the provider.

Sec. 3901.3814. Sections 3901.38 and 3901.381 to ~~3901.3813~~ 3901.3812 of the Revised Code do not apply to the following:

(A) Policies offering coverage that is regulated under Chapters 3935. and 3937. of the Revised Code;

(B) An employer's self-insurance plan and any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of any provisions of those sections to the plan and its administrators;

(C) A third-party payer for coverage provided under the medicare advantage program operated under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(D) A third-party payer for coverage provided under the medicaid program;

(E) A third-party payer for coverage provided under the triccare program offered by the United States department of defense.

Sec. 3901.41. (A) As used in this section:

(1) "Automated transaction" has the same meaning as in section 1306.01 of the Revised Code, and includes electronic transactions between two or more persons conducting business pursuant to the laws of this state relating to insurance.

(2) "Contact point" means any electronic identification to which messages can be sent, including, but not limited to, any of the following:

(a) An electronic mail address;

(b) An instant message identity;

(c) A wireless telephone number, or any other personal electronic communication device;

(d) A facsimile number.

(3) "Insured" means a certificate holder, contract owner, customer, policyholder, or subscriber as those terms are used in the laws of this state relating to insurance. 54741
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(4) "Insurer" has the same meaning as in section 3901.32 of the Revised Code. 54744
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(5) "Laws of this state relating to insurance" has the same meaning as in section 3901.04 of the Revised Code. 54746
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(6) "Personally identifiable information" means any individually identifiable information gathered in connection with an insurance transaction, including a person's name, address, social security number, and banking information. 54748
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(7) "Secure web site" means a web site that meets both of the following criteria: 54752
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(a) The web site uses the hypertext transfer protocol secure communication protocol or other equally secure communication protocol. 54754
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(b) The web site requires a person to enter a unique user credential to access personally identifiable information for which the person has the legal right to access. 54757
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(B) Notwithstanding any laws of this state relating to insurance, sections 1306.01 to 1306.23 of the Revised Code, the "Uniform Electronics Transactions Act," apply to the business of insurance in this state. 54760
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(C) (1) If an insured agrees to conduct the business of insurance via an automated transaction, any information issued or delivered in writing may be issued or delivered electronically to a contact point provided by the insured, as long as both of the following apply: 54764
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(a) The transmission of information is in compliance with sections 1306.07 and 1306.14 of the Revised Code. (a) 54769
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(b) The details of the automated transaction are fully disclosed to the insured in the application, policy, certificate, contract of insurance, or by another method that ensures notice to the insured. An insurer's form used only to notify an insured of and obtain consent for an automated transaction does not need to be approved or accepted by the superintendent of insurance. (b) 54771
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(2) (a) Except for notices of cancellation, nonrenewal, or termination, an insurer may deliver information via a secure web site if the insurer sends an electronic notice to a contact point and the electronic notice includes a hyperlink to the secure web site. (2) (a) 54778
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(b) If an insurer uses a secure web site to deliver changes in terms or conditions in an insured's policy, certificate, or contract of insurance, including any endorsements or amendments, the electronic notice to the insured's contact point shall include all of the following: (b) 54783
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(i) A list or summary of the changes; (i) 54788

(ii) A link to the complete document located on the insurer's secure web site; (ii) 54789
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(iii) The following or substantially similar statement displayed in a prominent manner: (iii) 54791
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"There are changes in the terms or conditions of your policy, certificate, or contract of insurance." 54793
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(3) At a minimum, the details of the automated transaction shall include all of the following: (3) 54795
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(a) A clear and conspicuous statement informing the insured of any right or option of the insured to receive a record on paper;

(b) The right of the insured to withdraw the insured's consent, and any consequences or fees if the insured withdraws consent;

(c) A description of the procedures the insured must use to withdraw consent and to update the insured's contact point.

(4) Agreement to participate in a part of an automated transaction shall not be used to confirm the insured's consent to transact the entire business of insurance pursuant to this section.

(5) A withdrawal of consent by an insured shall be effective within a reasonable time period, not to exceed ten business days after the receipt of the withdrawal by the insurer.

(D) The insurer shall send all notices of cancellation, nonrenewal, termination, or changes in the terms or conditions of the policy, certificate, or contract of insurance to the last known contact point supplied by the insured. If the insurer has knowledge that the insured's contact point is no longer valid, the insurer shall send the information via regular mail to the last known address furnished to the insurer by the insured.

(E) Any insurer conducting the business of insurance via an automated transaction shall allow the insurer's insureds who agree to participate in an automated transaction the option to withdraw consent from participating in the automated transaction.

(F) Notwithstanding any laws or regulations of this state

relating to insurance, any policy, certificate, or contract of insurance, including any endorsements or amendments, that do not contain personally identifiable information may be posted to the insurer's web site in lieu of any other method of delivery. If the insurer elects to post any policy, certificate, or contract of insurance to the insurer's web site, all of the following shall apply:

(1) The policy, certificate, or contract of insurance is readily accessible by the insured and, once the policy, certificate, or contract of insurance is no longer used by the insurer in this state, it is stored in a readily accessible archive;

(2) The policy, certificate, or contract of insurance is posted in such a manner that the insured can easily identify the insured's applicable policy, certificate, or contract and print or download the insured's documents without charge and without the use of any special program or application that is not readily available to the public without charge;

(3) The insurer provides written notice at the time of issuance of the initial policy, certificate, contract, or any renewal forms of a method by which the insured may obtain upon request a paper or electronic copy of their policy, certificate, or contract without charge;

(4) The insurer clearly identifies the applicable policy, endorsements, amendments, certificate, or contract of insurance purchased by the insured on any declaration page, certificate of insurance, summary of benefits, or other evidence of coverage issued to the insured;

(5) The insurer gives notice, in the manner it customarily

communicates with an insured, of any changes to the policy, 54855
certificate, or contract of insurance, including any 54856
endorsements or amendments, and of the insured's right to obtain 54857
upon request a paper or electronic copy of the policy, 54858
endorsements, or amendments without charge. 54859

(G) Notwithstanding any other section of Title XXXIX or 54860
Chapters 1739. or 1751. of the Revised Code or rules adopted 54861
thereunder to the contrary, an insurer may deliver any notices, 54862
documents, or information to an insured via an automated 54863
transaction pursuant to this section. 54864

(H) This section does not supersede any time periods, 54865
filing requirements, or content of notices, documents, notices 54866
to insureds' agents required pursuant to sections 3937.25, 54867
3937.26, and 3937.27 of the Revised Code, or information 54868
otherwise required by a law other than this section relating to 54869
insurance. This section does not apply to disclosures through 54870
electronic media of certificates, explanation of benefit 54871
statements, and other mandated materials under the "Employee 54872
Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. 54873
1001, as amended, and any regulation adopted thereunder. 54874

(I) If the consent of an insured to receive certain 54875
notices, documents, or information in an electronic form is on 54876
file with an insurer before September 4, 2014, if the consent 54877
was not accompanied by the details of the automated transaction 54878
described in division (C) (3) of this section, and if, pursuant 54879
to this section, an insurer intends to deliver additional 54880
notices, documents, or information to that insured in an 54881
electronic form, then, prior to delivering or at the time of 54882
delivering such additional notice, documents, or information 54883
electronically, the insurer shall notify the insured of the 54884

details of the automated transaction in compliance with division 54885
(C) (3) of this section. 54886

(J) (1) The purchase of a policy of insurance through an 54887
online platform shall be considered an agreement to conduct the 54888
business of insurance via an automated transaction under this 54889
section, and the insured shall be considered to have 54890
affirmatively consented to have all notices and documents 54891
related to the policy delivered to the insured electronically. 54892

(2) Notwithstanding division (J) (1) of this section, if an 54893
insured purchasing a policy of insurance via an online platform 54894
requests to receive all notices and documents in paper format, 54895
the insurer shall provide all notices and other documents 54896
related to the policy to the insured in paper format. 54897

(3) Nothing in division (J) of this section requires an 54898
insurer to offer or otherwise provide an online platform to 54899
conduct the business of insurance. 54900

(4) As used in division (J) of this section, "online 54901
platform" means a web site or other digital application designed 54902
to facilitate the purchase of insurance policies by parties from 54903
a licensed insurer. 54904

~~(K) The superintendent of insurance may adopt rules in 54905
accordance with Chapter 119. of the Revised Code as the 54906
superintendent considers necessary to carry out the purposes of 54907
this section. 54908~~

Sec. 3901.80. (A) As used in this section: 54909

(1) "Living organ donor" means a living person who donates 54910
an organ to another living person. 54911

(2) "Policy of insurance" means a life insurance policy, 54912

disability insurance policy, or long-term care insurance policy. 54913

(B) Notwithstanding any provision of law to the contrary, 54914
an insurer shall not unfairly discriminate against a living 54915
organ donor in the offering, issuance, premium, or conditions of 54916
a policy of insurance based solely, and without any additional 54917
actuarial risks, on that person's status as a living organ 54918
donor. 54919

(C) A violation of division (B) of this section shall be 54920
considered an unfair and deceptive practice in the business of 54921
insurance under section 3901.21 of the Revised Code. 54922

~~(D) The superintendent of insurance may adopt rules as 54923
necessary to carry out the requirements of this section. 54924~~

Sec. 3901.83. As used in sections 3901.83 to ~~3901.833~~ 54925
3901.832 of the Revised Code: 54926

(A) "Clinical practice guidelines" means a systematically 54927
developed statement to assist health care provider and patient 54928
decisions with regard to appropriate health care for specific 54929
clinical circumstances and conditions. 54930

(B) "Clinical review criteria" means the written screening 54931
procedures, decision abstracts, clinical protocols, and clinical 54932
practice guidelines used by a health plan issuer or utilization 54933
review organization to determine whether or not health care 54934
services or drugs are appropriate and consistent with medical or 54935
scientific evidence. 54936

(C) "Health benefit plan" and "health plan issuer" have 54937
the same meanings as in section 3922.01 of the Revised Code. 54938

(D) "Medical or scientific evidence" has the same meaning 54939
as in section 3922.01 of the Revised Code. 54940

(E) "Step therapy exemption" means an overriding of a step therapy protocol in favor of immediate coverage of the health care provider's selected prescription drug. 54941
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(F) "Step therapy protocol" means a protocol or program that establishes a specific sequence in which prescription drugs that are for a specified medical condition and that are consistent with medical or scientific evidence for a particular patient are covered, under either a medical or prescription drug benefit, by a health benefit plan, including both self-administered and physician-administered drugs. 54944
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(G) "Urgent care services" has the same meaning as in section 3923.041 of the Revised Code. 54951
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(H) "Utilization review organization" has the same meaning as in section 1751.77 of the Revised Code. 54953
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Sec. 3902.30. (A) As used in this section: 54955

(1) "Cost sharing" means the cost to a covered individual under a health benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the plan. 54956
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(2) "Health benefit plan," "health care services," and "health plan issuer" have the same meanings as in section 3922.01 of the Revised Code. 54960
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(3) "Health care professional" has the same meaning as in section 4743.09 of the Revised Code. 54963
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(4) "In-person health care services" means health care services delivered by a health care professional through the use of any communication method where the professional and patient are simultaneously present in the same geographic location. 54965
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(5) "Telehealth services" has the same meaning as in 54969
section 4743.09 of the Revised Code. 54970

(B)(1) A health benefit plan shall provide coverage for 54971
telehealth services on the same basis and to the same extent 54972
that the plan provides coverage for the provision of in-person 54973
health care services. 54974

(2) A health benefit plan shall not exclude coverage for a 54975
service solely because it is provided as a telehealth service. 54976

(3) A health plan issuer shall reimburse a health care 54977
professional for a telehealth service that is covered under a 54978
patient's health benefit plan. Division (B)(3) of this section 54979
shall not be construed to require a specific reimbursement 54980
amount. 54981

(C) A health benefit plan shall not impose any annual or 54982
lifetime benefit maximum in relation to telehealth services 54983
other than such a benefit maximum imposed on all benefits 54984
offered under the plan. 54985

(D)(1) A health benefit plan shall not impose a cost- 54986
sharing requirement for telehealth services that exceeds the 54987
cost-sharing requirement for comparable in-person health care 54988
services. 54989

(2)(a) A health benefit plan shall not impose a cost- 54990
sharing requirement for a communication when all of the 54991
following apply: 54992

(i) The communication was initiated by the health care 54993
professional. 54994

(ii) The patient consented to receive a telehealth service 54995
from that provider on any prior occasion. 54996

(iii) The communication is conducted for the purposes of preventive health care services only. 54997
54998

(b) If a communication described in division (D) (2) (a) of this section is coded based on time, then only the time the health care professional spends engaged in the communication is billable. 54999
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(E) This section shall not be construed as doing any of the following: 55003
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(1) Requiring a health plan issuer to reimburse a health care professional for any costs or fees associated with the provision of telehealth services that would be in addition to or greater than the standard reimbursement for comparable in-person health care services; 55005
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(2) Requiring a health plan issuer to reimburse a telehealth provider for telehealth services at the same rate as in-person services; 55010
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(3) Requiring a health plan issuer to provide coverage for asynchronous communication that differs from the coverage described in the applicable health benefit plan. 55013
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~~(F) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the requirements of this section. Any such rules adopted by the superintendent are not subject to the requirements of division (F) of section 121.95 of the Revised Code.~~ 55016
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Sec. 3902.36. (A) As used in this section: 55022

(1) "Health benefit plan" and "health plan issuer" have the same meanings as in section 3922.01 of the Revised Code. 55023
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(2) "Mental Health Parity and Addiction Equity Act" means 55025
the federal "Paul Wellstone and Pete Domenici Mental Health 55026
Parity and Addiction Equity Act of 2008," Pub. L. No. 110-343, 55027
as amended, and any federal regulations implementing that act. 55028

(B) Each health plan issuer and health benefit plan 55029
subject to the Mental Health Parity and Addiction Equity Act 55030
shall comply with all applicable requirements of that act. The 55031
requirements of this section do not apply to a health plan 55032
issuer or a health benefit plan that is exempt from the 55033
requirements of that act by operation of law or other federal 55034
guidance. 55035

(C) The superintendent of insurance shall implement and 55036
enforce all applicable provisions of the Mental Health Parity 55037
and Addiction Equity Act and shall do all of the following: 55038

(1) Proactively ensure compliance by health plan issuers; 55039

(2) Evaluate all consumer and provider complaints 55040
regarding mental health and substance use disorder benefits for 55041
possible parity violations; 55042

(3) Adopt rules in accordance with Chapter 119. of the 55043
Revised Code as necessary to ~~do both of the following:~~ 55044

~~(a) Effectuate~~ effectuate any provisions of the Mental 55045
Health Parity and Addiction Equity Act that relate to the 55046
business of insurance; 55047

~~(b) Enforce, monitor compliance with, and ensure continued 55048
compliance with this section.~~ 55049

(D) Nothing in this section is subject to the requirements 55050
of section 3901.71 of the Revised Code. 55051

Sec. 3902.53. (A) (1) Except as provided in division (A) (2) 55052

of this section, sections 3901.38 to 3901.3814 of the Revised Code shall not apply with respect to a claim during a period of negotiation under section 3902.51 of the Revised Code or a period of arbitration under section 3902.52 of the Revised Code. Sections 3901.38 to 3901.3814 of the Revised Code shall apply upon the completion of a successful negotiation or upon the rendering of an arbitration decision.

(2) The superintendent of insurance may adopt rules pursuant to ~~division (D) of section 3902.54~~ Chapter 119. of the Revised Code specifying situations in which sections 3901.38 to 3901.3814 of the Revised Code apply during periods of negotiation under section 3902.51 of the Revised Code.

(B) A pattern of continuous or repeated violations of section 3902.51 or 3902.52 of the Revised Code by a health plan issuer is an unfair and deceptive act or practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code.

(C) A provider who violates section 3902.51 or 3902.52 of the Revised Code shall be subject to professional discipline under Title XLVII of the Revised Code as applicable.

Sec. 3902.54. (A) (1) The superintendent of insurance shall contract with a single arbitration entity to perform all arbitrations described in section 3902.52 of the Revised Code. The superintendent shall ensure that the arbitration entity, any arbitrators the arbitration entity designates to conduct an arbitration, and any officer, director, or employee of the arbitration entity do not have any material, professional, familial, or financial connection with any of the following:

(a) The health plan issuer involved in a dispute;

(b) An officer, director, or employee of the health plan issuer;	55082 55083
(c) A provider, facility, emergency facility, ambulance, medical group, or independent practice organization involved with the service in question;	55084 55085 55086
(d) The development or manufacture of any principal drug, device, procedure, or other therapy in dispute;	55087 55088
(e) The covered person who received the service that is the subject of a dispute or the covered person's immediate family.	55089 55090 55091
(2) The superintendent shall require the arbitration entity to do all of the following:	55092 55093
(a) Utilize arbitrators who are knowledgeable and experienced in applicable principles of contract and insurance law;	55094 55095 55096
(b) Ensure that the arbitrators have access to appropriate specialists including certified coding specialists, physicians, nurses, other clinicians, and health insurance experts as necessary to render a determination;	55097 55098 55099 55100
(c) Utilize a secure electronic portal for the submission, processing, and management of arbitration applications;	55101 55102
(d) Perform all arbitrations under section 3902.52 of the Revised Code on a flat fee basis.	55103 55104
(B) In selecting the arbitration entity with which to contract, the superintendent shall at minimum require a prospective arbitration entity to submit to the superintendent a disclosure containing all of the following accompanied by an application fee prescribed by the superintendent:	55105 55106 55107 55108 55109

- (1) The name, telephone number, and address of the applicant; 55110
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- (2) If the applicant has issued any outstanding shares that are listed on a national securities exchange or are regularly quoted in an over-the-counter market by one or more members of a national or affiliated securities association, the name of each person holding more than five per cent stock or call or put options in the applicant; 55112
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- (3) The name of each person holding bonds or notes issued by the applicant totaling over one hundred thousand dollars; 55118
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- (4) The name of each entity the applicant controls and the nature and extent of such control, including the nature of the controlled entity's business; 55120
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- (5) The name of each entity in which the applicant has more than five per cent ownership interest, including the nature of the entity's business; 55123
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- (6) The name, contact information, and work history of each director, officer, and executive and any current or previous relationship each of those persons has or had with a health plan issuer, provider, facility, emergency facility, medical group, or independent practice organization; 55126
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- (7) The percentage of revenue the arbitration entity receives from its arbitration services; 55131
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- (8) A description of the applicant's arbitration process, including information about how the applicant will meet the superintendent's standards and how the applicant will avoid conflicts of interest; 55133
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- (9) The fee the applicant would charge for an arbitration. 55137

(C) (1) The superintendent shall require the contracted arbitration entity to submit to the superintendent on an annual basis the disclosure described in division (B) of this section.

(2) The superintendent shall require the contracted arbitration entity to submit to the superintendent on an annual basis, and the superintendent shall issue, a report containing all of the following:

(a) The number of arbitrations conducted under section 3902.52 of the Revised Code;

(b) The provider type, whether individual, practice, facility, emergency facility, or ambulance, that engaged in the arbitrations;

(c) The specialty of the provider engaging in the arbitrations;

(d) The out-of-network situation;

(e) The percentage of times the arbitrator decides in favor of the health plan issuer versus the provider, facility, emergency facility, or ambulance.

(D) The superintendent of insurance ~~shall~~ may adopt rules pursuant to Chapter 119. of the Revised Code ~~as necessary to implement sections 3902.50 to 3902.54 of the Revised Code.~~

~~Rules adopted by the superintendent may relate~~ related to the definitions of "provider," "facility," "emergency facility," and "ambulance." The requirements of section 121.95 of the Revised Code do not apply to rules adopted in accordance with this division.

Sec. 3902.61. (A) Notwithstanding ~~section~~ sections 3901.71 ~~and sections , 3901.831 to 3901.833, and 3901.832~~ of the

Revised Code, a health benefit plan issued, delivered, or 55166
renewed in this state on or after ~~the effective date of this~~ 55167
~~section~~ March 24, 2021, that directly or indirectly covers the 55168
treatment of stage four advanced metastatic cancer shall not 55169
make coverage of a drug that is prescribed to treat such cancer 55170
or associated conditions dependent upon a covered person 55171
demonstrating either of the following: 55172

(1) Failure to successfully respond to a different drug; 55173

(2) A history of failing to respond to a different drug or 55174
drugs. 55175

(B) Division (A) of this section applies only to uses of 55176
such drug or drugs that are consistent with either of the 55177
following: 55178

(1) An indication approved by, or described in, as 55179
applicable, either of the following for the treatment of stage 55180
four advanced metastatic cancer: 55181

(a) The United States food and drug administration; 55182

(b) The national comprehensive cancer network drugs and 55183
biologics compendium. 55184

(2) The best practices for the treatment of stage four 55185
advanced metastatic cancer, as supported by peer-reviewed 55186
medical literature. 55187

(C) A violation of this section is an unfair and deceptive 55188
practice in the business of insurance under sections 3901.19 to 55189
3901.26 of the Revised Code. 55190

Sec. 3903.07. (A) In any proceeding under sections 3903.01 55191
to 3903.59 of the Revised Code, the superintendent of insurance 55192
and ~~his~~ the superintendent's deputies are responsible on their 55193

official bonds for the faithful performance of their duties. If 55194
the court considers it desirable for the protection of the 55195
assets, it may at any time require an additional bond from the 55196
superintendent or ~~his~~ the superintendent's deputies, and such 55197
bonds shall be paid for out of the assets of the insurer as a 55198
cost of administration. 55199

(B) Sections 9.86 and 9.87 of the Revised Code and 55200
sections 109.36 to ~~109.366~~ 109.365 of the Revised Code apply, for 55201
purposes of any proceeding under sections 3903.01 to 3903.59 of 55202
the Revised Code, to the superintendent, any deputy liquidator, 55203
any employee of the department of insurance, any employee 55204
appointed by the superintendent as liquidator, and any employee 55205
who serves under the liquidator. 55206

(C) For the sole purpose of the application of sections 55207
9.86 and 9.87 of the Revised Code and sections 109.36 to ~~109.366~~ 55208
109.365 of the Revised Code, each person described in division 55209
(B) of this section is deemed to be an officer or employee as 55210
defined in division (A) of section 9.85 of the Revised Code and 55211
division (A) of section 109.36 of the Revised Code. 55212

Sec. 3903.81. As used in sections 3903.81 to ~~3903.93~~ 55213
3903.92 of the Revised Code: 55214

(A) "Adjusted RBC report" means an RBC report that has 55215
been adjusted by the superintendent of insurance in accordance 55216
with division (C) of section 3903.82 of the Revised Code. 55217

(B) "Authorized control level RBC" means the number 55218
determined under the risk-based capital formula in accordance 55219
with the RBC instructions. 55220

(C) "Company action level RBC" means the product of 2.0 55221
and an insurer's authorized control level RBC. 55222

(D) "Corrective order" means an order issued by the superintendent of insurance in accordance with division (B) (3) of section 3903.84 of the Revised Code specifying corrective actions that the superintendent has determined are required.	55223 55224 55225 55226
(E) "Domestic insurer" means any insurance company organized under Chapter 3907. or 3925. of the Revised Code.	55227 55228
(F) "Foreign insurer" means any insurance company licensed under section 3909.01 or 3927.01 of the Revised Code.	55229 55230
(G) "Life or health insurer" means any insurance company licensed under section 3907.08 or 3909.01 of the Revised Code, a company possessing a certificate of authority pursuant to section 3929.01 of the Revised Code that writes only accident and health insurance, a fraternal benefit society licensed under Chapter 3921. of the Revised Code, or a multiple employer welfare arrangement issued a certificate of authority under Chapter 1739. of the Revised Code.	55231 55232 55233 55234 55235 55236 55237 55238
(H) "Mandatory control level RBC" means the product of .70 and an insurer's authorized control level RBC.	55239 55240
(I) "NAIC" means the national association of insurance commissioners.	55241 55242
(J) "Negative trend" means a negative trend over a period of time for a life or health insurer as determined in accordance with the trend test calculation included in the RBC instructions.	55243 55244 55245 55246
(K) "Property and casualty insurer" means any insurance company that has a certificate of authority pursuant to section 3929.01 of the Revised Code. "Property and casualty insurer" does not include monoline mortgage guarantee insurers, financial guarantee insurers, or title insurers.	55247 55248 55249 55250 55251

(L) "RBC" means risk-based capital.	55252
(M) "RBC instructions" means the RBC report, including risk-based capital instructions, as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC. "RBC instructions" shall also include any modifications adopted by the superintendent, as the superintendent considers to be necessary.	55253 55254 55255 55256 55257 55258
(N) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC.	55259 55260 55261
(O) "RBC plan" means a comprehensive financial plan containing the elements specified in division (B) of section 3903.83 of the Revised Code.	55262 55263 55264
(P) "Revised RBC plan" means an RBC plan rejected by the superintendent of insurance and then revised by an insurer with or without incorporating the superintendent of insurance's recommendation.	55265 55266 55267 55268
(Q) "RBC report" means the report required by section 3903.82 of the Revised Code.	55269 55270
(R) "Regulatory action level RBC" means the product of 1.5 and an insurer's authorized control level RBC.	55271 55272
(S) "Total adjusted capital" means the sum of both of the following:	55273 55274
(1) An insurer's statutory capital and surplus as determined in accordance with the statutory accounting applicable to the annual statements prepared on a form adopted under section 3901.77 of the Revised Code, as required to be filed by sections 3907.19, 3909.06, and 3929.30 of the Revised	55275 55276 55277 55278 55279

Code;	55280
(2) Such other items, if any, as the RBC instructions may provide.	55281 55282
Sec. 3903.82. (A) Each domestic insurer shall, on or prior to the first day of March of every year, prepare and submit to the superintendent of insurance a report on its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, every domestic insurer shall file its RBC report as follows:	55283 55284 55285 55286 55287 55288 55289
(1) With the NAIC, in accordance with the RBC instructions;	55290 55291
(2) With the insurance regulatory authority of any other state in which the insurer is authorized to do business, if the insurance regulatory authority of that state has sent a written request to the insurer for the RBC report. The insurer shall file an RBC report in that state no later than the later of:	55292 55293 55294 55295 55296
(a) Fifteen days after the insurer's receipt of the insurance regulatory authority's request for the RBC report;	55297 55298
(b) Prior to the first day of March.	55299
(B) (1) A life or health insurer's RBC levels shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take the following risks into account, and may adjust for the covariance between these risks:	55300 55301 55302 55303
(a) Asset risk;	55304
(b) Insurance risk;	55305
(c) Interest rate risk;	55306

(d) All other business risks and such other relevant risks 55307
as are set forth in the RBC instructions. 55308

(2) A property and casualty insurer's RBC levels shall be 55309
determined in accordance with the formula set forth in the RBC 55310
instructions, applying the factors in the manner set forth in 55311
the RBC instructions. The formula shall take the following risks 55312
into account, and may adjust for the covariance between these 55313
risks: 55314

(a) Asset risk; 55315

(b) Credit risk; 55316

(c) UNDERWRITING risk; 55317

(d) All other business risks and such other relevant risks 55318
as are set forth in the RBC instructions. 55319

(C) If a domestic insurer files an RBC report that is 55320
inaccurate in the judgment of the superintendent, the 55321
superintendent shall adjust the RBC report to correct the 55322
inaccuracy and then shall provide a copy of the adjusted RBC 55323
report to the insurer. The superintendent shall also provide the 55324
insurer with a statement of the reasons for any adjustment. 55325

(D) In enacting sections 3903.81 to ~~3903.93~~ 3903.92 of the 55326
Revised Code, the general assembly finds all of the following: 55327

(1) An excess of capital over the amount produced by the 55328
risk-based capital requirements of sections 3903.81 to ~~3903.93~~ 55329
3903.92 of the Revised Code, and the formulas, schedules, and 55330
instructions referenced in sections 3903.81 to ~~3903.93~~ 3903.92 55331
of the Revised Code, is desirable in the business of insurance. 55332

(2) Insurers, accordingly, should seek to maintain capital 55333
above the RBC levels required under sections 3903.81 to ~~3903.93~~ 55334

3903.92 of the Revised Code. 55335

(3) Additional capital is used and is useful in the 55336
insurance business, helping to secure an insurer against various 55337
risks inherent in, or affecting, the business of insurance, 55338
which risks are not accounted for or are only partially measured 55339
by the risk-based capital requirements contained in sections 55340
3903.81 to ~~3903.93~~ 3903.92 of the Revised Code. 55341

Sec. 3903.83. (A) For purposes of sections 3903.81 to 55342
~~3903.93~~ 3903.92 of the Revised Code, a "company action level 55343
event" is any of the following events: 55344

(1) A domestic or foreign insurer's filing of an RBC 55345
report that indicates that the insurer's total adjusted capital 55346
is greater than or equal to its regulatory action level RBC but 55347
less than its company action level RBC; 55348

(2) A life or health insurer's filing of an RBC report 55349
that indicates that the insurer's total adjusted capital is 55350
greater than or equal to its company action level RBC but less 55351
than the product of 3.0 and its authorized control level RBC, 55352
and that indicates a negative trend; 55353

(3) A property and casualty insurer's filing of an RBC 55354
report that indicates that the insurer's total adjusted capital 55355
is greater than or equal to its company action level RBC but 55356
less than the product of its authorized control level RBC and 55357
3.0, and that triggers the trend test determined in accordance 55358
with the trend test calculation included in the property and 55359
casualty RBC instructions; 55360

(4) The notification by the superintendent of insurance to 55361
an insurer of an adjustment to the insurer's RBC report, which 55362
adjusted RBC report shows the insurer's total adjusted capital 55363

within the range described in either division (A) (1) or (2) of
this section, provided that the insurer does not challenge the
adjusted RBC report under section 3903.87 of the Revised Code;

(5) The superintendent's notification to an insurer,
following the hearing required under section 3903.87 of the
Revised Code, that the superintendent has rejected the insurer's
challenge to an adjusted RBC report showing the insurer's total
adjusted capital within the range described in either division
(A) (1) or (2) of this section.

(B) In the case of a company action level event, the
insurer shall prepare and submit to the superintendent an RBC
plan that shall:

(1) Identify the conditions that contributed to the
company action level event;

(2) Contain proposals of corrective actions that the
insurer intends to take to eliminate the conditions leading to
the company action level event;

(3) Provide projections of the insurer's financial results
in the current year and at least the four succeeding years, both
in the absence of the proposed corrective actions and giving
effect to the proposed corrective actions. The projections shall
include projections of statutory operating income, net income,
capital, and surplus. Projections for both new and renewal
business may include separate projections for each major line of
business, and may separately identify each significant income,
expense, and benefit component of the projection.

(4) Identify the key assumptions impacting the insurer's
projections made pursuant to division (B) (3) of this section,
and describe the sensitivity of the projections to the

assumptions; 55393

(5) Identify the quality of, and problems associated with, 55394
the insurer's business, including, but not limited to, its 55395
assets, anticipated business growth and associated surplus 55396
strain, extraordinary exposure to risk, mix of business, and use 55397
of reinsurance. 55398

(C) The RBC plan shall be submitted within forty-five days 55399
after a company action level event. However, if an insurer has 55400
challenged an adjusted RBC report pursuant to section 3903.87 of 55401
the Revised Code, the RBC plan need not be submitted until after 55402
the hearing required under section 3903.87 of the Revised Code. 55403
If the superintendent rejects the insurer's challenge, the RBC 55404
plan shall be submitted within forty-five days after the 55405
superintendent's notification to the insurer of the rejection of 55406
the challenge. 55407

(D) (1) Within sixty days after an insurer submits an RBC 55408
plan to the superintendent, the superintendent shall either 55409
require the insurer to implement the RBC plan or shall notify 55410
the insurer that the RBC plan is unsatisfactory in the judgment 55411
of the superintendent. If the superintendent has determined that 55412
the RBC plan is unsatisfactory, the notification to the insurer 55413
shall set forth the reasons for the determination, and may set 55414
forth proposed revisions that will render the RBC plan 55415
satisfactory in the judgment of the superintendent. Upon such 55416
notification from the superintendent, the insurer shall prepare 55417
and submit a revised RBC plan, which may incorporate by 55418
reference any revisions proposed by the superintendent. 55419

(2) If an insurer challenges, under section 3903.87 of the 55420
Revised Code, a notification from the Superintendent that the 55421
insurer's RBC plan or a revised RBC plan is unsatisfactory, 55422

submission of a revised RBC plan need not be made unless the 55423
superintendent rejects the insurer's challenge following the 55424
hearing required by section 3903.87 of the Revised Code and then 55425
notifies the insurer of this rejection. 55426

(3) An insurer shall submit a revised RBC plan to the 55427
superintendent within forty-five days after receiving 55428
notification from the superintendent that its RBC plan is 55429
unsatisfactory, or, that its challenge to a notification made 55430
under division (D) (1) of this section has been rejected, as 55431
applicable. 55432

(E) Notwithstanding division (D) of this section, if the 55433
superintendent notifies an insurer that its RBC plan or revised 55434
RBC plan is unsatisfactory, the superintendent may, at the 55435
superintendent's discretion, but subject to the insurer's right 55436
to a hearing under section 3903.87 of the Revised Code, specify 55437
in the notification that the notification constitutes a 55438
regulatory action level event. 55439

(F) Every domestic insurer that submits an RBC plan or 55440
revised RBC plan to the superintendent shall file a copy of the 55441
RBC plan or revised RBC plan with the insurance regulatory 55442
authority of every state in which the insurer is authorized to 55443
do business upon receiving the insurance regulatory authority's 55444
written request for a copy of the plan, if the state has a 55445
confidentiality law with provisions substantially similar to 55446
those set forth in divisions (A) and (B) of section 3903.88 of 55447
the Revised Code. The insurer shall file the copy in that state 55448
no later than the later of: 55449

(1) Fifteen days after receiving the request for a copy of 55450
the plan; 55451

(2) The date on which the RBC plan or revised RBC plan is filed pursuant to division (C) or (D) of this section. 55452
55453

Sec. 3903.84. (A) For purposes of sections 3903.81 to 55454
~~3903.93~~3903.92 of the Revised Code, a "regulatory action level 55455
event" is any of the following events: 55456

(1) The filing of an RBC report by an insurer that 55457
indicates that the insurer's total adjusted capital is greater 55458
than or equal to its authorized control level RBC but less than 55459
its regulatory action level RBC; 55460

(2) The notification by the superintendent of insurance to 55461
an insurer of an adjustment to the insurer's RBC report, which 55462
adjusted RBC report shows the insurer's total adjusted capital 55463
within the range described in division (A)(1) of this section, 55464
provided that the insurer does not challenge the adjusted RBC 55465
report under section 3903.87 of the Revised Code; 55466

(3) The notification by the superintendent to an insurer, 55467
following the hearing required under section 3903.87 of the 55468
Revised Code, that the superintendent has rejected the insurer's 55469
challenge to an adjusted RBC report, which report shows the 55470
insurer's total adjusted capital within the range described in 55471
division (A)(1) of this section; 55472

(4) The failure of an insurer to file an RBC report by the 55473
first day of March of every year, unless the insurer has 55474
provided an explanation for such failure that is satisfactory to 55475
the superintendent and has cured the failure within ten days 55476
after the filing date; 55477

(5) The failure of an insurer to submit an RBC plan to the 55478
superintendent within the time period set forth in division (C) 55479
of section 3903.83 of the Revised Code; 55480

(6) The notification by the superintendent to an insurer	55481
of both of the following:	55482
(a) The RBC plan or revised RBC plan submitted by the	55483
insurer is unsatisfactory in the judgment of the superintendent;	55484
(b) The superintendent's notification constitutes a	55485
regulatory action level event with respect to the insurer,	55486
provided that the insurer has not challenged the determination	55487
under section 3903.87 of the Revised Code.	55488
(7) The superintendent's notification to an insurer,	55489
following the hearing required under section 3903.87 of the	55490
Revised Code, that the superintendent has rejected the insurer's	55491
challenge to the superintendent's determination under division	55492
(A) (6) of this section;	55493
(8) The superintendent's notification to an insurer that	55494
the superintendent has determined that the insurer has failed to	55495
adhere to its RBC plan or revised RBC plan, and this failure has	55496
had a substantial adverse effect on the ability of the insurer	55497
to eliminate the conditions leading to the company action level	55498
event in accordance with its RBC plan or revised RBC plan,	55499
provided that the insurer does not challenge this determination	55500
under section 3903.87 of the Revised Code;	55501
(9) The superintendent's notification to an insurer,	55502
following the hearing required under section 3903.87 of the	55503
Revised Code, that the superintendent has rejected the insurer's	55504
challenge to a determination made by the superintendent under	55505
division (A) (8) of this section.	55506
(B) In the case of a regulatory action level event the	55507
superintendent shall do all of the following:	55508
(1) Require the insurer to prepare and submit an RBC plan,	55509

or, if applicable, a revised RBC plan; 55510

(2) Perform such examination or analysis as the 55511
superintendent considers necessary of the assets, liabilities, 55512
and operations of the insurer, including a review of the 55513
insurer's RBC plan or revised RBC plan and the results of any 55514
sensitivity tests undertaken pursuant to the RBC instructions; 55515

(3) Issue a corrective order specifying such corrective 55516
actions as the superintendent determines are required, based 55517
upon the superintendent's examination or analysis under division 55518
(B) (2) of this section. 55519

(C) (1) The RBC plan or revised RBC plan required by 55520
division (B) (1) of this section shall be submitted to the 55521
superintendent within forty-five days after the regulatory 55522
action level event, except by an insurer that files a challenge 55523
to an adjusted RBC report or a revised RBC plan pursuant to 55524
section 3903.87 of the Revised Code. If the superintendent 55525
determines the challenge is frivolous, the time limit for the 55526
submission of the RBC plan or revised RBC plan shall not be 55527
altered by the filing of the challenge. 55528

(2) If an insurer files a nonfrivolous challenge to an 55529
adjusted RBC report or a revised RBC plan, the RBC plan or 55530
revised RBC plan required by division (B) (1) of this section 55531
shall only be submitted to the superintendent if the 55532
superintendent rejects the challenge following the hearing 55533
required under section 3903.87 of the Revised Code. The RBC plan 55534
or revised RBC plan shall be submitted within forty-five days 55535
after the superintendent's notification to the insurer of the 55536
superintendent's rejection of the insurer's challenge. 55537

(D) The superintendent may retain actuaries, investment 55538

experts, and such other consultants, as may be necessary in the 55539
superintendent's judgment, to review an insurer's RBC plan or 55540
revised RBC plan, to examine or analyze the assets, liabilities, 55541
and operation of the insurer, and to formulate a corrective 55542
order for the insurer. The fees, costs, and expenses relating to 55543
these consultants shall be borne by the affected insurer. 55544

Sec. 3903.85. (A) For purposes of sections 3903.81 to 55545
~~3903.93~~ 3903.92 of the Revised Code, an "authorized control 55546
level event" is any of the following events: 55547

(1) The filing of an RBC report by an insurer that 55548
indicates that the insurer's total adjusted capital is greater 55549
than or equal to its mandatory control level RBC but less than 55550
its authorized control level RBC; 55551

(2) The notification by the superintendent of insurance to 55552
an insurer of an adjustment to the insurer's RBC report, the 55553
adjusted RBC report showing the insurer's total adjusted capital 55554
within the range described in division (A)(1) of this section, 55555
provided that the insurer does not challenge the adjusted RBC 55556
report under section 3903.87 of the Revised Code; 55557

(3) The superintendent's notification to an insurer, 55558
following the hearing required under section 3903.87 of the 55559
Revised Code, that the superintendent has rejected the insurer's 55560
challenge to an adjusted RBC report showing the insurer's total 55561
adjusted capital within the range described in division (A)(1) 55562
of this section; 55563

(4) The failure of an insurer to respond, in a manner 55564
satisfactory to the superintendent, to a corrective order issued 55565
under division (B)(3) of section 3903.84 of the Revised Code, 55566
provided that the insurer has not challenged the corrective 55567

order under section 3903.87 of the Revised Code; 55568

(5) The failure of an insurer to respond, in a manner 55569
satisfactory to the superintendent, to a corrective order issued 55570
under division (B) (3) of section 3903.84 of the Revised Code, 55571
subsequent to the superintendent's modification of an earlier 55572
order or the superintendent's rejection of the insurer's 55573
challenge of the order under section 3903.87 of the Revised 55574
Code. 55575

(B) In the case of an authorized control level event, the 55576
superintendent shall do the following: 55577

(1) Take the actions required under section 3903.84 of the 55578
Revised Code for regulatory action level events; 55579

(2) If the superintendent considers it to be in the best 55580
interests of the policyholders and creditors of the insurer and 55581
of the public, take such actions as are necessary to place the 55582
insurer under regulatory control under sections 3903.01 to 55583
3903.59 of the Revised Code. The authorized control level event 55584
shall be deemed sufficient grounds for the superintendent to 55585
take action under sections 3903.01 to 3903.59 of the Revised 55586
Code. Nothing in sections 3903.81 to ~~3903.93~~ 3903.92 of the 55587
Revised Code shall impair or restrict the rights, powers, and 55588
protections afforded to the superintendent and to insurers under 55589
sections 3903.01 to 3903.59 of the Revised Code. 55590

Sec. 3903.86. (A) For purposes of sections 3903.81 to 55591
~~3903.93~~ 3903.92 of the Revised Code, a "mandatory control level 55592
event" is any of the following events: 55593

(1) The filing of an RBC report by an insurer that 55594
indicates that the insurer's total adjusted capital is less than 55595
its mandatory control level RBC; 55596

(2) The notification by the superintendent of insurance to an insurer of an adjustment to the insurer's RBC report, which adjusted RBC report shows the insurer's total adjusted capital at less than its mandatory control level RBC, provided the insurer does not challenge the adjusted RBC report under section 3903.87 of the Revised Code;

(3) The superintendent's notification to an insurer, following the hearing required under section 3903.87 of the Revised Code, that the superintendent has rejected the insurer's challenge to an adjusted RBC report.

(B) In the case of a mandatory control level event, the superintendent shall do the following:

(1) With respect to a life or health insurer, take such actions as are necessary to place the insurer under regulatory control under sections 3903.01 to 3903.59 of the Revised Code. The mandatory control level event shall be deemed sufficient grounds for the superintendent to take action under sections 3903.01 to 3903.59 of the Revised Code. Nothing in sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code shall impair or restrict the rights, powers, and protections afforded to the superintendent and to insurers under sections 3903.01 to 3903.59 of the Revised Code. However, the superintendent may defer action under this division for up to ninety days after the mandatory control level event if the superintendent finds that there is a reasonable expectation the insurer may be able to eliminate the conditions leading to the mandatory control level event within the ninety-day period.

(2) With respect to a property and casualty insurer, take such actions as are necessary to place the insurer under regulatory control under sections 3903.01 to 3903.59 of the

Revised Code. In the case of a property and casualty insurer 55627
that is writing no business, and that is running-off its 55628
existing business, the superintendent may allow the insurer to 55629
continue the run-off under the supervision of the 55630
superintendent. The mandatory control level event shall be 55631
deemed sufficient grounds, however, for the superintendent to 55632
take action under sections 3903.01 to 3903.59 of the Revised 55633
Code, regardless of whether a property and casualty insurer is 55634
running-off its existing business. Nothing in sections 3903.81 55635
to ~~3903.93~~ 3903.92 of the Revised Code shall impair or restrict 55636
the rights, powers, and protections afforded to the 55637
superintendent and to insurers under sections 3903.01 to 3903.59 55638
of the Revised Code. The superintendent may defer action for up 55639
to ninety days after the mandatory control level event if the 55640
superintendent finds that there is a reasonable expectation the 55641
insurer may be able to eliminate the conditions leading to the 55642
mandatory control level event within the ninety-day period. 55643

Sec. 3903.87. (A) An insurer has the right to a hearing 55644
upon receiving any of the following from the superintendent of 55645
insurance: 55646

(1) An adjusted RBC report; 55647

(2) Notification that the insurer's RBC plan or revised 55648
RBC plan is unsatisfactory and a statement that the notification 55649
constitutes a regulatory action level event for the insurer; 55650

(3) Notification that the superintendent has determined 55651
that the insurer has failed to adhere to its RBC plan or revised 55652
RBC plan, which failure has a substantial adverse effect on the 55653
ability of the insurer to eliminate the conditions leading to a 55654
company action level event in accordance with its RBC plan or 55655
revised RBC plan; 55656

(4) A corrective order issued under division (B) (3) of 55657
section 3903.84 of the Revised Code. 55658

(B) An insurer shall notify the superintendent of its 55659
request for a hearing within five days after its receipt of any 55660
item listed in division (A) of this section. Upon the 55661
superintendent's receipt of the insurer's request for a hearing, 55662
the superintendent shall set a date for the hearing, which date 55663
shall be no less than ten days and no more than thirty days 55664
after the superintendent's receipt of the insurer's request. 55665

(C) An insurer may challenge any determination or action 55666
taken by the superintendent under sections 3903.81 to ~~3903.93~~ 55667
3903.92 of the Revised Code at the hearing held pursuant to this 55668
section. The hearing shall not be a public hearing, unless the 55669
insurer requests a public hearing. 55670

Sec. 3903.89. Unless otherwise provided, all notices sent 55671
to an insurer by the superintendent of insurance that may result 55672
in regulatory action under sections 3903.81 to ~~3903.93~~ 3903.92 55673
of the Revised Code shall be effective upon dispatch if 55674
transmitted by registered or certified mail. Any other notice 55675
transmitted shall be effective upon the insurer's receipt of the 55676
notice. 55677

Sec. 3903.91. There shall be no liability on the part of, 55678
and no cause of action shall arise against, the superintendent 55679
of insurance, or the department of insurance, its employees, or 55680
its agents, for any action taken in their performance of the 55681
powers and duties under sections 3903.81 to ~~3903.93~~ 3903.92 of 55682
the Revised Code. 55683

Sec. 3903.92. The superintendent may exempt any domestic 55684
property and casualty insurer from the application of sections 55685

3903.81 to 3903.93 <u>3903.92</u> of the Revised Code, if the insurer	55686
meets all of the following requirements:	55687
(A) The insurer writes direct business only in this state;	55688
(B) The insurer writes direct annual premiums of three	55689
million dollars or less;	55690
(C) The insurer assumes no reinsurance in excess of five	55691
per cent of direct premium written.	55692
Sec. 3905.01. As used in this chapter:	55693
(A) "Affordable Care Act" means the "Patient Protection	55694
and Affordable Care Act," 124 Stat. 119, 42 U.S.C. 18031 (2011).	55695
(B) "Business entity" means a corporation, association,	55696
partnership, limited liability company, limited liability	55697
partnership, or other legal entity.	55698
(C) "Home state" means the state or territory of the	55699
United States, including the District of Columbia, in which an	55700
insurance agent maintains the insurance agent's principal place	55701
of residence or principal place of business and is licensed to	55702
act as an insurance agent.	55703
(D) "In-person assister" means any person, other than a	55704
navigator, who receives any funding from, or who is selected or	55705
designated by, an exchange, the state, or the federal government	55706
to perform any of the activities and duties identified in	55707
division (i) of section 1311 of the Affordable Care Act. "In-	55708
person assister" includes any individual that is employed by,	55709
supervised by, or affiliated with an in-person assister and	55710
performs any of the activities and duties identified in division	55711
(i) of section 1311 of the Affordable Care Act, any non-	55712
navigator assistance personnel, and any other person deemed as	55713

such by rules adopted by the superintendent under division ~~(I)~~ 55714
(K) of section 3905.471 of the Revised Code. 55715

(E) "Insurance" means any of the lines of authority set 55716
forth in Chapter 1739., 1751., or 1761. or Title XXXIX of the 55717
Revised Code, or as additionally determined by the 55718
superintendent of insurance. 55719

(F) "Insurance agent" or "agent" means any person that, in 55720
order to sell, solicit, or negotiate insurance, is required to 55721
be licensed under the laws of this state, including limited 55722
lines insurance agents and surplus line brokers. 55723

(G) "Insurer" has the same meaning as in section 3901.32 55724
of the Revised Code. 55725

(H) "License" means the authority issued by the 55726
superintendent to a person to act as an insurance agent for the 55727
lines of authority specified, but that does not create any 55728
actual, apparent, or inherent authority in the person to 55729
represent or commit an insurer. 55730

(I) "Limited line credit insurance" means credit life, 55731
credit disability, credit property, credit unemployment, 55732
involuntary unemployment, mortgage life, mortgage guaranty, 55733
mortgage disability, guaranteed automobile protection insurance, 55734
or any other form of insurance offered in connection with an 55735
extension of credit that is limited to partially or wholly 55736
extinguishing that credit obligation and that is designated by 55737
the superintendent as limited line credit insurance. 55738

(J) "Limited line credit insurance agent" means a person 55739
that sells, solicits, or negotiates one or more forms of limited 55740
line credit insurance to individuals through a master, 55741
corporate, group, or individual policy. 55742

(K) "Limited lines insurance" means those lines of authority set forth in divisions (B) (7) to (13) of section 3905.06 of the Revised Code ~~or in rules adopted by the superintendent,~~ or any lines of authority the superintendent considers necessary to recognize for purposes of complying with section 3905.072 of the Revised Code.

(L) "Limited lines insurance agent" means a person authorized by the superintendent to sell, solicit, or negotiate limited lines insurance.

(M) "NAIC" means the national association of insurance commissioners.

(N) "Insurance navigator" means a person selected to perform the activities and duties identified in division (i) of section 1311 of the Affordable Care Act that is certified by the superintendent of insurance under section 3905.471 of the Revised Code. "Insurance navigator" refers to a navigator specified in section 1311 of the Affordable Care Act, 42 U.S.C. 13031.

(O) "Negotiate" means to confer directly with, or offer advice directly to, a purchaser or prospective purchaser of a particular contract of insurance with respect to the substantive benefits, terms, or conditions of the contract, provided the person that is conferring or offering advice either sells insurance or obtains insurance from insurers for purchasers.

(P) "Person" means an individual or a business entity.

(Q) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

(R) "Self-service storage facility" means an entity that is engaged in the business of providing real property designed

and used for the purpose of renting or leasing individual 55772
storage space to the public who are to have access to the space 55773
for the purpose of storing and removing personal property on a 55774
self-service basis, but does not include a garage or other 55775
storage area in a private residence. 55776

(S) "Solicit" means to attempt to sell insurance, or to 55777
ask or urge a person to apply for a particular kind of insurance 55778
from a particular insurer. 55779

(T) "Superintendent" or "superintendent of insurance" 55780
means the superintendent of insurance of this state. 55781

(U) "Terminate" means to cancel the relationship between 55782
an insurance agent and the insurer or to terminate an insurance 55783
agent's authority to transact insurance. 55784

(V) "Uniform application" means the NAIC uniform 55785
application for resident and nonresident agent licensing, as 55786
amended by the NAIC from time to time. 55787

(W) "Uniform business entity application" means the NAIC 55788
uniform business entity application for resident and nonresident 55789
business entities, as amended by the NAIC from time to time. 55790

(X) "Exchange" means a health benefit exchange established 55791
by the state government of Ohio or an exchange established by 55792
the United States department of health and human services in 55793
accordance with the "Patient Protection and Affordable Care 55794
Act," 124 Stat. 119, 42 U.S.C. 18031 (2011). 55795

Sec. 3905.04. (A) Except as otherwise provided in this 55796
section or in section 3905.041 of the Revised Code, a resident 55797
individual applying for an insurance agent license for any of 55798
the lines of authority described in division (B) of this section 55799
shall take and pass a written examination prior to application 55800

for licensure. The examination shall test the knowledge of the individual with respect to the lines of authority for which application will be made, the duties and responsibilities of an insurance agent, and the insurance laws of this state. Before admission to the examination, each individual shall pay the nonrefundable examination fee.

(B) The examination described in division (A) of this section shall be required for the following lines of authority:

(1) Any of the lines of authority set forth in divisions (B) (1) to (5) of section 3905.06 of the Revised Code;

(2) Title insurance;

(3) Surety bail bonds as provided in sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code;

(4) Any other line of authority designated by the superintendent of insurance.

(C) (1) An individual shall not be permitted to take the examination described in division (A) of this section unless one of the following applies:

(a) The individual has earned a bachelor's or associate's degree in insurance from an accredited institution.

(b) The individual has earned a professional designation approved by the superintendent.

(c) The individual has completed, for each line of authority for which the individual has applied, twenty hours of study in a program of insurance education approved by the superintendent, under criteria established by the superintendent, which may include the option for all of the following types of courses and programs or combination thereof:

(i) Classroom;	55829
(ii) Online;	55830
(iii) Self-study.	55831
(2) Division (C) of this section does not apply with respect to title insurance or any other line of authority designated by the superintendent.	55832 55833 55834
(D) An individual who fails to appear for an examination as scheduled, or fails to pass an examination, may reapply for the examination if the individual pays the required fee and submits any necessary forms prior to being rescheduled for the examination.	55835 55836 55837 55838 55839
(E) (1) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt any rule necessary for the implementation of this section.	55840 55841 55842
(2) (E) The superintendent may make any necessary arrangements, including contracting with an outside testing service, for the administration of the examinations and the collection of the fees required by this section.	55843 55844 55845 55846
Sec. 3905.06. (A) (1) The superintendent of insurance shall issue a resident insurance agent license to an individual applicant whose home state is Ohio upon submission of a completed application and payment of any applicable fee required under this chapter, if the superintendent finds all of the following:	55847 55848 55849 55850 55851 55852
(a) The applicant is at least eighteen years of age.	55853
(b) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.	55854 55855 55856

(c) If required under section 3905.04 of the Revised Code, 55857
the applicant has completed a program of insurance education for 55858
each line of authority for which the applicant has applied. 55859

(d) If required under section 3905.04 of the Revised Code, 55860
the applicant has passed an examination for each line of 55861
authority for which the applicant has applied. 55862

(e) Any applicant applying for variable life-variable 55863
annuity line of authority is registered with the financial 55864
industry regulatory authority (FINRA) as a registered 55865
representative after having passed at least one of the following 55866
examinations administered by the FINRA: the series 6 55867
examination, the series 7 examination, the series 63 55868
examination, the series 66 examination, or any other FINRA 55869
examination approved by the superintendent. 55870

(f) If required under section 3905.051 of the Revised 55871
Code, the applicant has consented to a criminal records check 55872
and the results of the applicant's criminal records check are 55873
determined to be satisfactory by the superintendent in 55874
accordance with section 9.79 of the Revised Code. 55875

(g) The applicant is a United States citizen or has 55876
provided proof of having legal authorization to work in the 55877
United States. 55878

(h) The applicant is honest and trustworthy and is 55879
otherwise suitable to be licensed. 55880

(2) The superintendent shall issue a resident insurance 55881
agent license to a business entity applicant upon submission of 55882
a completed application and payment of any applicable fees 55883
required under this chapter if the superintendent finds all of 55884
the following: 55885

(a) Except as provided under division (C) (2) of section 3905.062 or division (C) (2) of section 3905.063 of the Revised Code, the applicant either is domiciled in Ohio or maintains its principal place of business in Ohio.

(b) The applicant has designated a licensed insurance agent who will be responsible for the applicant's compliance with the insurance laws of this state.

(c) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.

(d) Any applicant applying for a portable electronics insurance license line of authority satisfies the requirements of division (C) (1) of section 3905.062 of the Revised Code or any applicant applying for a self-service storage insurance license line of authority satisfies the requirements of division (C) (1) of section 3905.063 of the Revised Code.

(e) The applicant has submitted any other documents requested by the superintendent.

(B) An insurance agent license issued pursuant to division (A) of this section shall state the licensee's name, the license number, the date of issuance, the date the license expires, the line or lines of authority for which the licensee is qualified, and any other information the superintendent deems necessary.

A licensee may be qualified for any of the following lines of authority:

(1) Life, which is insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

- (2) Accident and health, which is insurance coverage for sickness, bodily injury, or accidental death, and may include benefits for disability income; 55915
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- (3) Property, which is insurance coverage for the direct or consequential loss or damage to property of any kind; 55918
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- (4) Casualty, which is insurance coverage against legal liability, including coverage for death, injury, or disability or damage to real or personal property; 55920
55921
55922
- (5) Personal lines, which is property and casualty insurance coverage sold to individuals and families for noncommercial purposes; 55923
55924
55925
- (6) Variable life and variable annuity products, which is insurance coverage provided under variable life insurance contracts and variable annuities; 55926
55927
55928
- (7) Credit, which is limited line credit insurance; 55929
- (8) Title, which is insurance coverage against loss or damage suffered by reason of liens against, encumbrances upon, defects in, or the unmarketability of, real property; 55930
55931
55932
- (9) Surety bail bond, which is the authority set forth in sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code; 55933
55934
- (10) Portable electronics insurance, which is a limited line described in section 3905.062 of the Revised Code; 55935
55936
- (11) Self-service storage insurance, which is a limited line described in section 3905.063 of the Revised Code; 55937
55938
- (12) Travel insurance, which is a limited line described in sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code; 55939
55940
- (13) Any other line of authority designated by the 55941

superintendent. 55942

(C) (1) An individual seeking to renew a resident insurance 55943
agent license shall apply biennially for a renewal of the 55944
license on or before the last day of the licensee's birth month. 55945
A business entity seeking to renew a resident insurance agent 55946
license shall apply biennially for a renewal of the license on 55947
or before the date determined by the superintendent. The 55948
superintendent shall send a renewal notice to all licensees at 55949
least one month prior to the renewal date. 55950

Applications shall be submitted to the superintendent on 55951
forms prescribed by the superintendent. Each application shall 55952
be accompanied by a biennial renewal fee. The superintendent 55953
also may require an applicant to submit any document reasonably 55954
necessary to verify the information contained in the renewal 55955
application. 55956

(2) To be eligible for renewal, an individual applicant 55957
shall complete the continuing education requirements pursuant to 55958
section 3905.481 of the Revised Code prior to the renewal date. 55959

(3) If an applicant submits a completed renewal 55960
application, qualifies for renewal pursuant to divisions (C) (1) 55961
and (2) of this section, and has not committed any act that is a 55962
ground for the refusal to issue, suspension of, or revocation of 55963
a license under section 3905.14 of the Revised Code, the 55964
superintendent shall renew the applicant's resident insurance 55965
agent license. 55966

(D) If an individual or business entity does not apply for 55967
the renewal of the individual or business entity's license on or 55968
before the license renewal date specified in division (C) (1) of 55969
this section, the individual or business entity may submit a 55970

late renewal application along with all applicable fees required 55971
under this chapter prior to the first day of the second month 55972
following the license renewal date. 55973

(E) A license issued under this section that is not 55974
renewed on or before its renewal date pursuant to division (C) 55975
of this section or its late renewal date pursuant to division 55976
(D) of this section automatically is suspended for nonrenewal on 55977
the first day of the second month following the renewal date. If 55978
a license is suspended for nonrenewal pursuant to this division, 55979
the individual or business entity is eligible to apply for 55980
reinstatement of the license within the twelve-month period 55981
following the date by which the license should have been renewed 55982
by complying with the reinstatement procedure established by the 55983
superintendent and paying all applicable fees required under 55984
this chapter. 55985

(F) A license that is suspended for nonrenewal that is not 55986
reinstated pursuant to division (E) of this section 55987
automatically is canceled unless the superintendent is 55988
investigating any allegations of wrongdoing by the agent or has 55989
initiated proceedings under Chapter 119. of the Revised Code. In 55990
that case, the license automatically is canceled after the 55991
completion of the investigation or proceedings unless the 55992
superintendent revokes the license. 55993

(G) An individual licensed as a resident insurance agent 55994
who is unable to comply with the license renewal procedures 55995
established under this section and who is unable to engage in 55996
the business of insurance due to military service, a long-term 55997
medical disability, or some other extenuating circumstance may 55998
request an extension of the renewal date of the individual's 55999
license. To be eligible for such an extension, the individual 56000

shall submit a written request with supporting documentation to 56001
the superintendent. At the superintendent's discretion, the 56002
superintendent may not consider a written request made after the 56003
renewal date of the license. 56004

Sec. 3905.064. As used in sections 3905.064 to ~~3905.0611~~ 56005
3905.0610 of the Revised Code: 56006

(A) "Aggregator site" means a web site that provides 56007
access to information regarding insurance products from more 56008
than one insurer, including product and insurer information, for 56009
use in comparison shopping. 56010

(B) "Blanket travel insurance" means a policy of travel 56011
insurance issued to any eligible group providing coverage for 56012
specific classes of persons defined in the policy with coverage 56013
provided to all members of the eligible group without a separate 56014
charge to individual members of the eligible group. 56015

(C) "Cancellation fee waiver" means a contractual 56016
agreement between a supplier of travel services and its customer 56017
to waive some or all of the nonrefundable cancellation fee 56018
provisions of the supplier's underlying travel contract, with or 56019
without regard to the reason for the cancellation or form of 56020
reimbursement. 56021

(D) "Eligible group" means, solely for the purposes of 56022
travel insurance, two or more persons who are engaged in a 56023
common enterprise, or have an economic, educational, or social 56024
affinity or relationship. "Eligible group" includes any of the 56025
following: 56026

(1) Any entity engaged in the business of providing travel 56027
or travel services, including all of the following: 56028

(a) Tour operators; 56029

(b) Lodging providers;	56030
(c) Vacation property owners;	56031
(d) Hotels and resorts;	56032
(e) Travel clubs;	56033
(f) Travel agencies;	56034
(g) Property managers;	56035
(h) Cultural exchange programs;	56036
(i) Common carriers or the operator, owner, or lessor of a means of transportation of passengers, including airlines, cruise lines, railroads, steamship companies, and public bus carriers that, with regard to any particular travel or type of travel or travelers, subjects all members or customers of the group to a common exposure to risk attendant to such travel;	56037 56038 56039 56040 56041 56042
(2) Any college, school, or other institution of learning, obtaining travel insurance covering students, teachers, employees, or volunteers;	56043 56044 56045
(3) Any employer obtaining travel insurance coverage for any group of employees, volunteers, contractors, board of directors, dependents, or guests;	56046 56047 56048
(4) Any sports team, camp, or sponsor thereof, obtaining travel insurance coverage for participants, members, campers, employees, officials, supervisors, or volunteers;	56049 56050 56051
(5) Any religious, charitable, recreational, educational, or civic organization, or branch thereof, obtaining travel insurance coverage for any group of members, participants, or volunteers;	56052 56053 56054 56055
(6) Any financial institution or financial institution	56056

vendor, or parent holding company, trustee, or agent of, or 56057
designated by, one or more financial institutions or financial 56058
institution vendors, including account holders, credit card 56059
holders, debtors, guarantors, or purchasers; 56060

(7) Any incorporated or unincorporated association, 56061
including labor unions, that have a common interest, 56062
constitution, and bylaws, and that are organized and maintained 56063
in good faith for purposes other than obtaining insurance for 56064
members or participants of such association covering its 56065
members; 56066

(8) Any trust or the trustees of a fund established, 56067
created, or maintained for the benefit of and covering members, 56068
employees, or customers of one or more associations meeting the 56069
requirements of division (D) (7) of this section, subject to the 56070
superintendent's permitting the use of a trust and the state's 56071
premium tax provisions in section 3905.068 of the Revised Code; 56072

(9) Any entertainment production company obtaining travel 56073
insurance coverage for any group of participants, volunteers, 56074
audience members, contestants, or workers; 56075

(10) Any volunteer fire department, ambulance, rescue, 56076
police, or court, or any first aid, civil defense, or other such 56077
volunteer group; 56078

(11) Preschools, child care centers, adult day-care 56079
institutions, and senior citizen clubs; 56080

(12) Any automobile or truck rental or leasing company 56081
obtaining travel insurance coverage for a group of individuals 56082
who may become renters, lessees, or passengers, defined by their 56083
travel status, on the rented or leased vehicles; 56084

(13) Any other group whose members the superintendent has 56085

determined are engaged in a common enterprise, or that have an economic, educational, or social affinity or relationship, if the superintendent also determines that issuance of the travel insurance policy would not be contrary to the public interest.

(E) "Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details.

(F) "Group travel insurance" means travel insurance issued to any eligible group.

(G) "Limited lines travel insurance agent" means an individual or business entity licensed to sell, solicit, or negotiate travel insurance under section 3905.065 of the Revised Code. "Limited lines travel insurance agent" includes a licensed insurance agent and a travel administrator.

(H) "Offer and sell" means providing general information, including a description of the coverage and price, as well as processing the application and collecting premiums.

(I) "Primary certificate holder" means an individual person who elects and purchases travel insurance under a group policy.

(J) "Primary policyholder" means an individual person who elects and purchases individual travel insurance.

(K) "Travel administrator" means a person who directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on residents of this state, in connection with travel insurance. The following persons shall not be considered a travel administrator if they engage in no other activities that would cause them to be

considered a travel administrator:	56115
(1) A person working for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator;	56116 56117 56118
(2) An insurance agent selling insurance or engaged in administrative and claims-related activities within the scope of the agent's license;	56119 56120 56121
(3) A travel retailer offering and selling travel insurance and registered under the license of a limited-lines travel insurance agent in accordance with sections 3905.065 and 3905.066 of the Revised Code;	56122 56123 56124 56125
(4) An individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney at law and who does not collect charges or premiums in connection with insurance coverage;	56126 56127 56128 56129
(5) A business entity affiliated with a licensed insurer while that insurer is acting as a travel administrator for the direct and assumed insurance business of a separate affiliated insurer.	56130 56131 56132 56133
(L) "Travel assistance services" means noninsurance services for which the consumer is not indemnified based on a fortuitous event, and where providing the service does not result in transfer or shifting of risk that would constitute the business of insurance. "Travel assistance services" include all of the following:	56134 56135 56136 56137 56138 56139
(1) Security advisories;	56140
(2) Destination information;	56141
(3) Vaccination and immunization information services;	56142

(4) Travel reservation services;	56143
(5) Entertainment;	56144
(6) Activity and event planning;	56145
(7) Translation assistance;	56146
(8) Emergency messaging;	56147
(9) International legal and medical referrals;	56148
(10) Medical case monitoring;	56149
(11) Coordination of transportation arrangements;	56150
(12) Emergency cash transfer assistance;	56151
(13) Medical prescription replacement assistance;	56152
(14) Passport and travel document replacement assistance;	56153
(15) Lost luggage assistance;	56154
(16) Concierge services;	56155
(17) Any other service that is furnished in connection with planned travel.	56156 56157
(M) (1) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including all of the following:	56158 56159 56160
(a) Interruption or cancellation of a trip or event;	56161
(b) Loss of baggage or personal effects;	56162
(c) Damages to accommodations or rental vehicles;	56163
(d) Sickness, accident, disability, or death occurring during travel;	56164 56165
(e) Emergency evacuation;	56166

(f) Repatriation of remains;	56167
(g) Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the superintendent of insurance.	56168 56169 56170 56171
(2) "Travel insurance" does not include any of the following:	56172 56173
(a) Major medical plans that provide comprehensive medical protection for a traveler with a trip lasting six months or longer, including a plan covering a person working overseas as an expatriate or in a deployed military unit;	56174 56175 56176 56177
(b) Any other product that requires a specific insurance agent license;	56178 56179
(c) Travel assistance services;	56180
(d) Cancellation fee waivers.	56181
(N) "Travel insurer" means an insurer, as defined in section 3901.32 of the Revised Code, that provides travel insurance.	56182 56183 56184
(O) "Travel protection plan" means a plan that provides one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers.	56185 56186 56187
(P) "Travel retailer" means a business entity that makes, arranges, or offers travel services, and that may offer or sell travel insurance as a service to its customers on behalf of, and under the direction of, a limited lines travel insurance agent in conjunction with the making, arranging, or offering of travel services.	56188 56189 56190 56191 56192 56193

Sec. 3905.065. (A) No person shall offer or sell travel insurance except as provided in sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code.

(B) Notwithstanding any other provision of law, the superintendent of insurance may issue to an individual or business entity a limited lines travel insurance agent license that authorizes the holder of the license to sell, solicit, or negotiate travel insurance through a licensed insurer if both of the following requirements are met:

(1) The individual or business entity has submitted an application to the superintendent for the license on a form and in a manner prescribed by the superintendent.

(2) The individual or business entity has paid all fees applicable under this chapter.

(C) (1) At the time the superintendent of insurance issues a license under this section, the limited lines travel insurance agent shall establish and maintain, on a form prescribed by the superintendent, a register of each travel retailer that offers or sells travel insurance on the limited lines travel agent's behalf.

(2) (a) The register shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal tax identification number.

(b) The limited lines travel insurance agent shall update the register as needed to maintain its accuracy.

(3) (a) The limited lines travel insurance agent shall submit the register to the department of insurance upon reasonable request and shall certify that the registered travel

retailer complies with 18 U.S.C. 1033. 56223

(b) The superintendent may apply the grounds for license suspension, license revocation, and the imposition of penalties that are found in section 3905.14 of the Revised Code and that are applicable to resident insurance agents, to limited lines travel insurance agents and travel retailers. 56224
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(D) A limited lines travel insurance agent, as well as any travel retailer and the retailer's employees that are registered under division (C) of this section, are exempt from any examination and education requirements as set forth in section 3905.04 of the Revised Code for purposes of sections 3905.064 to ~~3905.0611~~3905.0610 of the Revised Code only. 56229
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(E) Travel insurance may be provided under an individual, group, or blanket insurance policy. 56235
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(F) A person authorized to offer a travel protection plan under sections 3905.064 to ~~3905.0611~~3905.0610 of the Revised Code may offer a travel protection plan for one price for the combined features that the travel protection plan offers in this state if all of the following are met: 56237
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(1) At or prior to the time of purchase, the travel protection plan does both of the following: 56242
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(a) Clearly discloses to the consumer that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable; 56244
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(b) Provides information and an opportunity for the consumer to obtain additional information regarding the features and pricing of each of the combined features. 56247
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(2) The fulfillment materials provided to the consumer 56250

include all of the following, as applicable: 56251

(a) A description and delineation of the travel insurance, 56252
travel assistance services, and cancellation fee waivers in the 56253
travel protection plan; 56254

(b) The travel insurance disclosures; 56255

(c) The contact information for persons providing travel 56256
assistance services and cancellation fee waivers, as applicable. 56257

(G) In the event of a conflict between sections 3905.064 56258
to ~~3905.0611~~ 3905.0610 of the Revised Code and any other 56259
provision of Title XXXIX of the Revised Code regarding the sale 56260
and marketing of travel insurance and travel protection plans, 56261
the provisions of sections 3905.064 to ~~3905.0611~~ 3905.0610 of 56262
the Revised Code control. 56263

(H) (1) All documents provided to consumers prior to the 56264
purchase of travel insurance, including sales materials, 56265
advertising materials, and marketing materials, shall be 56266
consistent with the travel insurance policy itself, including 56267
forms, endorsements, policies, rate filings, and certificates of 56268
insurance. 56269

(2) For travel insurance policies or certificates that 56270
contain pre-existing condition exclusions, information and an 56271
opportunity to learn more about the pre-existing condition 56272
exclusions shall be provided any time prior to the time of 56273
purchase and in the coverage's fulfillment materials. 56274

(3) The fulfillment materials and the information 56275
described in division (A) (1) of section 3905.066 of the Revised 56276
Code shall be provided to a policyholder or certificate holder 56277
as soon as practicable after the purchase of a travel protection 56278
plan. 56279

(4) The travel insurer shall disclose in the policy 56280
documentation and fulfillment materials whether the travel 56281
insurance is primary or secondary to other applicable coverage. 56282

(I) (1) Unless the insured has either started a covered 56283
trip or filed a claim under the travel insurance coverage, a 56284
policyholder or certificate holder may cancel a travel insurance 56285
policy or certificate for a full refund of the travel protection 56286
plan price in accordance with the following: 56287

(a) If the travel protection plan's fulfillment materials 56288
are delivered by postal mail, the policyholder or certificate 56289
holder may cancel within fifteen days following the date of 56290
delivery. 56291

(b) If the travel protection plan's fulfillment materials 56292
are delivered by means other than postal mail, the policyholder 56293
or certificate holder may cancel within ten days following the 56294
date of delivery. 56295

(2) For the purposes of this division, "delivery" includes 56296
handing fulfillment materials to the policyholder or certificate 56297
holder or sending fulfillment materials by postal mail or 56298
electronic means to the policyholder or certificate holder. 56299

(J) No person offering, selling, or negotiating travel 56300
insurance or travel protection plans on an individual or group 56301
basis may do so by using a negative option or opt out when the 56302
consumer purchases a trip. As used in this division, "using a 56303
negative option or opt out" includes requiring a consumer to 56304
take an affirmative action to deselect coverage, such as 56305
unchecking a box on an electronic form. 56306

(K) A license issued under this section shall be renewed 56307
on a biennial basis as set forth in sections 3905.06 and 3905.07 56308

of the Revised Code. 56309

Sec. 3905.066. (A) Notwithstanding any other provision of 56310
law, a travel retailer may offer and sell travel insurance under 56311
a limited lines travel insurance agent that is a business entity 56312
if all of the following conditions are met: 56313

(1) The limited lines travel insurance agent or travel 56314
retailer provides all of the following information to purchasers 56315
of travel insurance at the time of sale or in the fulfillment 56316
materials provided to purchasers: 56317

(a) A description of the material terms or the actual 56318
terms of the insurance coverage; 56319

(b) A description of the process for filing a claim; 56320

(c) A description of the review or cancellation process 56321
for the travel insurance policy; 56322

(d) The identity and contact information of the insurer 56323
and limited lines travel insurance agent. 56324

(2) (a) The limited lines travel insurance agent designates 56325
one of the agent's employees, who is a licensed individual 56326
agent, as the responsible insurance agent who is responsible for 56327
the limited lines travel insurance agent's compliance with the 56328
travel insurance laws and rules of this state applicable to the 56329
limited lines travel insurance agent and its registrants. The 56330
designated responsible insurance agent must be a licensed 56331
insurance agent qualified in any of the following lines of 56332
authority in accordance with section 3905.06 of the Revised 56333
Code: 56334

(i) Travel; 56335

(ii) Property; 56336

(iii) Personal. 56337

(b) The responsible insurance agent, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance agent's insurance operations shall comply with the fingerprinting requirements of section 3905.051 of the Revised Code or the applicable fingerprinting requirements of the home state of the limited lines travel insurance agent. 56338
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(3) The limited lines travel insurance agent business entity and the responsible insurance agent are responsible for the acts of the travel retailer and use reasonable means to ensure compliance with sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code by the travel retailer. 56345
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(4) (a) The limited lines travel insurance agent requires each employee and authorized representative of the travel retailer, whose duties include offering or selling travel insurance, to receive a program of instruction or training that is subject, at the discretion of the superintendent, to review and approval. 56350
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(b) The training material shall, at minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers. 56356
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(B) (1) Any travel retailer offering or selling travel insurance shall make available to prospective purchasers brochures or other written materials that have been approved by the travel insurer. Such materials shall contain all of the following: 56359
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(a) The identity and contact information of the insurer and the limited lines travel insurance agent; 56364
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(b) An explanation that the purchase of travel insurance 56366
is not required in order to purchase any other product or 56367
service from the travel retailer; 56368

(c) An explanation that an unlicensed travel retailer is 56369
permitted to provide general information about the insurance 56370
offered by the travel retailer, including a description of the 56371
coverage and price, but is not qualified or authorized to answer 56372
technical questions about the terms and conditions of the 56373
insurance offered by the travel retailer or to evaluate the 56374
adequacy of the customer's existing insurance coverage. 56375

(2) A travel retailer's employee or authorized 56376
representative who is not licensed as an insurance agent shall 56377
not do any of the following: 56378

(a) Evaluate or interpret the technical terms, benefits, 56379
and conditions of the offered travel insurance coverage; 56380

(b) Evaluate or provide advice concerning a prospective 56381
purchaser's existing insurance coverage; 56382

(c) Hold itself out as a licensed insurer, licensed agent, 56383
or insurance expert. 56384

(3) Notwithstanding any other provision of law, a travel 56385
retailer whose insurance-related activities, and those of its 56386
employees and authorized representatives, are limited to 56387
offering and selling travel insurance on behalf of and under the 56388
direction of a limited lines travel insurance agent that meets 56389
the requirements of section 3905.065 of the Revised Code, is 56390
authorized to offer and sell insurance and receive related 56391
compensation for these services, if the travel retailer is 56392
registered by the limited lines travel insurance agent as 56393
described in section 3905.065 of the Revised Code. Any 56394

compensation paid to a travel retailer's employee or authorized representative for the services described in this section shall be incidental to the employee's or authorized representative's overall compensation and not based primarily on the number of customers who purchase travel insurance coverage.

(C) Nothing in this section shall be construed to prohibit payment of compensation to a travel retailer or its employees or authorized representatives for activities under the limited lines travel insurance agent's license that are incidental to the overall compensation of the travel retailer or the employees or authorized representatives of the facility.

Sec. 3905.067. (A) Except as otherwise provided in this section, all persons offering travel insurance to residents of this state are subject to sections 3901.19 to 3901.26 of the Revised Code.

(B) Any limited lines travel insurance agent, or any travel retailer offering or selling travel insurance under a limited lines travel insurance agent, that fails to comply with the provisions of sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance as defined in section 3901.21 of the Revised Code and is subject to section 3905.14 of the Revised Code.

(C) Both of the following shall be considered an unfair and deceptive act or practice in the business of insurance, as defined in section 3901.21 of the Revised Code, and are subject to, in addition to the penalties prescribed in section 3901.22 of the Revised Code, disciplinary action under section 3905.14 of the Revised Code:

(1) Offering or selling a travel insurance policy that 56424
could never result in payment of any claims; 56425

(2) Marketing blanket travel insurance coverage as free. 56426

(D) Marketing travel insurance directly to a consumer 56427
through a travel insurer's web site or by others through an 56428
aggregator site is not an unfair and deceptive act or practice 56429
or other violation of law if both of the following conditions 56430
are met: 56431

(1) An accurate summary or short description of coverage 56432
is provided on the web site; 56433

(2) The consumer has access to the full provisions of the 56434
policy through electronic means. 56435

(E) Where a consumer's destination jurisdiction requires 56436
insurance coverage, it is not an unfair and deceptive act or 56437
practice in the business of insurance to require a consumer to 56438
choose between the following options as a condition of 56439
purchasing a trip or travel package: 56440

(1) Purchasing the coverage required by the destination 56441
jurisdiction through the travel retailer or limited lines travel 56442
insurance agent supplying the trip or travel package; 56443

(2) Agreeing to obtain and provide proof of coverage that 56444
meets the destination jurisdiction's requirements prior to 56445
departure. 56446

Sec. 3905.068. (A) A travel insurer shall pay premium tax, 56447
as provided in Chapters 5725. and 5729. of the Revised Code, on 56448
travel insurance premiums paid by any of the following: 56449

(1) An individual primary policyholder who is a resident 56450
of this state; 56451

- (2) A primary certificate holder who is a resident of this state who elects coverage under a group travel insurance policy; 56452
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- (3) (a) A blanket travel insurance policyholder, when the policy covers eligible blanket group members, that is a resident of, or has its principal place of business in, this state, including when the policy covers an affiliate or subsidiary, regardless of the location of the affiliate or subsidiary. 56454
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- (b) Such payments shall be subject to any apportionment rules that apply to the insurer across multiple taxing jurisdictions or that permit the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions. 56459
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- (B) A travel insurer shall: 56464
- (1) Document the state of residence or principal place of business of the policyholder or certificate holder, as necessary to comply with division (A) (1) of this section; 56465
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- (2) Report as a premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers. 56468
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- (C) Neither of the following are insurance: 56471
- (1) A cancellation fee waiver; 56472
- (2) Travel assistance services. 56473
- (D) Surplus lines brokers selling travel insurance shall pay taxes on premiums related to travel insurance in accordance with sections 3905.30 to 3905.38 of the Revised Code and not in accordance with the requirements of this section. 56474
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- (E) With regard to an automobile or truck rental or 56478

leasing company obtaining travel insurance coverage for a group 56479
of individuals who may become renters, lessees, or passengers, 56480
defined by their travel status on the rented or leased vehicles, 56481
the common carrier, operator, owner, or lessor of a means of 56482
transportation, or the automobile or truck rental or leasing 56483
company, is the policyholder under a policy to which sections 56484
3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code apply. 56485

Sec. 3905.26. (A) The superintendent of insurance may 56486
participate, in whole or in part, with the NAIC or any of its 56487
affiliates or subsidiaries, in a centralized agent license 56488
registry in which insurance agent licenses and appointments are 56489
centrally or simultaneously effected for all states that require 56490
an insurance agent license and that participate in the registry. 56491

(B) The superintendent may adopt rules in accordance with 56492
Chapter 119. of the Revised Code to ~~adopt any uniform standard~~ 56493
~~or procedure necessary for participation in the centralized~~ 56494
~~agent license registry. Such rules may provide for the central~~ 56495
collection of all fees for licenses or appointments processed 56496
through the registry. 56497

Sec. 3905.471. (A) No individual or entity shall act as or 56498
hold itself out to be an insurance navigator unless that 56499
individual or entity is certified as an insurance navigator 56500
under this section and is receiving funding under division (i) 56501
of section 1311 of the Affordable Care Act. 56502

(B) An insurance navigator who complies with the 56503
requirements of this section may do any of the following: 56504

(1) Conduct public education activities to raise awareness 56505
of the availability of qualified health plans; 56506

(2) Distribute fair and impartial general information 56507

concerning enrollment in all qualified health plans offered 56508
within the exchange and the availability of the premium tax 56509
credits under section 36B of the Internal Revenue Code of 1986, 56510
26 U.S.C. 36B, and cost-sharing reductions under section 1402 of 56511
the Affordable Care Act; 56512

(3) Facilitate enrollment in qualified health plans, 56513
without suggesting that an individual select a particular plan; 56514

(4) Provide referrals to appropriate state agencies for 56515
any enrollee with a grievance, complaint, or question regarding 56516
their health plan, coverage, or a determination under such plan 56517
coverage; 56518

(5) Provide information in a manner that is culturally and 56519
linguistically appropriate to the needs of the population being 56520
served by the exchange. 56521

(C) An insurance navigator shall not do any of the 56522
following: 56523

(1) Sell, solicit, or negotiate health insurance; 56524

(2) Provide advice concerning the substantive benefits, 56525
terms, and conditions of a particular health benefit plan or 56526
offer advice about which health benefit plan is better or worse 56527
or suitable for a particular individual or entity; 56528

(3) Recommend a particular health plan or advise consumers 56529
about which health benefit plan to choose; 56530

(4) Provide any information or services related to health 56531
benefit plans or other products not offered in the exchange. 56532
Division (C)(4) of this section shall not be interpreted as 56533
prohibiting an insurance navigator from providing information on 56534
eligibility for medicaid; 56535

- (5) Engage in any unfair method of competition or any fraudulent, deceptive, or dishonest act or practice. 56536
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- (D) An individual shall not act in the capacity of an insurance navigator, or perform insurance navigator duties on behalf of an organization serving as an insurance navigator, unless the individual has applied for certification and the superintendent finds that the applicant meets all of the following requirements: 56538
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- (1) Is at least eighteen years of age; 56544
- (2) Has completed and submitted the application and disclosure form required under division (F) (2) of this section and has declared, under penalty of refusal, suspension, or revocation of the insurance navigator's certification, that the statements made in the form are true, correct, and complete to the best of the applicant's knowledge and belief; 56545
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- (3) Has successfully completed a criminal records check under section 3905.051 of the Revised Code, as required by the superintendent; 56551
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- (4) Has successfully completed the certification and training requirements adopted by the superintendent in accordance with division (F) of this section; 56554
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- (5) Has paid all fees required by the superintendent. 56557
- (E) (1) A business entity that acts as an insurance navigator, supervises the activities of individual insurance navigators, or receives funding to provide insurance navigator services shall obtain an insurance navigator business entity certification. 56558
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- (2) Any entity applying for a business entity 56563

certification shall: 56564

(a) Apply in a form specified, and provide any information 56565
required by, the superintendent; and 56566

(b) Pay an initial licensure fee of two hundred dollars or 56567
renewal fee of one hundred dollars. 56568

(3) A business entity certified as an insurance navigator 56569
shall, in a manner prescribed by the superintendent, make 56570
available a list of all individual insurance navigators that the 56571
business entity employs, supervises, or with which the business 56572
entity is affiliated. 56573

(F) The superintendent of insurance shall, prior to any 56574
exchange becoming operational in this state, do all of the 56575
following: 56576

(1) (a) Adopt rules to establish a certification and 56577
training program for a prospective insurance navigator and the 56578
insurance navigator's employees that includes screening via a 56579
criminal records check performed in accordance with section 56580
3905.051 of the Revised Code, initial and continuing education 56581
requirements, and an examination; 56582

(b) The certification and training program shall include 56583
training on compliance with the "Health Insurance Portability 56584
and Accountability Act of 1996," 110 Stat. 1955, 42 U.S.C. 56585
1320d, et seq., as amended, training on ethics, and training on 56586
provisions of the Affordable Care Act relating to insurance 56587
navigators and exchanges. 56588

(2) Develop an application and disclosure form by which an 56589
insurance navigator may disclose any potential conflicts of 56590
interest, as well as any other information the superintendent 56591
considers pertinent. 56592

(G) (1) The superintendent may suspend, revoke, or refuse to issue or renew the insurance navigator certification of any person, or levy a civil penalty against any person, that violates the requirements of this section or commits any act that would be a ground for denial, suspension, or revocation of an insurance agent license, as prescribed in section 3905.14 of the Revised Code.

(2) The superintendent shall have the power to examine and investigate the business affairs and records of any insurance navigator.

(3) (a) The superintendent shall not certify as an insurance navigator, and shall revoke any existing insurance navigator certification of, any individual, organization, or business entity that is receiving financial compensation, including monetary and in-kind compensation, gifts, or grants, on or after October 1, 2013, in connection with the enrollment of any employees or other individuals in a qualified health benefit plan, from an insurer offering a qualified health benefit plan through an exchange operating in this state.

(b) Notwithstanding division (G) (3) (a) of this section, the superintendent may certify as a navigator a qualified health center and a federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code.

(4) (a) If the superintendent finds that a violation of this section made by an individual insurance navigator was made with the knowledge of the employing or supervising entity, or that the employing or supervising entity should reasonably have been aware of the individual insurance navigator's violation, and the violation was not reported to the superintendent and no corrective action was undertaken on a timely basis, then the

superintendent may suspend, revoke, or refuse to renew the 56623
insurance navigator certification of the supervising or 56624
employing entity. 56625

(b) In addition to, or in lieu of, any disciplinary action 56626
taken under division (G) (4) (a) of this section, the 56627
superintendent may levy a civil penalty against such an entity. 56628

(H) A business entity that terminates the employment, 56629
engagement, affiliation, or other relationship with an 56630
individual insurance navigator shall notify the superintendent 56631
within thirty days following the effective date of the 56632
termination, using a format prescribed by the superintendent, if 56633
the reason for termination is one of the reasons set forth in 56634
section 3905.14 of the Revised Code, or the entity has knowledge 56635
that the insurance navigator was found by a court or government 56636
body to have engaged in any of the activities in section 3905.14 56637
of the Revised Code. 56638

(I) Insurance navigators are subject to the laws of this 56639
chapter, and any rules adopted pursuant to the chapter, in so 56640
far as such laws are applicable. 56641

(J) The superintendent may deny, suspend, approve, renew, 56642
or revoke the certification of an insurance navigator if the 56643
superintendent determines that doing so would be in the interest 56644
of Ohio insureds or the general public. Such an action is not 56645
subject to Chapter 119. of the Revised Code. 56646

~~(K) The superintendent may adopt rules in accordance with 56647
Chapter 119. of the Revised Code to implement sections 3905.47- 56648
to 3905.473 of the Revised Code. 56649~~

~~(L)~~ The superintendent may, by rule, apply the 56650
requirements of this chapter to any entity or person designated 56651

by an exchange, the state, or the federal government to assist 56652
consumers or participate in exchange activities. 56653

~~(M)~~(L) Any fees collected under this section shall be paid 56654
into the state treasury to the credit of the department of 56655
insurance operating fund created under section 3901.021 of the 56656
Revised Code. 56657

Sec. 3905.71. As used in sections 3905.71 to ~~3905.79~~ 56658
3905.78 of the Revised Code: 56659

(A) "Actuary" means a person who is a member in good 56660
standing of the American academy of actuaries. 56661

(B) "Insurer" means any person licensed to do business in 56662
this state under Chapter 1751. or 1761. of the Revised Code or 56663
Title XXXIX of the Revised Code. 56664

(C) "Laws of this state relating to insurance" has the 56665
same meaning as in section 3901.04 of the Revised Code. 56666

(D) (1) "Managing general agent" means any person that does 56667
all of the following: 56668

(a) Manages all or part of the insurance business of an 56669
insurer, including the management of a separate division, 56670
department, or underwriting office, or negotiates and binds 56671
ceding reinsurance contracts on behalf of an insurer; 56672

(b) Acts as an agent for the insurer, whether known as a 56673
managing general agent, manager, or other similar term; 56674

(c) With or without the authority of the insurer, 56675
separately or together with affiliates, does both of the 56676
following: 56677

(i) Produces, directly or indirectly, and underwrites an 56678

amount of gross direct written premium equal to or more than 56679
five per cent of the policyholder surplus of the insurer as 56680
reported in the last annual statement of the insurer in any one 56681
year; 56682

(ii) Adjusts or pays claims, or negotiates reinsurance on 56683
behalf of the insurer. 56684

(2) "Managing general agent" does not include any of the 56685
following: 56686

(a) An employee of the insurer; 56687

(b) A United States manager of the United States branch of 56688
an alien insurer; 56689

(c) An underwriting manager that, pursuant to contract, 56690
manages all or a part of the insurance operations of the 56691
insurer, is under common control with the insurer, subject to 56692
sections 3901.32 to 3901.37 of the Revised Code, and whose 56693
compensation is not based on the volume of premiums written; 56694

(d) The attorney authorized by and acting for the 56695
subscribers of a reciprocal insurer or inter-insurance exchange 56696
under powers of attorney; 56697

(e) An administrator licensed pursuant to Chapter 3959. of 56698
the Revised Code whose activities on behalf of an insurer are 56699
limited to administrative services involving underwriting or the 56700
payment of claims, and do not include the management of all or 56701
part of the insurance business of the insurer. 56702

(E) "Underwrite" or "underwriting" means the authority to 56703
accept or reject risk on behalf of an insurer. 56704

Sec. 3905.72. (A) (1) No person shall act as a managing 56705
general agent representing an insurer licensed in this state 56706

with respect to risks located in this state unless the person is 56707
licensed as a managing general agent pursuant to division (C) or 56708
(D) of this section. 56709

(2) No person shall act as a managing general agent 56710
representing an insurer organized under the laws of this state 56711
with respect to risks located outside this state unless the 56712
person is licensed as a managing general agent pursuant to 56713
division (C) of this section. 56714

(B) Every person that seeks to act as a managing general 56715
agent as described in division (A) of this section shall apply 56716
to the superintendent of insurance for a license. Except as 56717
otherwise provided in division (D) of this section, the 56718
application shall be in writing on a form provided by the 56719
superintendent. The application shall be kept on file by the 56720
superintendent and shall include all of the following: 56721

(1) The name and principal business address of the 56722
applicant; 56723

(2) If the applicant is an individual, the applicant's 56724
current occupation; 56725

(3) If the applicant is an individual, the applicant's 56726
occupation or occupations during the five-year period prior to 56727
applying for the license to act as a managing general agent; 56728

(4) A copy of the contract between the applicant and the 56729
insurer as required by, and in compliance with, section 3905.73 56730
of the Revised Code; 56731

(5) A copy of a certified resolution of the board of 56732
directors of the insurer on whose behalf the applicant will act, 56733
appointing the applicant as a managing general agent and agent 56734
of the insurer, specifying the duties the applicant is expected 56735

to perform on behalf of the insurer and the lines of insurance 56736
the applicant will manage, and authorizing the insurer to enter 56737
into a contract with the applicant as required by section 56738
3905.73 of the Revised Code; 56739

(6) A statement that the applicant submits to the 56740
jurisdiction of the superintendent and the courts of this state; 56741

(7) Any other information required by the superintendent. 56742

(C) The superintendent shall issue to a resident of this 56743
state or a business entity organized under the laws of this 56744
state a license to act as a managing general agent representing 56745
an insurer licensed to do business in this state with respect to 56746
risks located in this state or a license to act as a managing 56747
general agent representing an insurer organized under the laws 56748
of this state with respect to risks located outside this state, 56749
and shall renew such a license, if the superintendent is 56750
satisfied that all of the following conditions are met: 56751

(1) The applicant is a suitable person and intends to hold 56752
self out in good faith as a managing general agent. 56753

(2) The applicant understands the duties and obligations 56754
of a managing general agent. 56755

(3) The applicant has filed a completed application that 56756
complies with division (B) of this section. 56757

(4) The applicant has paid a fee in the amount of twenty 56758
dollars. 56759

(5) The applicant maintains a bond in the amount of not 56760
less than fifty thousand dollars for the protection of the 56761
insurer. 56762

(6) The applicant maintains an errors and omissions policy 56763

of insurance. 56764

(7) The applicant is not, and has never been, under an 56765
order of suspension or revocation under section 3905.77 of the 56766
Revised Code or under any other law of this state, or any other 56767
state, relating to insurance, and is otherwise in compliance 56768
with sections 3905.71 to ~~3905.79~~ 3905.78 of the Revised Code and 56769
all other laws of this state relating to insurance. 56770

(D) If the applicant is a resident of another state or a 56771
business entity organized under the laws of another state, the 56772
applicant shall submit a request for licensure, along with a fee 56773
of twenty dollars, to the superintendent. The superintendent 56774
shall issue a license to act as a managing general agent if the 56775
request for licensure includes proof that the applicant is 56776
licensed and in good standing as a managing general agent in the 56777
applicant's home state and either a copy of the application for 56778
licensure the applicant submitted to the applicant's home state 56779
or the application described in division (B) of this section. 56780

If the applicant's home state does not license managing 56781
general agents under provisions similar to those in sections 56782
3905.71 to ~~3905.79~~ 3905.78 of the Revised Code, or if the 56783
applicant's home state does not grant licenses to residents of 56784
this state on the same reciprocal basis, the applicant shall 56785
comply with divisions (B) and (C) of this section. 56786

(E) Unless suspended or revoked by an order of the 56787
superintendent pursuant to section 3905.77 of the Revised Code 56788
and except as provided in division (F) of this section, any 56789
license issued or renewed pursuant to division (C) or (D) of 56790
this section shall expire on the last day of February next after 56791
its issuance or renewal. 56792

(F) If the appointment of a managing general agent is terminated by the insurer, the license of the managing general agent shall expire on the date of the termination. 56793
56794
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(G) A license shall be renewed in accordance with the standard renewal procedure specified in Chapter 4745. of the Revised Code. 56796
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(H) All license fees collected pursuant to this section shall be paid into the state treasury to the credit of the department of insurance operating fund. 56799
56800
56801

Sec. 3905.78. Nothing in sections 3905.71 to ~~3905.79~~ 3905.78 of the Revised Code is intended, in any manner, to limit or restrict the rights of policyholders and claimants of any insurer on whose behalf a managing general agent is acting, or of auditors, accountants, examiners, or other persons that conduct examinations of insurers. 56802
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Sec. 3905.83. As used in sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code: 56808
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(A) "Insurer" means any domestic, foreign, or alien insurance company that has been issued a certificate of authority by the superintendent of insurance to transact surety business in this state. 56810
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(B) "Managing general agent" means any person that is appointed or employed by an insurer to supervise or otherwise manage the bail bond business written in this state by surety bail bond agents appointed by the insurer. 56814
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(C) "Surety" means an insurer that agrees to be responsible for the fulfillment of the obligation of a principal if the principal fails to fulfill that obligation. 56818
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56820

Sec. 3905.84. No person shall act in the capacity of a surety bail bond agent, or perform any of the functions, duties, or powers prescribed for surety bail bond agents under sections 3905.83 to ~~3905.95~~3905.941 of the Revised Code, unless that person is qualified, licensed, and appointed as provided in those sections.

Sec. 3905.851. A surety bail bond agent qualified, licensed, and appointed in accordance with sections 3905.83 to ~~3905.95~~3905.941 of the Revised Code shall not be required to pay any licensing fee imposed by a political subdivision of this state to perform any of the functions, duties, or powers prescribed for surety bail bond agents under those sections.

Sec. 3905.87. (A) A surety bail bond agent shall not file a bond in any court of this state unless the agent is licensed and appointed under sections 3905.83 to ~~3905.95~~3905.941 of the Revised Code and has registered with the clerk of that court pursuant to division (B) of this section, if registration is required by the court.

(B) To register with a court, a surety bail bond agent shall file, with the clerk of the court, a copy of the agent's surety bail bond license, a copy of the agent's driver's license or state identification card, and a certified copy of the surety bail bond agent's appointment by power of attorney from each insurer that the surety bail bond agent represents. An agent shall renew the agent's registration biennially by the first day of April of each odd-numbered year.

(C) The clerk of the court shall make available a list of court-registered surety bail bond agents to the appropriate holding facility, jail, correction facility, or other similar entity within the court's jurisdiction annually not later than

the first day of May. If an agent registers with a court after 56851
the last day of April, the court shall add that agent to the 56852
list and make the updated list available to the appropriate 56853
holding facility, jail, correction facility, or other similar 56854
entity within the court's jurisdiction within twenty-four hours 56855
of the court's approval of that registration. 56856

Sec. 3905.89. Each person licensed under sections 3905.83 56857
to ~~3905.95~~ 3905.941 of the Revised Code shall notify in writing 56858
the appropriate insurer or managing general agent, and the clerk 56859
of the court of common pleas of the county in which the licensee 56860
is registered, within thirty days after a change in the 56861
licensee's principal business address or telephone number. 56862

This notification requirement is in addition to the 56863
notification requirements set forth in other provisions of this 56864
chapter. 56865

Sec. 3905.921. (A) If collateral security or other 56866
indemnity is accepted on a bond, the surety bail bond agent, 56867
managing general agent, or surety shall make, upon demand, a 56868
written request to the court for a discharge of the bond to be 56869
delivered to the surety or the surety's agent. 56870

If the obligation of the surety on the bond is released in 56871
writing by the court and a discharge is provided to the surety 56872
or the surety's agent, the collateral security or other 56873
indemnity, except a promissory note or an indemnity agreement, 56874
shall be returned, within twenty-one days after the discharge is 56875
provided, to the person that gave the collateral security or 56876
other indemnity, unless another disposition is provided for by 56877
legal assignment of the right to receive the collateral to 56878
another person. If, despite diligent inquiry by the surety or 56879
the surety's agent to determine that the bond has been 56880

discharged, the court fails to provide a written discharge 56881
within thirty days after the written request was made to the 56882
court, the bond shall be considered canceled by operation of 56883
law, and the collateral security or other indemnity, except a 56884
promissory note or an indemnity agreement, shall be returned, 56885
within twenty-one days after the written request for discharge 56886
was made to the court, to the person that gave the collateral 56887
security or other indemnity. 56888

(B) No fee or other charge, other than those authorized by 56889
sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code or by 56890
rule of the superintendent of insurance, shall be deducted from 56891
the collateral due. However, allowable expenses incurred in the 56892
apprehension of a defendant because of a forfeiture of bond or 56893
judgment may be deducted if those expenses are accounted for. 56894

(C) (1) No person shall fail to return collateral security 56895
in accordance with this section. 56896

(2) A violation of division (C) (1) of this section shall 56897
be punishable as follows: 56898

(a) If the collateral is of a value of less than five 56899
hundred dollars, a violation is a misdemeanor of the first 56900
degree; 56901

(b) If the collateral is of a value of at least five 56902
hundred dollars but less than five thousand dollars, a violation 56903
is a felony of the fifth degree; 56904

(c) If the collateral is of a value of at least five 56905
thousand dollars but less than ten thousand dollars, a violation 56906
is a felony of the fourth degree; 56907

(d) If the collateral is of a value of ten thousand 56908
dollars or more, a violation is a felony of the third degree. 56909

Sec. 3905.932. A surety bail bond agent or insurer shall 56910
not do any of the following: 56911

(A) Suggest or advise the employment of, or name for 56912
employment, any particular attorney to represent its principal; 56913

(B) Solicit business in, or on the property or grounds of, 56914
a detention facility, as defined in section 2921.01 of the 56915
Revised Code, or in, or on the property or grounds of, any 56916
court. For purposes of this division, "solicit" includes, but is 56917
not limited to, the distribution of business cards, print 56918
advertising, or any other written information directed to 56919
prisoners or potential indemnitors, unless a request is 56920
initiated by the prisoner or potential indemnitor. Permissible 56921
print advertising in a detention facility is strictly limited to 56922
a listing in a telephone directory and the posting of the surety 56923
bail bond agent's name, address, and telephone number in a 56924
designated location within the detention facility. 56925

(C) Wear or otherwise display any identification, other 56926
than the wallet identification card required under division (G) 56927
of section 3905.85 of the Revised Code, in or on the property or 56928
grounds of a detention facility, as defined in section 2921.01 56929
of the Revised Code, or in or on the property or grounds of any 56930
court; 56931

(D) Pay a fee or rebate or give or promise anything of 56932
value to a jailer, law enforcement officer, committing 56933
magistrate, or other person who has power to arrest or to hold 56934
in custody, or to any public official or public employee, in 56935
order to secure a settlement, compromise, remission, or 56936
reduction of the amount of any bail bond or estreatment of bail; 56937

(E) Pay a fee or rebate or give or promise anything of 56938

value to an attorney in a bail bond matter, except in defense of any action on a bond;	56939 56940
(F) Pay a fee or rebate or give or promise anything of value to the principal or to anyone in the principal's behalf;	56941 56942
(G) Post anything without using a bail instrument representing an insurer, to have a defendant released on bail on all types of set court bail, except for the following:	56943 56944 56945
(1) Cash court fees or cash reparation fees;	56946
(2) Ten per cent assignments;	56947
(3) Other nonsurety court bonds, if the agent provides full written disclosure and receipts and retains copies of all documents and receipts for not less than three years.	56948 56949 56950
(H) Participate in the capacity of an attorney at a trial or hearing of a principal;	56951 56952
(I) Accept anything of value from a principal for providing a bail bond, other than the premium filed with and approved by the superintendent of insurance and an expense fee, except that the surety bail bond agent may, in accordance with section 3905.92 of the Revised Code, accept collateral security or other indemnity from a principal or other person together with documentary stamp taxes if applicable. No fees, expenses, or charges of any kind shall be deducted from the collateral held or any return premium due, except as authorized by sections 3905.83 to 3905.95 <u>3905.941</u> of the Revised Code or by rule of the superintendent. A surety bail bond agent, upon written agreement with another party, may receive a fee or other compensation for returning to custody an individual who has fled the jurisdiction of the court or caused the forfeiture of a bond.	56953 56954 56955 56956 56957 56958 56959 56960 56961 56962 56963 56964 56965 56966 56967

(J) Execute a bond in this state on the person's own behalf;	56968 56969
(K) Execute a bond in this state if a judgment has been entered on a bond executed by the surety bail bond agent, which judgment has remained unpaid for at least sixty days after all appeals have been exhausted, unless the full amount of the judgment is deposited with the clerk of the court.	56970 56971 56972 56973 56974
As used in this section, "instrument" means a fiduciary form showing a dollar amount for a surety bail bond.	56975 56976
Sec. 3906.03. (A) (1) Unless otherwise established in accordance with divisions (A) (2) and (3) of this section, the amount of the minimum financial security benchmark for an insurer shall be the greatest of the following:	56977 56978 56979 56980
(a) The authorized control level risk-based capital applicable to the insurer, as defined and set forth by sections 1753.31 to 1753.43 <u>1753.42</u> or 3903.81 to 3903.93 <u>3903.92</u> of the Revised Code, less the asset valuation reserve as defined in the risk-based capital instructions defined in division (M) of section 3903.81 of the Revised Code;	56981 56982 56983 56984 56985 56986
(b) The minimum capital or minimum surplus required by statute or rule for maintenance of an insurer's certificate of authority in this state;	56987 56988 56989
(c) All invested assets of an entity organized under Chapter 3919. or 3939. of the Revised Code;	56990 56991
(d) For title insurers, the quotient of annualized net earned premiums divided by eight;	56992 56993
(e) For multiple employer welfare arrangements, the greater of three hundred per cent of the risk-based capital	56994 56995

amount reported in the annual statement or the quotient of 56996
annualized net earned premiums divided by twelve. 56997

(2) The superintendent may, in accordance with division 56998
(B) of this section, establish by order a minimum financial 56999
security benchmark to apply to a specific insurer that exceeds 57000
the amount arrived at under division (A) (1) of this section. 57001

(3) The superintendent may by rule change the minimum 57002
financial security benchmark that is a multiple of authorized 57003
control level risk-based capital, or equivalent risk-based 57004
capital calculation, to apply to any class of insurers provided 57005
the amount established by the rule is not less than the amount 57006
arrived at under division (A) (1) of this section. 57007

(B) The superintendent shall determine the amount of 57008
minimum capital or minimum surplus as specified in division (A) 57009
(1) (b) of this section to determine an insurer's minimum 57010
financial security benchmark. The amount shall be sufficient to 57011
provide reasonable security against contingencies affecting the 57012
insurer's financial position that are not fully covered by 57013
reserves or by reinsurance. 57014

(1) In determining this amount, the superintendent shall 57015
consider all of the following risks: 57016

(a) Increases in the frequency or severity of losses 57017
beyond the levels contemplated by the premium rates charged; 57018

(b) Increases in expenses beyond those contemplated by the 57019
premium rates charged; 57020

(c) Decreases in the value of assets, or the return on 57021
invested assets below those planned on; 57022

(d) Changes in economic conditions that would make 57023

liquidity more important than contemplated and would force 57024
untimely sale of assets or prevent timely investments; 57025

(e) Currency devaluation to which the insurer may be 57026
subject; 57027

(f) Any other contingencies the superintendent identifies 57028
that may affect the insurer's operations. 57029

(2) In determining the minimum financial security 57030
benchmark under division (A) (2) of this section, the 57031
superintendent shall also take into account the following 57032
factors: 57033

(a) The most reliable information available as to the 57034
magnitude of the various risks under division (B) (1) of this 57035
section; 57036

(b) The extent to which the risks in division (B) (1) of 57037
this section are independent of each other or are related, and 57038
whether any dependency is direct or inverse; 57039

(c) The insurer's recent history of profits or losses; 57040

(d) The extent to which the insurer has provided 57041
protection against adverse contingencies in ways other than the 57042
establishment of surplus, including redundancy of premiums, 57043
adjustability of contracts under their terms, investment 57044
valuation reserves, whether voluntary or mandatory, appropriate 57045
reinsurance, the use of conservative actuarial assumptions to 57046
provide a margin of security, reserve adjustments in recognition 57047
of previous rate inadequacies, contingency or catastrophe 57048
reserves, diversification of assets, and underwriting risks; 57049

(e) Independent judgments on the soundness of the 57050
insurer's operations, as evidenced by the ratings of reliable 57051

professional financial reporting services; 57052

(f) Any other factor the superintendent considers 57053
relevant. 57054

Sec. 3906.15. (A) ~~The superintendent may, in accordance~~ 57055
~~with section 119.03 of the Revised Code, adopt rules~~ 57056
~~interpreting and implementing the provisions of this chapter.~~ 57057

~~(B)~~The superintendent may, in accordance with section 57058
119.03 of the Revised Code, adopt one or more of the following 57059
restrictions on investments in rules: 57060

(1) The superintendent may prescribe for defined classes 57061
of insurers special procedural requirements, including special 57062
reports and prior approval on investments, as well as 57063
disapproval of investments subsequent to either. 57064

(2) The superintendent may prescribe substantive 57065
restrictions on investments of defined classes of insurers, 57066
including all of the following: 57067

(a) Specification of classes of assets that may not be 57068
counted toward satisfaction of the minimum asset requirement 57069
even though the assets may be counted for unrestricted insurers; 57070

(b) Specification of maximum amounts of assets that an 57071
insurer may invest in a single investment, issue, or class or 57072
group of classes of investments that shall be expressed as 57073
percentages of total assets, capital, surplus, legal reserves, 57074
or other variables; 57075

(c) Prescription of qualitative tests for investments and 57076
conditions under which investments may be made, including 57077
requirements of specified ratings from investment advisory 57078
services, listing on specified stock exchanges, collateral, 57079

marketability, currency matching, and the financial and legal 57080
status of the issuer and its earnings capacity. 57081

~~(C)~~(B) If the superintendent is satisfied by evidence of 57082
the solidity of an insurer and the competence of management and 57083
its investment advisors, the superintendent, after a hearing, 57084
may by order grant an exemption to that insurer from any 57085
restriction made under division ~~(B)~~(A) of this section to the 57086
extent that the superintendent is satisfied that the interests 57087
of the insurer's insureds and creditors, as well as the general 57088
public, are protected. 57089

Sec. 3911.011. (A) No policy, annuity, or other contract 57090
providing variable or fixed and variable benefits or contractual 57091
payments shall be delivered or issued for delivery in this state 57092
except by a life insurance company, organized under the laws of 57093
this state, or a company, partnership, or association, organized 57094
or incorporated, by an act of congress, or under the laws of 57095
this or any other state of the United States, or any foreign 57096
government, and transacting the business of life insurance in 57097
this state. No such company, partnership or association shall 57098
deliver or issue for delivery in this state any such policy, 57099
annuity, or contract until the superintendent of insurance has 57100
determined that its condition and methods of operation in 57101
connection with the issuance of the policies, annuities, and 57102
contracts will not render its operation hazardous to the public 57103
or to the holders of its policies, annuities, and other 57104
contracts in this state. In making such determination, the 57105
superintendent shall consider the history, reputation, and 57106
financial condition of the company, partnership, or association, 57107
and the character, responsibility, and general fitness of its 57108
officers, directors, partners, or associates. In making such 57109
determination with respect to a company, partnership, or 57110

association not organized under the laws of this state, the 57111
superintendent shall also consider whether the laws and 57112
regulations of its domicile provide a degree of protection to 57113
the public and the holders of its policies, annuities, and other 57114
contracts substantially equal to that provided by this section- 57115
~~and any rules adopted by the superintendent pursuant to division~~ 57116
~~(C) of this section.~~ If any such company is a subsidiary of, or 57117
affiliated through management or ownership with, a life 57118
insurance company authorized to do business in this state, the 57119
superintendent may consider the requirements of this division to 57120
have been satisfied if either such company or its parent or 57121
affiliated company meets such requirements. 57122

(B) No policy, annuity, or other contract described in 57123
division (A) of this section and no certificate, application, 57124
endorsement, or rider to be used in connection with any such 57125
policy, annuity, or other contract shall be delivered, or issued 57126
for delivery, in this state until a copy thereof has been filed 57127
with the superintendent. The superintendent shall, within thirty 57128
days after the filing of any such form, disapprove the same upon 57129
finding that such form contains provisions that are unjust, 57130
unfair, inequitable, misleading, or deceptive, encourage 57131
misrepresentation of the coverage, or are contrary to the 57132
insurance laws of this state ~~or any rule adopted by the~~ 57133
~~superintendent pursuant to division (C) of this section.~~ When 57134
the superintendent notifies a company, partnership, or 57135
association that a form has been disapproved, it shall be 57136
unlawful thereafter for the company, partnership, or association 57137
to issue or use the form. In the notice, the superintendent 57138
shall specify the reason for the disapproval and state that a 57139
hearing will be granted in twenty days after request in writing. 57140
No such policy, contract, certificate, application, endorsement, 57141

or rider shall be issued or used until the expiration of thirty 57142
days after it has been so filed, unless the superintendent gives 57143
written approval thereto. The superintendent may, at any time 57144
after a hearing held not less than twenty days after written 57145
notice to the insurer, withdraw the approval of any such form on 57146
any ground set forth in this division. The written notice of 57147
such hearing shall state the reason for the proposed withdrawal. 57148
The company, partnership, or association shall not issue the 57149
form or use it after the effective date of the withdrawal. Any 57150
order or formal determination of the superintendent under this 57151
division shall be subject to judicial review as provided in 57152
section 119.12 of the Revised Code. 57153

(C) The superintendent shall have the sole and exclusive 57154
power and authority to regulate the sale, delivery, and issuance 57155
for delivery in this state of policies, annuities, and other 57156
contracts described in division (A) of this section and, subject 57157
to Chapter 119. of the Revised Code, to adopt, amend, and 57158
rescind rules ~~necessary to discharge the superintendent's duties~~ 57159
~~and exercise the superintendent's power and authority under~~ 57160
~~section 3907.15 of the Revised Code and this section, including,~~ 57161
~~but not limited to,~~for the adoption of a definition of a 57162
subsidiary or affiliated corporation under section 3907.15 of 57163
the Revised Code. 57164

(D) Except for Chapter 3915. and except as otherwise 57165
provided in sections 3907.15 and 3911.011 of the Revised Code, 57166
all pertinent provisions of Title XXXIX of the Revised Code 57167
apply to all policies, annuities, and other contracts providing 57168
variable or fixed and variable benefits or contractual payments 57169
and all separate accounts established in connection therewith. 57170
The reserve liability for such policies, annuities, and 57171
contracts shall be established in accordance with actuarial 57172

procedures that recognize the variable nature of the benefits 57173
and guarantees provided. 57174

Chapter 1707. of the Revised Code does not apply to any 57175
policy, annuity, or other contract providing fixed, variable, or 57176
fixed and variable benefits or contractual payments, that is 57177
issued by any company, partnership, or association authorized to 57178
transact the business of life insurance in this state. 57179

Sec. 3913.01. Any domestic stock life insurance 57180
corporation, incorporated under a general law, may become a 57181
mutual life insurance corporation, and to that end may carry out 57182
a plan for the acquisition of shares of its capital stock, 57183
provided such plan: 57184

(A) Has been adopted by a vote of a majority of the 57185
directors of such corporation; 57186

(B) Has been approved by a vote of stockholders 57187
representing a majority of the capital stock then outstanding at 57188
a meeting of stockholders called for the purpose; 57189

(C) Has been approved by a majority of the policyholders 57190
voting at a meeting of policyholders called for the purpose, 57191
each of whom is insured in a sum of at least one thousand 57192
dollars and whose insurance shall then be in force and shall 57193
have been in force for at least one year prior to such meeting. 57194

As used in this section, "policyholder" means the person 57195
insured under an individual policy of life insurance, and the 57196
person to whom any annuity or pure endowment is presently or 57197
prospectively payable by the terms of an individual annuity or 57198
pure endowment contract, except where the policy or contract 57199
declares some other person to be the owner or holder thereof, in 57200
which case such owner or policyholder shall be deemed the 57201

policyholder, and except in cases of assignment. In the case of 57202
any individual policy or contract insuring two or more persons 57203
jointly or in case the policy or contract declares two or more 57204
persons to be the owner, the persons insured or declared to be 57205
the owner are considered as one policyholder for the purposes of 57206
this section. In case any such policy or contract has been 57207
assigned by an assignment absolute on its face to an assignee 57208
other than the corporation, and such assignment has been filed 57209
at the principal office of the corporation at least thirty days 57210
prior to the date of the meeting of policyholders, then such 57211
assignee shall be deemed a policyholder. Except as provided in 57212
this section, an assignee of a policy or contract shall not be 57213
deemed a policyholder. The reference in division (C) of this 57214
section to insurance in the amount of one thousand dollars or 57215
more is deemed to include any annuity contract, the commuted 57216
value of which is one thousand dollars or more on the date of 57217
said meeting, and any pure endowment contract for the principal 57218
sum of one thousand dollars or more. 57219

Notice of the meeting of policyholders shall be given by 57220
mailing such notice from the home office of the corporation at 57221
least thirty days prior to such meeting in a sealed envelope, 57222
postage prepaid, addressed to such policyholders at their last 57223
known post-office addresses, provided that personal delivery of 57224
such written notice to any policyholder evidenced by written 57225
receipt therefor may be substituted for mailing the same. The 57226
meeting shall be otherwise provided for and conducted in such 57227
manner as is provided in the mutualization plan, provided that 57228
policyholders may vote in person, by proxy, or by mail, and that 57229
all votes shall be cast by ballot on a uniform ballot furnished 57230
by the corporation. The superintendent of insurance shall 57231
supervise and direct the method and procedure of said meeting 57232

and shall appoint an adequate number of inspectors to conduct 57233
the voting at said meeting who may determine all questions 57234
concerning the verification of the ballots, the ascertainment of 57235
the validity of such ballots, the qualifications of the voters, 57236
and the canvass of the vote, and who shall certify to the 57237
superintendent and to the corporation the result of such 57238
proceedings, which shall be supervised by said inspectors ~~in~~ 57239
~~accordance with such rules as are prescribed by the~~ 57240
~~superintendent.~~ All necessary expenses incurred by the 57241
superintendent shall be paid by the corporation, as certified to 57242
by the superintendent. 57243

Before such a plan can be carried out, it must be 57244
submitted to the superintendent and must be approved by the 57245
superintendent in writing; provided that every payment for the 57246
acquisition of any shares of the capital stock of such 57247
corporation, the purchase price of which is not fixed by such 57248
plan, shall be subject to the approval of the superintendent, 57249
and provided that neither such plan, nor any such payment, shall 57250
be approved by the superintendent unless at the time of such 57251
approvals, respectively, the corporation, after deducting the 57252
aggregate sum appropriated by such plan for the acquisition of 57253
any part or all of its capital stock, and, in the case of any 57254
payment not fixed by such plan and subject to separate approval 57255
by the superintendent, after deducting also the amount of such 57256
payment, shall be possessed of net assets of not less than two 57257
hundred thousand dollars from which it shall maintain its 57258
deposit made previously with the superintendent, and such assets 57259
shall be not less than the entire liabilities of the 57260
corporation, including the net values of its outstanding 57261
contracts computed according to the standard adopted by the 57262
corporation under sections 3903.72 to 3903.7211 of the Revised 57263

Code and including all funds, contingent reserves, and surplus, 57264
except for such surplus as has been appropriated or paid under 57265
such plan. 57266

Sec. 3915.073. (A) This section shall be known as the 57267
standard nonforfeiture law for individual deferred annuities. 57268

(B) This section does not apply to any reinsurance, group 57269
annuity purchased under a retirement plan or plan of deferred 57270
compensation established or maintained by an employer, including 57271
a partnership or sole proprietorship, or by an employee 57272
organization, or by both, other than a plan providing individual 57273
retirement accounts or individual retirement annuities under 57274
section 408 of the Internal Revenue Code of 1954, 26 U.S.C.A. 57275
408, as amended, premium deposit fund, variable annuity, 57276
investment annuity, immediate annuity, any deferred annuity 57277
contract after annuity payments have commenced, or reversionary 57278
annuity, nor to any contract which is delivered outside this 57279
state through an agent or other representative of the company 57280
issuing the contract. 57281

(C) No contract of annuity, except as stated in division 57282
(B) of this section, shall be delivered or issued for delivery 57283
in this state unless the contract contains in substance the 57284
following provisions, or corresponding provisions that in the 57285
opinion of the superintendent of insurance are at least as 57286
favorable to the contract owners, relative to the cessation of 57287
payment of consideration under the contract: 57288

(1) That upon cessation of payment of considerations under 57289
a contract, or upon the written request of the contract owner, 57290
the company shall grant a paid-up annuity benefit on a plan 57291
stipulated in the contract of such value as is specified in 57292
divisions (E), (F), (G), (H), and (J) of this section; 57293

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in divisions (E), (F), (H), and (J) of this section. The company may reserve the right to defer the payment of such cash surrender benefit for a period not to exceed six months after demand therefor with surrender of the contract. The deferral is contingent upon the company's conveyance of a written request for the deferral to the superintendent and the company's receipt of written approval from the superintendent for the deferral. The request shall address the necessity and equitability to all contract owners of the deferral.

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender, or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits;

(4) A statement that any paid-up annuity, cash surrender, or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract, or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations

have been received under a contract for a period of two full 57324
years and the portion of the paid-up annuity benefit at maturity 57325
on the plan stipulated in the contract arising from 57326
considerations paid prior to such period would be less than 57327
twenty dollars monthly, the company may at its option terminate 57328
such contract by payment in cash of the then present value of 57329
such portion of the paid-up annuity benefit, calculated on the 57330
basis of the mortality table, if any, and interest rate 57331
specified in the contract for determining the paid-up annuity 57332
benefit, and by such payment shall be relieved of any further 57333
obligation under such contract. 57334

(D) The minimum values as specified in divisions (E), (F), 57335
(G), (H), and (J) of this section of any paid-up annuity, cash 57336
surrender, or death benefits available under an annuity contract 57337
shall be based upon minimum nonforfeiture amounts as defined in 57338
this division. 57339

(1) (a) The minimum nonforfeiture amount at any time at or 57340
prior to the commencement of any annuity payments shall be equal 57341
to an accumulation up to such time at rates of interest 57342
determined in accordance with division (D) (2) of this section of 57343
the net considerations, determined in accordance with division 57344
(D) (1) (b) of this section, paid prior to such time, decreased by 57345
the sum of: 57346

(i) Any prior withdrawals from or partial surrenders of 57347
the contract, accumulated at rates of interest determined in 57348
accordance with division (D) (2) of this section; 57349

(ii) An annual contract charge of fifty dollars, 57350
accumulated at rates of interest determined in accordance with 57351
division (D) (2) of this section; 57352

(iii) Any premium tax paid by the company for the contract, accumulated at rates of interest determined in accordance with division (D) (2) of this section;

(iv) The amount of any indebtedness to the company on the contract, including interest due and accrued.

(b) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half per cent of the gross considerations credited to the contract during that contract year.

(2) (a) The interest rate used in determining minimum nonforfeiture amounts under divisions (D) (1) to (4) of this section shall be an annual rate of interest determined as the lesser of three per cent per annum or the following, which shall be specified in the contract if the interest rate will be reset:

(i) The five-year constant maturity treasury rate reported by the federal reserve as of a date or an average over a period, rounded to the nearest one-twentieth of one per cent, specified in the contract, no longer than fifteen months prior to the contract issue date or the redetermination date specified in division (D) (2) (b) of this section;

(ii) Reduced by one hundred twenty-five basis points;

(iii) Where the resulting interest rate shall not be less than fifteen hundredths of one per cent.

(b) The interest rate determined under division (D) (2) (a) of this section shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that

produces the value of the five-year constant maturity treasury 57382
rate to be used at each redetermination date. 57383

(3) During the period or term that a contract provides 57384
substantive participation in an equity-indexed benefit, the 57385
contract may provide for an increase in the reduction described 57386
in division (D) (2) (a) (ii) of this section by a maximum of one 57387
hundred basis points to reflect the value of the equity-indexed 57388
benefit. The present value at the contract issue date, and at 57389
each redetermination date thereafter, of the additional 57390
reduction shall not exceed the market value of the benefit. The 57391
superintendent may require a demonstration that the present 57392
value of the additional reduction does not exceed the market 57393
value of the benefit. If the demonstration is not acceptable to 57394
the superintendent, the superintendent may disallow or limit the 57395
additional reduction. 57396

(4) The superintendent may adopt rules to implement 57397
division (D) (3) of this section and to provide for further 57398
adjustments to the calculation of minimum nonforfeiture amounts 57399
for contracts that provide substantive participation in an 57400
equity-indexed benefit and for other contracts for which the 57401
superintendent determines adjustments are justified. 57402

(E) Any paid-up annuity benefit available under a contract 57403
shall be such that its present value on the date annuity 57404
payments are to commence is at least equal to the minimum 57405
nonforfeiture amount on that date. Such present value shall be 57406
computed using the mortality table, if any, and the interest 57407
rate specified in the contract for determining the minimum paid- 57408
up annuity benefits guaranteed in the contract. 57409

(F) For contracts which provide cash surrender benefits, 57410
such cash surrender benefits available prior to maturity shall 57411

not be less than the present value as of the date of surrender 57412
of that portion of the maturity value of the paid-up annuity 57413
benefit that would be provided under the contract at maturity 57414
arising from considerations paid prior to the time of cash 57415
surrender reduced by the amount appropriate to reflect any prior 57416
withdrawals from or partial surrenders of the contract, such 57417
present value being calculated on the basis of an interest rate 57418
not more than one per cent higher than the interest rate 57419
specified in the contract for accumulating the net 57420
considerations to determine such maturity value, decreased by 57421
the amount of any indebtedness to the company on the contract, 57422
including interest due and accrued, and increased by any 57423
existing additional amounts credited by the company to the 57424
contract. In no event shall any cash surrender benefit be less 57425
than the minimum nonforfeiture amount at that time. The death 57426
benefit under such contracts shall be at least equal to the cash 57427
surrender benefit. 57428

(G) For contracts that do not provide cash surrender 57429
benefits, the present value of any paid-up annuity benefit 57430
available as a nonforfeiture option at any time prior to 57431
maturity shall not be less than the present value of that 57432
portion of the maturity value of the paid-up annuity benefit 57433
provided under the contract arising from considerations paid 57434
prior to the time the contract is surrendered in exchange for, 57435
or changed to, a deferred paid-up annuity, such present value 57436
being calculated for the period prior to the maturity date on 57437
the basis of the interest rate specified in the contract for 57438
accumulating the net considerations to determine such maturity 57439
value, and increased by any existing additional amounts credited 57440
by the company to the contract. For contracts that do not 57441
provide any death benefits prior to the commencement of any 57442

annuity payments, such present values shall be calculated on the 57443
basis of such interest rate and the mortality table specified in 57444
the contract for determining the maturity value of the paid-up 57445
annuity benefit. However, in no event shall the present value of 57446
a paid-up annuity benefit be less than the minimum nonforfeiture 57447
amount at that time. 57448

(H) For the purpose of determining the benefits calculated 57449
under divisions (F) and (G) of this section, in the case of 57450
annuity contracts under which an election may be made to have 57451
annuity payments commence at optional maturity dates, the 57452
maturity date shall be deemed to be the latest date for which 57453
election shall be permitted by the contract, but shall not be 57454
deemed to be later than the anniversary of the contract next 57455
following the annuitant's seventieth birthday or the tenth 57456
anniversary of the contract, whichever is later. 57457

(I) Any contract that does not provide cash surrender 57458
benefits or does not provide death benefits at least equal to 57459
the minimum nonforfeiture amount prior to the commencement of 57460
any annuity payments shall include a statement in a prominent 57461
place in the contract that such benefits are not provided. 57462

(J) Any paid-up annuity, cash surrender, or death benefits 57463
available at any time, other than on the contract anniversary 57464
under any contract with fixed scheduled considerations, shall be 57465
calculated with allowance for the lapse of time and the payment 57466
of any scheduled considerations beyond the beginning of the 57467
contract year in which cessation of payment of considerations 57468
under the contract occurs. 57469

(K) For any contract that provides, within the same 57470
contract by rider or supplemental contract provision, both 57471
annuity benefits and life insurance benefits that are in excess 57472

of the greater of cash surrender benefits or a return of the 57473
gross considerations with interest, the minimum nonforfeiture 57474
benefit shall be equal to the sum of the minimum nonforfeiture 57475
benefits for the annuity portion and the minimum nonforfeiture 57476
benefits, if any, for the life insurance portion computed as if 57477
each portion were a separate contract. Notwithstanding the 57478
provisions of divisions (E), (F), (G), (H), and (J) of this 57479
section, additional benefits payable: 57480

(1) In the event of total and permanent disability; 57481

(2) As reversionary annuity or deferred reversionary 57482
annuity benefits; or 57483

(3) As other policy benefits additional to life insurance, 57484
endowment and annuity benefits, and considerations for all such 57485
additional benefits shall be disregarded in ascertaining the 57486
minimum nonforfeiture amounts, paid-up annuity, cash surrender, 57487
and death benefits that may be required by this section. 57488

The inclusion of such additional benefits shall not be 57489
required in any paid-up benefits, unless such additional 57490
benefits separately would require minimum nonforfeiture amounts, 57491
paid-up annuity, cash surrender, and death benefits. 57492

~~(L) The superintendent may adopt rules in accordance with~~ 57493
~~Chapter 119. of the Revised Code to implement this section.~~ 57494

Sec. 3915.09. No policy of life insurance shall be issued 57495
or delivered in this state, or be issued by a life insurance 57496
company organized under the laws of this state, if it contains 57497
any of the following: 57498

(A) A provision for forfeiture of the policy for failure 57499
to repay any loan on the policy or to pay interest on such loan 57500
while the total indebtedness on the policy is less than its loan 57501

value; or any provision for forfeiture for failure to repay any 57502
such loan or to pay interest thereon, unless such provision 57503
contains a stipulation that no such forfeiture shall occur until 57504
at least one month after notice has been mailed by the company 57505
to the last known address of the insured and of the assignee; 57506

(B) A provision limiting to less than five years the time 57507
within which any action at law or in equity may be commenced 57508
after the cause of action accrues; 57509

(C) A provision for any mode of settlement at maturity of 57510
less value than the amount insured on the face of the policy 57511
plus dividend additions, less any indebtedness to the company on 57512
the policy, and less any premium that may by the terms of the 57513
policy be deducted; 57514

(D) In a policy form filed under section 3915.14 of the 57515
Revised Code after September 16, 1970, a provision that the 57516
policy will be eligible to participate in any future 57517
distributions of earnings, profits, or surplus of the company 57518
which are not allocated to all participating policies by 57519
reasonable and nondiscriminatory standards; 57520

(E) A provision that the policy will be eligible to 57521
receive a preferential benefit or advantage which will not be 57522
available to policies purchased from the company at future dates 57523
or under other circumstances, the effect of which is to 57524
discriminate against those future policies; 57525

~~(F) Any provision which is prohibited by a rule adopted by 57526
the superintendent of insurance to clarify, construe, or 57527
implement any of the prohibitions of divisions (A) to (E), 57528
inclusive, of this section. 57529~~

Sec. 3916.03. (A) Except as provided in division (H) of 57530

this section, an applicant for a license as a viatical settlement provider or viatical settlement broker shall submit an application for the license in a manner prescribed by the superintendent of insurance. The application shall be accompanied by a fee established by the superintendent by rule adopted in accordance with Chapter 119. of the Revised Code.

(B) A license issued under this chapter to a person other than an individual authorizes all partners, officers, members, or designated employees of the person to act as viatical settlement providers or viatical settlement brokers, as applicable, and all those partners, officers, members, or designated employees shall be named in the application and any supplements to the application.

(C) Except as provided in division (H) of this section, upon the filing of an application under this section and the payment of the license fee, the superintendent shall make an investigation of the applicant and issue to the applicant a license that states in substance that the person is authorized to act as a viatical settlement provider or viatical settlement broker, as applicable, if all of the following apply:

(1) Regarding an application for a license as a viatical settlement provider, the applicant provides all of the following:

(a) A detailed plan of operation;

(b) Proof of financial responsibility pursuant to division (D) of this section;

(c) A general description of the method the applicant will use to determine life expectancies, including a description of the applicant's intended receipt of life expectancies, the

applicant's intended use of life expectancies, the applicant's 57560
intended use of life expectancy providers, and a written plan of 57561
policies and procedures used to determine life expectancies. 57562

(2) The superintendent finds all of the following: 57563

(a) The applicant is competent and trustworthy and intends 57564
to act in good faith in the capacity of a viatical settlement 57565
provider or viatical settlement broker, as applicable. 57566

(b) The applicant has a good business reputation and has 57567
had experience, training, or education so as to be qualified to 57568
act in the capacity of a viatical settlement provider or 57569
viatical settlement broker, as applicable. 57570

(3) If the applicant is a person other than an individual, 57571
the applicant provides a certificate of good standing from the 57572
state of its organization. 57573

(4) The applicant provides an antifraud plan that meets 57574
the requirements of division (G) of section 3916.18 of the 57575
Revised Code. 57576

(D) (1) An applicant for licensure as a viatical settlement 57577
provider may provide proof of financial responsibility through 57578
one of the following means: 57579

(a) Submitting audited financial statements that show a 57580
minimum equity of not less than two hundred fifty thousand 57581
dollars in cash or cash equivalents; 57582

(b) Submitting both audited annual financial statements 57583
that show positive equity and either of the following: 57584

(i) A surety bond in the amount of two hundred fifty 57585
thousand dollars in favor of this state issued by an insurer 57586
authorized to issue surety bonds in this state; 57587

(ii) An unconditional and irrevocable letter of credit, 57588
deposit of cash, or securities, in any combination, in the 57589
aggregate amount of two hundred fifty thousand dollars. 57590

(2) The superintendent may request proof of financial 57591
responsibility at any time the superintendent considers 57592
necessary. 57593

(E) An applicant shall provide all information requested 57594
by the superintendent. The superintendent may, at any time, 57595
require an applicant to fully disclose the identity of all 57596
shareholders, partners, officers, members, and employees, and 57597
may, in the exercise of the superintendent's discretion, refuse 57598
to issue a license to an applicant that is not an individual if 57599
the superintendent is not satisfied that each officer, employee, 57600
shareholder, partner, or member who may materially influence the 57601
applicant's conduct meets the standards set forth in this 57602
chapter. 57603

(F) Except as otherwise provided in this division, a 57604
license as a viatical settlement provider or viatical settlement 57605
broker expires on the last day of March next after its issuance 57606
or continuance. A license as a viatical settlement provider or 57607
viatical settlement broker may, in the discretion of the 57608
superintendent and the payment of an annual renewal fee 57609
established by the superintendent by rule adopted in accordance 57610
with Chapter 119. of the Revised Code, be continued past the 57611
last day of March next after its issue and after the last day of 57612
March in each succeeding year. Failure to pay the renewal fee by 57613
the required date results in the expiration of the license. 57614

(G) Any individual licensed as a viatical settlement 57615
broker shall complete not less than fifteen hours of continuing 57616
education biennially. The superintendent shall approve 57617

continuing education courses that shall be related to viatical 57618
settlements and viatical settlement transactions. ~~The~~ 57619
~~superintendent shall adopt rules for the enforcement of this~~ 57620
~~division.~~ 57621

(H) The superintendent shall issue a license to an 57622
applicant who is licensed in another state or has satisfactory 57623
work experience, a government certification, or a private 57624
certification as described in Chapter 4796. of the Revised Code 57625
as a viatical settlement provider or viatical settlement broker 57626
in a state that does not issue that license in accordance with 57627
that chapter, if either of the following applies: 57628

(1) The applicant files and maintains a written 57629
designation of an agent for service of process with the 57630
superintendent. 57631

(2) The applicant has filed with the superintendent the 57632
applicant's written irrevocable consent that any action against 57633
the applicant may be commenced against the applicant by service 57634
of process on the superintendent. 57635

(I) A viatical settlement provider or viatical settlement 57636
broker shall provide to the superintendent new or revised 57637
information regarding any change in its officers, any 57638
shareholder owning ten per cent or more of its voting 57639
securities, or its partners, directors, members, or designated 57640
employees within thirty days of the change. 57641

(J) Any fee collected under this section shall be paid 57642
into the state treasury to the credit of the department of 57643
insurance operating fund created by section 3901.021 of the 57644
Revised Code. 57645

Sec. 3916.05. (A) A person shall not use a viatical 57646

settlement contract form or provide a disclosure statement form 57647
to a viator in this state unless the viatical settlement 57648
contract form or the disclosure statement form is filed with and 57649
approved by the superintendent of insurance. The superintendent 57650
shall disapprove a viatical settlement contract form or a 57651
disclosure statement form if, in the superintendent's opinion, 57652
the viatical settlement contract form, the disclosure statement 57653
form, or any provision contained therein fails to meet the 57654
requirements of section 3916.06 of the Revised Code, is 57655
unreasonable, is contrary to the interests of the public, or is 57656
otherwise misleading or unfair to the viator. At the 57657
superintendent's discretion, the superintendent may require the 57658
submission of advertising material to which section 3916.17 of 57659
the Revised Code applies. If not disapproved by the 57660
superintendent, a filing made pursuant to this section shall be 57661
considered approved forty-five days after the contract form, 57662
disclosure form, or advertising material is filed. 57663

(B) Any insurance company that issues life insurance 57664
policies in this state shall include questions in its life 57665
insurance applications that are reasonably structured to 57666
identify and prevent stranger-originated life insurance. ~~The~~ 57667
~~superintendent shall adopt rules under Chapter 119. of the~~ 57668
~~Revised Code for the implementation of this section. Each~~ 57669
~~insurer shall file with the superintendent copies of its amended~~ 57670
~~applications for life insurance within twelve months following~~ 57671
~~the effective date of the superintendent's adoption of rules~~ 57672
~~pursuant to this division.~~ 57673

(C) The superintendent may adopt rules in accordance with 57674
Chapter 119. of the Revised Code to establish reasonable fees 57675
for any service or transaction performed by the department of 57676
insurance pursuant to division (A) of this section. Any fee 57677

collected pursuant to those rules shall be paid into the state 57678
treasury to the credit of the department of insurance operating 57679
fund created by section 3901.021 of the Revised Code. 57680

Sec. 3916.20. The superintendent of insurance may adopt 57681
rules in accordance with Chapter 119. of the Revised Code ~~for~~ 57682
~~purposes of implementing this chapter, including, but not~~ 57683
~~limited to, rules~~ that do the following: 57684

(A) Govern the relationship and responsibilities of 57685
insurers, viatical settlement providers, and viatical settlement 57686
brokers during the viatication of a policy. 57687

(B) Establish standards for evaluating the reasonableness 57688
of payments under viatical settlement contracts for persons who 57689
are terminally or chronically ill. This authority includes, but 57690
is not limited to, the regulation of discount rates used to 57691
determine the amount paid in exchange for the assignment, 57692
release, transfer, sale, devise, or bequest of a benefit under a 57693
policy insuring persons who are terminally or chronically ill. 57694

(C) Establish appropriate licensing requirements, fees, 57695
and standards for continued licensure for viatical settlement 57696
providers and viatical settlement brokers. 57697

Sec. 3918.12. ~~The superintendent may, in accordance with~~ 57698
~~section 119.03 of the Revised Code, adopt such rules and~~ 57699
~~regulations as he deems appropriate, for the enforcement of~~ 57700
~~sections 3918.01 to 3918.11 of the Revised Code.~~ Whenever the 57701
superintendent finds that there has been a violation of sections 57702
3918.01 to 3918.13 of the Revised Code or any rules or 57703
regulations adopted pursuant thereto, and after written notice 57704
thereof and hearing given to the insurer or other person 57705
authorized or licensed by the superintendent, ~~he~~ the 57706

superintendent shall set forth the details of ~~his~~ the 57707
superintendent's findings together with an order for compliance 57708
by a specified date. Such order shall be binding on the insurer 57709
and other person authorized or licensed by the superintendent on 57710
the date specified unless sooner withdrawn by the superintendent 57711
or a stay thereof has been ordered by a court of competent 57712
jurisdiction. 57713

Sec. 3923.041. (A) As used in this section: 57714

(1) "Chronic condition" means a medical condition that has 57715
persisted after reasonable efforts have been made to relieve or 57716
cure its cause and has continued, either continuously or 57717
episodically, for longer than six continuous months. 57718

(2) "Clinical peer" means a health care practitioner in 57719
the same or in a similar, specialty that typically manages the 57720
medical condition, procedure, or treatment under review. 57721

(3) "Covered person" means a person receiving coverage for 57722
health services under a policy of sickness and accident 57723
insurance or a public employee benefit plan. 57724

(4) "Emergency service" has the same meaning as in section 57725
1753.28 of the Revised Code. 57726

(5) "Fraudulent or materially incorrect information" means 57727
any type of intentional deception or misrepresentation made by a 57728
person with the knowledge that the deception could result in 57729
some unauthorized benefit to the covered person in question. 57730

(6) "Health care practitioner" has the same meaning as in 57731
section 3701.74 of the Revised Code. 57732

(7) "NCPDP SCRIPT standard" means the national council for 57733
prescription drug programs SCRIPT standard version 201310 or the 57734

most recent standard adopted by the United States department of health and human services. 57735
57736

(8) "Prior authorization requirement" means any practice 57737
implemented by either a sickness and accident insurer or a 57738
public employee benefit plan in which coverage of a health care 57739
service, device, or drug is dependent upon a covered person or a 57740
health care practitioner obtaining approval from the insurer or 57741
plan prior to the service, device, or drug being performed, 57742
received, or prescribed, as applicable. "Prior authorization" 57743
includes prospective or utilization review procedures conducted 57744
prior to providing a health care service, device, or drug. 57745

(9) "Urgent care services" means a medical care or other 57746
service for a condition where application of the timeframe for 57747
making routine or non-life threatening care determinations is 57748
either of the following: 57749

(a) Could seriously jeopardize the life, health, or safety 57750
of the patient or others due to the patient's psychological 57751
state; 57752

(b) In the opinion of a practitioner with knowledge of the 57753
patient's medical or behavioral condition, would subject the 57754
patient to adverse health consequences without the care or 57755
treatment that is the subject of the request. 57756

(10) "Utilization review" and "utilization review 57757
organization" have the same meanings as in section 1751.77 of 57758
the Revised Code. 57759

(B) If a policy issued by a sickness and accident insurer 57760
or a public employee benefit plan contains a prior authorization 57761
requirement, then all of the following apply: 57762

(1) For policies issued on or after January 1, 2018, the 57763

insurer or plan shall permit health care practitioners to access 57764
the prior authorization form through the applicable electronic 57765
software system. 57766

(2) (a) For policies issued on or after January 1, 2018, 57767
the insurer or plan, or other payer acting on behalf of the 57768
insurer or plan, to accept prior authorization requests through 57769
a secure electronic transmission. 57770

(b) For policies issued on or after January 1, 2018, the 57771
insurer or plan, a pharmacy benefit manager responsible for 57772
handling prior authorization requests, or other payer acting on 57773
behalf of the insurer or plan shall accept and respond to prior 57774
prescription benefit authorization requests through a secure 57775
electronic transmission using NCPDP SCRIPT standard ePA 57776
transactions, and for prior medical benefit authorization 57777
requests through a secure electronic transmission using 57778
standards established by the council for affordable quality 57779
health care on operating rules for information exchange or its 57780
successor. 57781

(c) For purposes of division (B) (2) of this section, 57782
neither of the following shall be considered a secure electronic 57783
transmission: 57784

(i) A facsimile; 57785

(ii) A proprietary payer portal for prescription drug 57786
requests that does not use NCPDP SCRIPT standard. 57787

(3) For policies issued on or after January 1, 2018, a 57788
health care practitioner and an insurer or plan may enter into a 57789
contractual arrangement under which the insurer or plan agrees 57790
to process prior authorization requests that are not submitted 57791
electronically because of the financial hardship that electronic 57792

submission of prior authorization requests would create for the 57793
health care practitioner or if internet connectivity is limited 57794
or unavailable where the health care practitioner is located. 57795

(4) (a) For policies issued on or after January 1, 2018, if 57796
the health care practitioner submits the request for prior 57797
authorization electronically as described in divisions (B) (1) 57798
and (2) of this section, the insurer or plan shall respond to 57799
all prior authorization requests within forty-eight hours for 57800
urgent care services, or ten calendar days for any prior 57801
authorization request that is not for an urgent care service, of 57802
the time the request is received by the insurer or plan. 57803
Division (B) (4) of this section does not apply to emergency 57804
services. 57805

(b) The response required under division (B) (4) (a) of this 57806
section shall indicate whether the request is approved or 57807
denied. If the prior authorization is denied, the insurer or 57808
plan shall provide the specific reason for the denial. 57809

(c) If the prior authorization request is incomplete, the 57810
insurer or plan shall indicate the specific additional 57811
information that is required to process the request. 57812

(5) (a) For policies issued on or after January 1, 2018, if 57813
a health care practitioner submits a prior authorization request 57814
as described in divisions (B) (1) and (2) of this section, the 57815
insurer or plan shall provide an electronic receipt to the 57816
health care practitioner acknowledging that the prior 57817
authorization request was received. 57818

(b) For policies issued on or after January 1, 2018, if an 57819
issuer or plan requests additional information that is required 57820
to process a prior authorization request as described in 57821

division (B) (4) (c) of this section, the health care practitioner 57822
shall provide an electronic receipt to the issuer or plan 57823
acknowledging that the request for additional information was 57824
received. 57825

(6) (a) For policies issued on or after January 1, 2017, 57826
for a prior approval related to a chronic condition, the insurer 57827
or plan shall honor a prior authorization approval for an 57828
approved drug for the lesser of the following from the date of 57829
the approval: 57830

(i) Twelve months; 57831

(ii) The last day of the covered person's eligibility 57832
under the policy or plan. 57833

(b) The duration of all other prior authorization 57834
approvals shall be dictated by the policy or plan. 57835

(c) An insurer or plan, in relation to prior approval 57836
under division (B) (6) (a) of this section, may require a health 57837
care practitioner to submit information to the insurer or plan 57838
indicating that the patient's chronic condition has not changed. 57839

(i) The request for information by the insurer or plan and 57840
the response by the health care practitioner shall be in an 57841
electronic format, which may be by electronic mail or other 57842
electronic communication. 57843

(ii) The frequency of the submission of requested 57844
information shall be consistent with medical or scientific 57845
evidence, as defined in section 3922.01 of the Revised Code, but 57846
shall not be required more frequently than quarterly. 57847

(iii) If the health care practitioner does not respond 57848
within five calendar days from the date the request was 57849

received, the insurer or plan may terminate the twelve-month approval. 57850
57851

(d) A twelve-month approval provided under division (B) (6) 57852
(a) of this section is no longer valid and automatically 57853
terminates if there are changes to federal or state laws or 57854
federal regulatory guidance or compliance information 57855
prescribing that the drug in question is no longer approved or 57856
safe for the intended purpose. 57857

(e) A twelve-month approval provided under division (B) (6) 57858
(a) of this section does not apply to and is not required for 57859
any of the following: 57860

(i) Medications that are prescribed for a non-maintenance 57861
condition; 57862

(ii) Medications that have a typical treatment of less 57863
than one year; 57864

(iii) Medications that require an initial trial period to 57865
determine effectiveness and tolerability, beyond which a one- 57866
year, or greater, prior authorization period will be given; 57867

(iv) Medications where there is medical or scientific 57868
evidence as defined in section 3922.01 of the Revised Code that 57869
do not support a twelve-month prior approval; 57870

(v) Medications that are a schedule I or II controlled 57871
substance or any opioid analgesic or benzodiazepine, as defined 57872
in section 3719.01 of the Revised Code; 57873

(vi) Medications that are not prescribed by an in-network 57874
provider as part of the care management program. 57875

(7) For policies issued on or after January 1, 2017, an 57876
insurer or plan may, but is not required to, provide the twelve- 57877

month approval prescribed in division (B) (6) (a) of this section 57878
for a prescription drug that meets either of the following: 57879

(a) The drug is prescribed or administered to treat a rare 57880
medical condition and pursuant to medical or scientific evidence 57881
as defined in section 3922.01 of the Revised Code. 57882

(b) Medications that are controlled substances not 57883
included in division (B) (6) (e) (v) of this section. 57884

For purposes of division (B) (7) of this section, "rare 57885
medical condition" means any disease or condition that affects 57886
fewer than two hundred thousand individuals in the United 57887
States. 57888

(8) Nothing in division (B) (6) or (7) of this section 57889
prohibits the substitution, in accordance with section 4729.38 57890
of the Revised Code, of any drug that has received a twelve- 57891
month approval under division (B) (6) (a) of this section when 57892
there is a release of either of the following: 57893

(a) A United States food and drug administration approved 57894
comparable brand product or a generic counterpart of a brand 57895
product that is listed as therapeutically equivalent in the 57896
United States food and drug administration's publication titled 57897
approved drug products with therapeutic equivalence evaluations; 57898

(b) An interchangeable biological product, as defined in 57899
section 3715.01 of the Revised Code. 57900

(9) (a) For policies issued on or after January 1, 2017, 57901
upon written request, an insurer or plan shall permit a 57902
retrospective review for a claim that is submitted for a service 57903
where prior authorization was required but not obtained if the 57904
service in question meets all of the following: 57905

(i) The service is directly related to another service for which prior approval has already been obtained and that has already been performed.

(ii) The new service was not known to be needed at the time the original prior authorized service was performed.

(iii) The need for the new service was revealed at the time the original authorized service was performed.

(b) Once the written request and all necessary information is received, the insurer or plan shall review the claim for coverage and medical necessity. The insurer or plan shall not deny a claim for such a new service based solely on the fact that a prior authorization approval was not received for the new service in question.

(10) (a) For policies issued on or after January 1, 2017, the insurer or plan shall disclose to all participating health care practitioners any new prior authorization requirement at least thirty days prior to the effective date of the new requirement.

(b) The notice may be sent via electronic mail or standard mail and shall be conspicuously entitled "Notice of Changes to Prior Authorization Requirements." The notice is not required to contain a complete listing of all changes made to the prior authorization requirements, but shall include specific information on where the health care practitioner may locate the information on the insurer or plan's web site or, if applicable, the insurer's or plan's portal.

(c) All participating health care practitioners shall promptly notify the insurer or plan of any changes to the health care practitioner's electronic mail or standard mail address.

(11) (a) For policies issued on or after January 1, 2017, the insurer or plan shall make available to all participating health care practitioners on its web site or provider portal a listing of its prior authorization requirements, including specific information or documentation that a practitioner must submit in order for the prior authorization request to be considered complete.

(b) The insurer or plan shall make available on its web site information about the policies, contracts, or agreements offered by the insurer or plan that clearly identifies specific services, drugs, or devices to which a prior authorization requirement exists.

(12) For policies issued on or after January 1, 2018, the insurer or plan shall establish a streamlined appeal process relating to adverse prior authorization determinations that shall include all of the following:

(a) For urgent care services, the appeal shall be considered within forty-eight hours after the insurer or plan receives the appeal.

(b) For all other matters, the appeal shall be considered within ten calendar days after the insurer or plan receives the appeal.

(c) The appeal shall be between the health care practitioner requesting the service in question and a clinical peer.

(d) If the appeal does not resolve the disagreement, either the covered person or an authorized representative as defined in section 3922.01 of the Revised Code may request an external review under Chapter 3922. of the Revised Code to the

extent Chapter 3922. of the Revised Code is applicable. 57964

(C) For policies issued on or after January 1, 2017, 57965
except in cases of fraudulent or materially incorrect 57966
information, an insurer or plan shall not retroactively deny a 57967
prior authorization for a health care service, drug, or device 57968
when all of the following are met: 57969

(1) The health care practitioner submits a prior 57970
authorization request to the insurer or plan for a health care 57971
service, drug, or device; 57972

(2) The insurer or plan approves the prior authorization 57973
request after determining that all of the following are true: 57974

(a) The patient is eligible under the health benefit plan. 57975

(b) The health care service, drug, or device is covered 57976
under the patient's health benefit plan. 57977

(c) The health care service, drug, or device meets the 57978
insurer's or plan's standards for medical necessity and prior 57979
authorization. 57980

(3) The health care practitioner renders the health care 57981
service, drug, or device pursuant to the approved prior 57982
authorization request and all of the terms and conditions of the 57983
health care practitioner's contract with the insurer or plan; 57984

(4) On the date the health care practitioner renders the 57985
prior approved health care service, drug, or device, all of the 57986
following are true: 57987

(a) The patient is eligible under the health benefit plan. 57988

(b) The patient's condition or circumstances related to 57989
the patient's care has not changed. 57990

(c) The health care practitioner submits an accurate claim 57991
that matches the information submitted by the health care 57992
practitioner in the approved prior authorization request. 57993

(5) If the health care practitioner submits a claim that 57994
includes an unintentional error and the error results in a claim 57995
that does not match the information originally submitted by the 57996
health care practitioner in the approved prior authorization 57997
request, upon receiving a denial of services from the insurer or 57998
plan, the health care practitioner may resubmit the claim 57999
pursuant to division (C) of this section with the information 58000
that matches the information included in the approved prior 58001
authorization. 58002

(D) Any provision of a contractual arrangement entered 58003
into between an insurer or plan and a health care practitioner 58004
or beneficiary that is contrary to divisions (A) to (C) of this 58005
section is unenforceable. 58006

(E) For policies issued on or after January 1, 2017, 58007
committing a series of violations of this section that, taken 58008
together, constitute a practice or pattern shall be considered 58009
an unfair and deceptive practice under sections 3901.19 to 58010
3901.26 of the Revised Code. 58011

~~(F) The superintendent of insurance may adopt rules in 58012
accordance with Chapter 119. of the Revised Code as necessary to 58013
implement the provisions of this section. 58014~~

~~(G) This section does not apply to any of the following 58015
types of coverage: a policy, contract, certificate, or agreement 58016
that covers only a specified accident, accident only, credit, 58017
dental, disability income, long-term care, hospital indemnity, 58018
supplemental coverage as described in section 3923.37 of the 58019~~

Revised Code, specified disease, or vision care; a dental 58020
benefit that is offered as a part of a policy of sickness and 58021
accident insurance or a public employee benefit plan; coverage 58022
issued as a supplement to liability insurance; insurance arising 58023
out of workers' compensation or similar law; automobile medical 58024
payment insurance; insurance under which benefits are payable 58025
with or without regard to fault and which is statutorily 58026
required to be contained in any liability insurance policy or 58027
equivalent self-insurance; a medicare supplement policy of 58028
insurance as defined by the superintendent of insurance by rule; 58029
coverage under a plan through medicare or the federal employees 58030
benefit program; or any coverage issued under Chapter 55 of 58031
Title 10 of the United States Code and any coverage issued as a 58032
supplement to that coverage. 58033

Sec. 3923.332. (A) No medicare supplement policy or 58034
certificate in force in this state shall contain benefits that 58035
duplicate benefits provided by medicare. 58036

(B) Notwithstanding section 3923.04 of the Revised Code or 58037
any other provision of law of this state, a medicare supplement 58038
policy or certificate shall not exclude or limit benefits for 58039
losses incurred more than six months from the effective date of 58040
coverage because it involved a preexisting condition. The policy 58041
or certificate shall not define a preexisting condition more 58042
restrictively than a condition for which medical advice was 58043
given or treatment was recommended by or received from a 58044
physician within six months before the effective date of 58045
coverage. 58046

(C) The superintendent of insurance shall adopt reasonable 58047
rules described in divisions (C) (1) to (9) of this section to 58048
establish specific standards for policy provisions of medicare 58049

supplement policies and certificates. The standards shall be in 58050
addition to and in accordance with applicable laws of this 58051
state, including sections 3923.03 to 3923.09 of the Revised 58052
Code. No requirement in Title XVII or XXXIX of the Revised Code 58053
relating to minimum required policy benefits, other than the 58054
minimum standards contained in section 3923.33 and sections 58055
3923.331 to 3923.339 of the Revised Code, shall apply to 58056
medicare supplement policies and certificates. The standards may 58057
cover, ~~but are not limited to~~ the following: 58058

- (1) Terms of renewability; 58059
- (2) Initial and subsequent conditions of eligibility; 58060
- (3) Nonduplication of coverage; 58061
- (4) Probationary periods; 58062
- (5) Benefit limitations, exceptions, and reductions; 58063
- (6) Elimination periods; 58064
- (7) Requirements for replacement; 58065
- (8) Recurrent conditions; and 58066
- (9) Definitions of terms. 58067

(D) ~~The superintendent shall adopt reasonable rules to~~ 58068
~~establish minimum standards for benefits, claims payment,~~ 58069
~~advertising and marketing practices and compensation~~ 58070
~~arrangements, and reporting practices, for medicare supplement~~ 58071
~~policies and certificates.~~ 58072

~~(E)~~ The superintendent may adopt from time to time ~~such~~ 58073
~~reasonable~~ the following rules as are necessary to conform 58074
medicare supplement policies and certificates to the 58075
requirements of federal law and regulations promulgated 58076

thereunder, including but not limited to:	58077
(1) Requiring refunds or credits if the policies or certificates do not meet loss ratio requirements;	58078 58079
(2) Establishing a uniform methodology for calculating and reporting loss ratios;	58080 58081
(3) Assuring public access to policies, premiums, and loss ratio information of issuers of medicare supplement insurance;	58082 58083
(4) Establishing a process for approving or disapproving policy forms and certificate forms and proposed premium increases;	58084 58085 58086
(5) Establishing a policy for holding public hearings prior to approval of premium increases; and	58087 58088
(6) Establishing standards for medicare select policies and certificates.	58089 58090
(F) The superintendent may adopt reasonable rules that specify prohibited policy provisions not otherwise specifically authorized by any provision in the Revised Code that, in the opinion of the superintendent, are unjust, unfair, or unfairly discriminatory to any person insured or proposed to be insured under a medicare supplement policy or certificate.	58091 58092 58093 58094 58095 58096
Sec. 3924.49. (A) If a parent of a child is required by a court or administrative order to provide health insurance coverage for the child, which coverage is available through an employer doing business in this state, the employer shall do all of the following:	58097 58098 58099 58100 58101
(1) If the child is otherwise eligible for the family coverage, permit the parent to enroll the child under the coverage without regard to any enrollment period restrictions;	58102 58103 58104

(2) If the parent is enrolled under the coverage but fails to make application to obtain coverage for the child, enroll the child under the family coverage upon application of the child's other parent or pursuant to a child support order containing provisions in compliance with sections 3119.29 to 3119.56 of the Revised Code;

(3) Withhold from the employee's compensation the employee's share of premiums for the health care coverage, if any, and pay that amount to the health insurer providing the coverage;

(4) Comply with the requirements of sections 3119.36 to 3119.364 and 3119.42 of the Revised Code ~~and any rules adopted by the department of job and family services under section 3119.51 of the Revised Code.~~

(B) The employer shall not terminate the child's coverage unless the employer has eliminated family coverage for all of its employees or unless the employer is provided satisfactory written evidence of either of the following:

(1) The court or administrative order is no longer in effect.

(2) The child is or will be enrolled under comparable health care coverage that will take effect not later than the effective date of the termination of the current coverage.

(C) As used in this section, "child support order" has the same meaning as in section 3119.01 of the Revised Code.

Sec. 3924.72. The superintendent of insurance shall prepare and periodically revise a brochure that clearly and concisely explains the operation of medical savings accounts authorized under sections 3924.61 to 3924.74 of the Revised

Code, and that describes how an employer's or individual's use 58134
of a medical savings account may affect the employer's or 58135
individual's purchase of policies, plans, and contracts of 58136
health coverage. The superintendent shall make the brochure 58137
available, upon request, to consumers, insurers, and other 58138
third-party payers. ~~The superintendent may adopt rules in-~~ 58139
~~accordance with Chapter 119. of the Revised Code to implement-~~ 58140
~~this section.~~ 58141

Sec. 3929.44. (A) Any person having an insurable interest 58142
in real property or tangible personal property, or both, at a 58143
fixed location, who has been unable to obtain basic property 58144
insurance or homeowners insurance may apply to the Ohio fair 58145
plan underwriting association. 58146

(B) The association may engage an inspection bureau or 58147
other organization to assist in collection of information 58148
necessary to underwrite risk for basic property insurance or 58149
homeowners insurance. 58150

(C) The association, if it finds the property to be 58151
insurable by meeting the reasonable underwriting standards 58152
contained in the plan of operation approved by the 58153
superintendent of insurance, shall cause a policy or binder of 58154
basic property insurance or homeowners insurance to be issued to 58155
the applicant upon payment of the premium. 58156

(D) As part of an application for a policy of basic 58157
property insurance or homeowners insurance, an applicant shall, 58158
~~in accordance with procedures and requirements set forth in-~~ 58159
~~rules promulgated by the superintendent,~~ certify at least two 58160
insurance companies had been contacted and from whom coverage 58161
was not available. 58162

(E) As a condition of the issuance of a binder or policy of basic property insurance or homeowners insurance, an applicant shall, ~~in accordance with procedures and requirements set forth in rules promulgated by the superintendent,~~ certify to the association that there are no outstanding taxes, assessments, penalties, or charges with respect to the property to be insured.

(F) An applicant shall, ~~in accordance with rules promulgated by the superintendent,~~ certify to the association whether or not the applicant has received written notice from an authorized public entity stating that the applicant's property is in violation of any building, housing, air pollution, sanitation, health, fire, or safety code, ordinance, or rule. If the applicant has received such written notice of any such violation, the applicant shall also submit to the association a detailed plan that indicates the manner and estimated period of time in which such violations will be corrected. If the association is satisfied that the violations are subject to correction within a reasonable period of time and that the applicant otherwise meets the requirements of this section, it may cause a policy or binder of basic property insurance or homeowners insurance to be issued to the applicant on the condition that the plan be implemented on schedule. The form of the plan submitted by the applicant ~~and the manner in which this division is implemented~~ shall be in accordance with rules promulgated by the superintendent. Nothing in this division shall be construed to make the association responsible for the detection of any violation of a code, ordinance, or rule of the type described in this division.

Sec. 3935.10. The superintendent of insurance shall promulgate ~~rules and~~ statistical plans, reasonably adopted to

each of the rating systems on file with ~~him~~ the superintendent, 58194
which may be modified from time to time and which shall be used 58195
thereafter by each insurer in the recording and reporting of its 58196
loss and country-wide expense experience, in order that the 58197
experience of all insurers may be made available at least 58198
annually in such form and detail as is necessary to aid the 58199
superintendent in determining whether rating systems comply with 58200
the standards set forth in section 3935.03 of the Revised Code.- 58201
~~Such~~ The superintendent of insurance may promulgate rules and 58202
statistical plans ~~may also that~~ provide for the recording and 58203
reporting of expense experience items which are specially 58204
applicable to this state and which are not susceptible of 58205
determination by a prorating of country-wide expense experience. 58206
In promulgating such rules and plans, the superintendent shall 58207
give due consideration to the rating systems on file with ~~him~~ 58208
the superintendent and, in order that such rules and plans may 58209
be as uniform as is practicable among the several states, to the 58210
rules and to the form of the plans used for such rating systems 58211
in other states. No insurer need record or report its loss 58212
experience on a classification basis that is inconsistent with 58213
the rating system filed by it. The superintendent may designate 58214
one or more rating bureaus or other agencies to assist ~~him~~ the 58215
superintendent in gathering such experience and making 58216
compilations thereof, and such compilations shall be made 58217
available, ~~subject to reasonable rules promulgated by the~~ 58218
~~superintendent,~~ to insurers and rating bureaus. 58219

Reasonable rules and plans may be promulgated by the 58220
superintendent for the interchange of data necessary for the 58221
application of rating plans. 58222

In order to further uniform administration of rate 58223
regulatory laws, the superintendent and every insurer and rating 58224

bureau may exchange information and experience data with 58225
insurance supervisory officials, insurers, and rating bureaus in 58226
other states and may consult with them with respect to rate 58227
making and the application of rating systems. 58228

~~The superintendent may make reasonable rules and 58229
regulations necessary to effectuate sections 3935.01 to 3935.17, 58230
inclusive, of the Revised Code. 58231~~

Sections 119.01 to 119.13, ~~inclusive,~~ of the Revised Code 58232
are applicable to the rule-making functions of the 58233
superintendent under sections 3935.01 to 3935.17, ~~inclusive,~~ of 58234
the Revised Code, including appeals from the order of the 58235
superintendent in adopting, amending, or rescinding rules. 58236

Sec. 3937.43. (A) As used in this section: 58237

(1) "Automobile insurance policies" has the same meaning 58238
as in section 3937.30 of the Revised Code. 58239

(2) "Moving violation" means any violation of any statute 58240
or ordinance that regulates the operation of vehicles, 58241
streetcars, or trackless trolleys on highways or streets or that 58242
regulates size or load limitations or fitness requirements of 58243
vehicles. "Moving violation" does not include the violation of 58244
any statute or ordinance that regulates pedestrians or the 58245
parking of vehicles. 58246

(3) "Community control sanction" has the same meaning as 58247
in section 2929.01 of the Revised Code. 58248

(B) Every rating plan or schedule of rates for automobile 58249
insurance policies that is filed with the superintendent of 58250
insurance shall provide for an appropriate reduction in premium 58251
charges for any insured or applicant for insurance under the 58252
following conditions: 58253

(1) The applicant or insured is sixty years of age or older; 58254
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(2) The applicant or insured successfully completes a motor vehicle accident prevention course, which includes classroom instruction and the passing of an examination in accordance with both of the following: 58256
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(a) The department of public safety shall approve the course and the examination. However, the department shall not approve any correspondence course or any other course that does not provide classroom instruction. 58260
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(b) The examination shall include an actual demonstration of the applicant's or insured's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. 58264
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(3) The applicant or insured submits to the insurer a certificate that is issued by the sponsor of the motor vehicle accident prevention course and attests to the successful completion of the course by the applicant or insured; 58267
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(4) The insurer may consider the driving record of the applicant or insured in accordance with divisions (C) and (D) of this section. 58271
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(C) In determining whether to grant a reduction in premium charges in accordance with this section, the insurer may consider the driving record of the insured or applicant for a three-year period prior to the successful completion of a motor vehicle accident prevention course. 58274
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(D) (1) Subject to division (D) (2) of this section, every reduction in premium charges granted in accordance with this section shall be effective for an insured for a three-year period after each successful completion of a motor vehicle 58279
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58282

accident prevention course. 58283

(2) As a condition of maintaining a reduction in premium 58284
charges granted in accordance with this section, an insurer may 58285
require that the insured, during the three-year period for which 58286
the reduction has been granted, neither be involved in an 58287
accident for which the insured is primarily at fault, nor be 58288
convicted of more than one moving violation. 58289

(E) A reduction in premium charges granted in accordance 58290
with this section shall not become effective until the first 58291
full term of coverage following the successful completion of a 58292
motor vehicle accident prevention course in accordance with 58293
division (B) of this section. 58294

~~(F) The director of the department of public safety shall~~ 58295
~~adopt rules in accordance with Chapter 119. of the Revised Code~~ 58296
~~that are necessary to carry out the duties of the department~~ 58297
~~under this section.~~ 58298

~~(G)~~ This section does not apply to any automobile 58299
insurance policy issued under an assigned risk plan pursuant to 58300
section 4509.70 of the Revised Code. 58301

~~(H)~~ (G) This section does not apply to circumstances in 58302
which the motor vehicle accident prevention course is required 58303
by a court as a condition of a community control sanction 58304
imposed for a moving violation. 58305

Sec. 3953.32. (A) At the time an order is placed with a 58306
title insurance company for issuance of a title insurance 58307
policy, the title insurance company or the title insurance agent 58308
shall offer closing or settlement protection to the lender, 58309
borrower, and seller of the property, and to any applicant for 58310
title insurance. 58311

(B) The closing or settlement protection offered pursuant to this section shall indemnify any lender, borrower, seller, and applicant that has requested the protection, both individually and collectively, against the loss of settlement funds resulting from any of the following acts of the title insurance company's named title insurance agent or anyone acting on the agent's behalf:

(1) Theft, misappropriation, fraud, or any other failure to properly disburse settlement, closing, or escrow funds;

(2) Failure to comply with any applicable written closing instructions, when agreed to by the title insurance agent.

(C) The issuance of closing or settlement protection by a title insurance company pursuant to division (A) of this section is part of the business of title insurance for purposes of Chapter 3953. of the Revised Code.

(D) Except as provided in division (A) of this section, a title insurance company shall not offer or issue any coverage purporting to indemnify against a person's improper acts or omissions in connection with escrow, settlement, or closing services.

(E) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code ~~as the superintendent considers necessary to carry out the purposes of this section, including, but not limited to, rules that detail detailing~~ the specific language that must be included in the written document offering closing or settlement protection as provided for in division (A) of this section.

Sec. 3956.10. ~~(A)(1)~~(A) The Ohio life and health insurance guaranty association shall submit to the superintendent of

insurance a plan of operation and any amendments to the plan 58341
necessary or suitable to ensure the fair, reasonable, and 58342
equitable administration of the association. The plan of 58343
operation and any amendments shall become effective upon the 58344
written approval of the superintendent, or unless the 58345
superintendent has not disapproved it within thirty days. 58346

~~(2) If the association fails to submit a suitable plan of 58347
operation within six months following November 20, 1989, or if 58348
at any time after that date the association fails to submit 58349
suitable amendments to the plan, the superintendent, after 58350
notice and hearing, shall adopt reasonable rules that are 58351
necessary or advisable to effectuate the provisions of this 58352
chapter. The rules shall continue in force until modified by the 58353
superintendent or superseded by a plan submitted by the 58354
association and approved by the superintendent. 58355~~

(B) All member insurers shall comply with the plan of 58356
operation. 58357

(C) In addition to requirements enumerated elsewhere in 58358
this chapter, the plan of operation shall do the following: 58359

(1) Establish procedures for handling the assets of the 58360
association; 58361

(2) Establish the amount and method of reimbursing members 58362
of the board of directors under section 3956.07 of the Revised 58363
Code; 58364

(3) Establish regular places and times for meetings, 58365
including but not limited to telephone conference calls, of the 58366
board of directors; 58367

(4) Establish procedures for records to be kept of all 58368
financial transactions of the association, its agents, and the 58369

board of directors; 58370

(5) Establish the procedures whereby selections for the 58371
board of directors will be made and submitted to the 58372
superintendent; 58373

(6) Establish any additional procedures for assessments 58374
under section 3956.09 of the Revised Code, including, but not 58375
limited to, allocating sums raised by assessments when two or 58376
more insolvencies occur in the same calendar year that are 58377
subject to the two per cent calendar year assessment limitation; 58378

(7) Contain additional provisions necessary or proper for 58379
the execution of the powers and duties of the association. 58380

(D) The plan of operation may provide that any or all 58381
powers and duties of the association, except those under 58382
division (N) (3) of section 3956.08 and section 3956.09 of the 58383
Revised Code, are delegated to a corporation, association, or 58384
other organization that performs or will perform functions 58385
similar to those of the association, or its equivalent, in two 58386
or more states. The corporation, association, or organization 58387
shall be reimbursed for any payments made on behalf of the 58388
association, and shall be paid for its performance of any 58389
function of the association. A delegation under this division 58390
shall take effect only with the approval of both the board of 58391
directors and the superintendent, and may be made only to a 58392
corporation, association, or organization that extends 58393
protection not substantially less favorable and effective than 58394
that provided by this chapter. 58395

Sec. 3959.04. (A) Administrators may be tested and shall 58396
be licensed by the superintendent of insurance ~~in accordance~~ 58397
~~with rules adopted by the superintendent.~~ 58398

(B) An administrator who has been licensed or certified by the state of the administrator's domicile under a statute or rule similar to sections 3959.01 to 3959.16 of the Revised Code shall, upon application, be licensed without testing, provided the state of domicile recognizes and grants licenses to administrators of this state who have obtained licenses under such sections.

Sec. 3959.111. (A) (1) (a) In each contract between a pharmacy benefit manager and a pharmacy, the pharmacy shall be given the right to obtain from the pharmacy benefit manager, within ten days after any request, a current list of the sources used to determine maximum allowable cost pricing. In each contract between a pharmacy benefit manager and a pharmacy, the pharmacy benefit manager shall be obligated to update and implement the pricing information at least every seven days and provide a means by which contracted pharmacies may promptly review maximum allowable cost pricing updates in an electronic format that is readily available, accessible, and secure and that can be easily searched.

Subject to division (A) (1) of this section, a pharmacy benefit manager shall utilize the most up-to-date pricing data when calculating drug product reimbursements for all contracting pharmacies within one business day of any price update or modification.

(b) A pharmacy benefit manager shall maintain a written procedure to eliminate products from the list of drugs subject to maximum allowable cost pricing in a timely manner. The written procedure, and any updates, shall promptly be made available to a pharmacy upon request.

(2) In each contract between a pharmacy benefit manager

and a pharmacy, a pharmacy benefit manager shall be obligated to 58429
ensure that all of the following conditions are met prior to 58430
placing a prescription drug on a maximum allowable cost list: 58431

(a) The drug is listed as "A" or "B" rated in the most 58432
recent version of the United States food and drug 58433
administration's approved drug products with therapeutic 58434
equivalence evaluations, or has an "NR" or "NA" rating or 58435
similar rating by nationally recognized reference. 58436

(b) The drug is generally available for purchase by 58437
pharmacies in this state from a national or regional wholesaler 58438
and is not obsolete. 58439

(3) Each contract between a pharmacy benefit manager and a 58440
pharmacy shall include an electronic process to appeal, 58441
investigate, and resolve disputes regarding maximum allowable 58442
cost pricing that includes all of the following: 58443

(a) A twenty-one-day limit on the right to appeal 58444
following the initial claim; 58445

(b) A requirement that the appeal be investigated and 58446
resolved within twenty-one days after the appeal; 58447

(c) A telephone number at which the pharmacy may contact 58448
the pharmacy benefit manager to speak to a person responsible 58449
for processing appeals; 58450

(d) A requirement that a pharmacy benefit manager provide 58451
a reason for any appeal denial, including the national drug code 58452
and the identity of the national or regional wholesalers from 58453
whom the drug was generally available for purchase at or below 58454
the benchmark price determined by the pharmacy benefit manager; 58455

(e) A requirement that if the appeal is upheld or granted, 58456

then the pharmacy benefit manager shall adjust the drug product reimbursement to the pharmacy's upheld appeal price;

(f) A requirement that a pharmacy benefit manager make an adjustment not later than one day after the date of determination of the appeal. The adjustment shall be retroactive to the date the appeal was made and shall apply to all situated pharmacies as determined by the pharmacy benefit manager. This requirement does not prohibit a pharmacy benefit manager from retroactively adjusting a claim for the appealing pharmacy or for any other similarly situated pharmacies.

(B) (1) (a) A pharmacy benefit manager shall disclose to the plan sponsor whether or not the pharmacy benefit manager uses the same maximum allowable cost list when billing a plan sponsor as it does when reimbursing a pharmacy.

(b) If a pharmacy benefit manager uses multiple maximum allowable cost lists, the pharmacy benefit manager shall disclose in the aggregate to a plan sponsor any differences between the amount paid to a pharmacy and the amount charged to a plan sponsor.

(2) The disclosures required under division (B) (1) of this section shall be made within ten days of a pharmacy benefit manager and a plan sponsor signing a contract or on a quarterly basis.

(3) (a) Division (B) of this section does not apply to plans governed by the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. or medicare part D.

(b) As used in this division, "medicare part D" means the voluntary prescription drug benefit program established under Part D of Title XVIII of the "Social Security Act," 42 U.S.C.

1395w-101, et seq. 58486

(C) Notwithstanding division (B) (5) of section 3959.01 of the Revised Code, a health insuring corporation or a sickness and accident insurer shall comply with the requirements of this section and is subject to the penalties under section 3959.12 of the Revised Code if the corporation or insurer is a pharmacy benefit manager, as defined in section 3959.01 of the Revised Code. 58487
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~~(D) The superintendent of insurance shall adopt rules as necessary to implement the requirements of this section.~~ 58494
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Sec. 3959.12. (A) Any license issued under sections 3959.01 to 3959.16 of the Revised Code may be suspended for a period not to exceed two years, revoked, or not renewed by the superintendent of insurance after notice to the licensee and hearing in accordance with Chapter 119. of the Revised Code. The superintendent may suspend, revoke, or refuse to renew a license if upon investigation and proof the superintendent finds that the licensee has done any of the following: 58496
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(1) Knowingly violated any provision of sections 3959.01 to 3959.16 or 3959.20 of the Revised Code ~~or any rule promulgated by the superintendent;~~ 58504
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(2) Knowingly made a material misstatement in the application for the license; 58507
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(3) Obtained or attempted to obtain a license through misrepresentation or fraud; 58509
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(4) Misappropriated or converted to the licensee's own use or improperly withheld insurance company premiums or contributions held in a fiduciary capacity, excluding, however, any interest earnings received by the administrator as disclosed 58511
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in writing by the administrator to the plan sponsor; 58515

(5) In the transaction of business under the license, used 58516
fraudulent, coercive, or dishonest practices; 58517

(6) Failed to appear without reasonable cause or excuse in 58518
response to a subpoena, examination, warrant, or other order 58519
lawfully issued by the superintendent; 58520

(7) Is affiliated with or under the same general 58521
management or interlocking directorate or ownership of another 58522
administrator that transacts business in this state and is not 58523
licensed under sections 3959.01 to 3959.16 of the Revised Code; 58524

(8) Had a license suspended, revoked, or not renewed in 58525
any other state, district, territory, or province on grounds 58526
identical to those stated in sections 3959.01 to 3959.16 of the 58527
Revised Code; 58528

(9) Been convicted of a financially related felony; 58529

(10) Failed to report a felony conviction as required 58530
under section 3959.13 of the Revised Code. 58531

(B) Upon receipt of notice of the order of suspension in 58532
accordance with sections 119.05 and 119.07 of the Revised Code, 58533
the licensee shall promptly deliver the license to the 58534
superintendent, unless the order of suspension is appealed under 58535
section 119.12 of the Revised Code. 58536

(C) Any person whose license is revoked or whose 58537
application is denied pursuant to sections 3959.01 to 3959.16 of 58538
the Revised Code is ineligible to apply for an administrators 58539
license for two years. 58540

(D) The superintendent may impose a monetary fine against 58541
a licensee if, upon investigation and after notice and 58542

opportunity for hearing in accordance with Chapter 119. of the 58543
Revised Code, the superintendent finds that the licensee has 58544
done either of the following: 58545

(1) Committed fraud or engaged in any illegal or dishonest 58546
activity in connection with the administration of pharmacy 58547
benefit management services; 58548

(2) Violated any provision of section 3959.111 of the 58549
Revised Code ~~or any rule adopted by the superintendent pursuant to~~ 58550
~~to or to implement that section.~~ 58551

Sec. 3961.01. As used in sections 3961.01 to ~~3961.09~~ 58552
3961.08 of the Revised Code: 58553

(A) (1) "Discount medical plan" means a business 58554
arrangement or contract in which a person, in exchange for fees, 58555
dues, charges, or other consideration, offers access to members 58556
to providers of medical services and the right to receive 58557
discounted medical services from those providers. 58558

(2) "Discount medical plan" does not include any of the 58559
following: 58560

(a) A plan that does not require a membership or charge a 58561
fee to use the plan's medical card; 58562

(b) A plan that offers discounts for only pharmaceutical 58563
supplies or prescription drugs, or both, and no other medical 58564
services; 58565

(c) A plan offered by a sickness and accident insurer that 58566
is regulated under Title XXXIX of the Revised Code, a health 58567
insuring corporation that is regulated under Title XVII of the 58568
Revised Code, or an affiliate of such insurer or corporation if 58569
the insurer, corporation, or affiliate discloses in writing in 58570

not less than twelve-point type on any applications, 58571
advertisements, marketing materials, and brochures describing 58572
the plan that the plan is not insurance. 58573

(B) (1) "Discount medical plan organization" or 58574
"organization" means a person who does business in this state; 58575
offers to members access to providers of medical services and 58576
the right to receive discounted medical services from those 58577
providers; contracts with providers, provider networks, or other 58578
discount medical plan organizations to offer discounted medical 58579
services to members; and determines the fee members pay to 58580
participate in the plan. 58581

(2) "Discount medical plan organization" does not include 58582
a sickness and accident insurer that is regulated under Title 58583
XXXIX of the Revised Code or a health insuring corporation that 58584
is regulated under Title XVII of the Revised Code. 58585

(C) "Facility" means an institution where medical services 58586
are performed, including, but not limited to, a hospital or 58587
other licensed inpatient center; ambulatory surgical or 58588
treatment center; skilled nursing center; residential treatment 58589
center; rehabilitation center; diagnostic, laboratory, and 58590
imaging center; and any other health care setting. 58591

(D) "Health care professional" means a physician or other 58592
health care provider who is licensed, accredited, certified, or 58593
otherwise authorized to perform specified medical services 58594
within the scope of the person's license, accreditation, 58595
certification, or other authorization and performs medical 58596
services consistent with the laws of this state. 58597

(E) (1) "Marketer" means a person or entity who markets, 58598
promotes, sells, or distributes a discount medical plan, 58599

including, but not limited to, a private label entity that 58600
places its name on and markets or distributes a discount medical 58601
plan pursuant to a written agreement with a discount medical 58602
plan organization described under section 3961.03 of the Revised 58603
Code. 58604

(2) "Marketer" does not mean a sickness and accident 58605
insurer that is regulated under Title XXXIX of the Revised Code, 58606
a health insuring corporation that is regulated under Title XVII 58607
of the Revised Code, or an affiliate of such insurer or 58608
corporation if the insurer, corporation, or affiliate discloses 58609
in writing in not less than twelve-point type on any 58610
applications, advertisements, marketing materials, and brochures 58611
describing the plan that the plan is not insurance. 58612

(F) "Medical services" means any maintenance care of the 58613
human body; preventative care for the human body; or care, 58614
service, or treatment of an illness or dysfunction of, or injury 58615
to, the human body. "Medical services" includes, but is not 58616
limited to, physician care, inpatient care, hospital surgical 58617
services, emergency services, ambulance services, dental care 58618
services, vision care services, pharmaceutical supplies, 58619
prescription drugs, mental health services, substance abuse 58620
services, chiropractic services, podiatric services, laboratory 58621
services, and medical equipment and supplies. 58622

(G) "Member" means any individual who pays fees, dues, 58623
charges, or other consideration to a discount medical plan 58624
organization for access to providers of medical services and the 58625
right to receive the benefits of a discount medical plan. 58626

(H) "Person" means an individual, corporation, 58627
partnership, association, joint venture, joint stock company, 58628
trust, unincorporated organization, any similar entity, or any 58629

combination of these entities. 58630

(I) "Provider" means any health care professional or 58631
facility that has contracted, directly or indirectly, with a 58632
discount medical plan organization to offer discounted medical 58633
services to members. 58634

(J) "Provider agreement" means any agreement entered into 58635
between a discount medical plan organization and a provider or 58636
provider network to offer discounted medical services to members 58637
as described in section 3961.02 of the Revised Code. 58638

(K) "Provider network" means a person that negotiates, 58639
directly or indirectly, with a discount medical plan 58640
organization on behalf of more than one provider to offer 58641
discounted medical services to members. 58642

Sec. 3961.05. A discount medical plan organization shall 58643
not do any of the following: 58644

(A) Except when otherwise permitted in sections 3961.01 to 58645
~~3961.09~~3961.08 of the Revised Code, as a disclaimer of any 58646
relationship between discount medical plan benefits and 58647
insurance, or in a description of an insurance product connected 58648
with a discount medical plan, use the term "insurance" in the 58649
organization's advertisements, marketing material, brochures, or 58650
discount medical plan cards. 58651

(B) Use in the organization's advertisements, marketing 58652
material, brochures, or discount medical plan cards the terms 58653
"health plan," "coverage," "benefits," "copay," "copayments," 58654
"deductible," "pre-existing conditions," "guaranteed issue," 58655
"premium," "PPO," "preferred provider organization," or any 58656
other terms in a manner that could mislead a person into 58657
believing that the discount medical plan is health insurance. 58658

(C) Make misleading, deceptive, or fraudulent statements 58659
or representations regarding the terms or benefits of the 58660
discount medical plan, including, but not limited to, statements 58661
or representations regarding discounts, range of discounts, or 58662
access to those discounts offered under the discount medical 58663
plan. 58664

(D) Except for hospital services, have restrictions on 58665
access to discount medical plan providers, including, but not 58666
limited to, waiting and notification periods. 58667

(E) Pay providers fees for medical services or collect or 58668
accept money from a member to pay a provider for medical 58669
services received under the discount medical plan. 58670

Sec. 3961.08. (A) No person shall fail to comply with 58671
sections 3961.01 to ~~3961.09~~ 3961.08 of the Revised Code. If the 58672
superintendent of insurance determines that any person has 58673
violated sections 3961.01 to 3961.07 of the Revised Code, the 58674
superintendent may take one or more of the following actions: 58675

(1) Assess a civil penalty in an amount not to exceed 58676
twenty-five thousand dollars per violation if the person knew or 58677
should have known of the violation; 58678

(2) Assess administrative costs to cover the expenses 58679
incurred in the administrative action, including, but not 58680
limited to, expenses incurred in the investigation and hearing 58681
process. Costs collected under this division shall be paid into 58682
the state treasury to the credit of the department of insurance 58683
operating fund created in section 3901.021 of the Revised Code. 58684

(3) Order corrective actions in lieu of or in addition to 58685
the other penalties described in this section, including, but 58686
not limited to, suspending civil penalties if a discount medical 58687

plan organization complies with the terms of the corrective 58688
action order; 58689

(4) Order restitution to members. 58690

(B) (1) Before imposing a penalty under division (A) of 58691
this section, the superintendent shall give a discount medical 58692
plan organization notice and opportunity for hearing as 58693
described in Chapter 119. of the Revised Code. 58694

(2) Notices regarding the scheduling of hearings and all 58695
other notices for which Chapter 119. of the Revised Code does 58696
not require a particular type of service shall be sent by 58697
ordinary mail to the party and the party's attorney. 58698

(3) A subpoena or subpoena duces tecum from the 58699
superintendent or the superintendent's designee or attorney to a 58700
witness for appearance at a hearing, for the production of 58701
documents or other evidence, or for taking testimony for use at 58702
a hearing shall be served by certified mail, return receipt 58703
requested. The subpoenas described in this division shall be 58704
enforced in the manner described in section 119.09 of the 58705
Revised Code. Nothing in this division shall be construed to 58706
limit the superintendent's other statutory powers to issue 58707
subpoenas. 58708

(C) (1) If a violation of sections 3961.01 to 3961.07 of 58709
the Revised Code has caused, is causing, or is about to cause 58710
substantial and material harm, the superintendent may issue a 58711
cease-and-desist order requiring a person to cease and desist 58712
from engaging in a violation. 58713

(2) The superintendent shall, immediately after issuing an 58714
order pursuant to division (C) (1) of this section, serve notice 58715
of the order by certified mail, return receipt requested, or by 58716

any other manner described in division (B) of this section to 58717
the person subject to the order and all other persons involved 58718
in the violation. The notice shall specify the particular act, 58719
omission, practice, or transaction that is the subject of the 58720
order and set a date, not more than fifteen days after the date 58721
the order was issued, for a hearing on the continuation or 58722
revocation of the order. The person subject to the order shall 58723
comply with the order immediately upon receiving the order. 58724
After an order is issued pursuant to division (C) (1) of this 58725
section, the superintendent may publicize and notify all 58726
interested parties that a cease-and-desist order was issued. 58727

(3) Upon application by the person subject to the order 58728
and for good cause, the superintendent may continue the hearing 58729
date described in division (C) (2) of this section. Chapter 119. 58730
of the Revised Code applies to the hearing on the order to the 58731
extent that the chapter does not conflict with the procedures 58732
described in this section. The superintendent shall, within 58733
fifteen days after objections are submitted concerning the 58734
hearing officer's report and recommendations, issue a final 58735
order either confirming or revoking the cease-and-desist order 58736
described in division (C) (1) of this section. The final order 58737
may be appealed as described in section 119.12 of the Revised 58738
Code. 58739

(4) The remedy described in division (C) of this section 58740
is cumulative and concurrent with other remedies available under 58741
this section. 58742

(D) If the superintendent has reasonable cause to believe 58743
that an order issued pursuant to this section has been violated 58744
in whole or in part, the superintendent may request the attorney 58745
general to commence any appropriate action against the violator. 58746

In an action described in this division, a court may impose any 58747
of the following penalties: 58748

(1) A civil penalty of not more than twenty-five thousand 58749
dollars per violation; 58750

(2) Injunctive relief; 58751

(3) Restitution; 58752

(4) Any other appropriate relief. 58753

(E) The superintendent shall deposit any penalties 58754
assessed under division (A) (1) or (D) of this section into the 58755
state treasury to the credit of the department of insurance 58756
operating fund created in section 3901.021 of the Revised Code. 58757

Sec. 3963.02. (A) (1) No contracting entity shall sell, 58758
rent, or give a third party the contracting entity's rights to a 58759
participating provider's services pursuant to the contracting 58760
entity's health care contract with the participating provider 58761
unless one of the following applies: 58762

(a) The third party accessing the participating provider's 58763
services under the health care contract is an employer or other 58764
entity providing coverage for health care services to its 58765
employees or members, and that employer or entity has a contract 58766
with the contracting entity or its affiliate for the 58767
administration or processing of claims for payment for services 58768
provided pursuant to the health care contract with the 58769
participating provider. 58770

(b) The third party accessing the participating provider's 58771
services under the health care contract either is an affiliate 58772
or subsidiary of the contracting entity or is providing 58773
administrative services to, or receiving administrative services 58774

from, the contracting entity or an affiliate or subsidiary of 58775
the contracting entity. 58776

(c) The health care contract specifically provides that it 58777
applies to network rental arrangements and states that one 58778
purpose of the contract is selling, renting, or giving the 58779
contracting entity's rights to the services of the participating 58780
provider, including other preferred provider organizations, and 58781
the third party accessing the participating provider's services 58782
is any of the following: 58783

(i) A payer or a third-party administrator or other entity 58784
responsible for administering claims on behalf of the payer; 58785

(ii) A preferred provider organization or preferred 58786
provider network that receives access to the participating 58787
provider's services pursuant to an arrangement with the 58788
preferred provider organization or preferred provider network in 58789
a contract with the participating provider that is in compliance 58790
with division (A) (1) (c) of this section, and is required to 58791
comply with all of the terms, conditions, and affirmative 58792
obligations to which the originally contracted primary 58793
participating provider network is bound under its contract with 58794
the participating provider, including, but not limited to, 58795
obligations concerning patient steerage and the timeliness and 58796
manner of reimbursement. 58797

(iii) An entity that is engaged in the business of 58798
providing electronic claims transport between the contracting 58799
entity and the payer or third-party administrator and complies 58800
with all of the applicable terms, conditions, and affirmative 58801
obligations of the contracting entity's contract with the 58802
participating provider including, but not limited to, 58803
obligations concerning patient steerage and the timeliness and 58804

manner of reimbursement. 58805

(2) The contracting entity that sells, rents, or gives the 58806
contracting entity's rights to the participating provider's 58807
services pursuant to the contracting entity's health care 58808
contract with the participating provider as provided in division 58809
(A) (1) of this section shall do both of the following: 58810

(a) Maintain a web page that contains a listing of third 58811
parties described in divisions (A) (1) (b) and (c) of this section 58812
with whom a contracting entity contracts for the purpose of 58813
selling, renting, or giving the contracting entity's rights to 58814
the services of participating providers that is updated at least 58815
every six months and is accessible to all participating 58816
providers, or maintain a toll-free telephone number accessible 58817
to all participating providers by means of which participating 58818
providers may access the same listing of third parties; 58819

(b) Require that the third party accessing the 58820
participating provider's services through the participating 58821
provider's health care contract is obligated to comply with all 58822
of the applicable terms and conditions of the contract, 58823
including, but not limited to, the products for which the 58824
participating provider has agreed to provide services, except 58825
that a payer receiving administrative services from the 58826
contracting entity or its affiliate shall be solely responsible 58827
for payment to the participating provider. 58828

(3) Any information disclosed to a participating provider 58829
under this section shall be considered proprietary and shall not 58830
be distributed by the participating provider. 58831

(4) Except as provided in division (A) (1) of this section, 58832
no entity shall sell, rent, or give a contracting entity's 58833

rights to the participating provider's services pursuant to a health care contract. 58834
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(B) (1) No contracting entity shall require, as a condition of contracting with the contracting entity, that a participating provider provide services for all of the products offered by the contracting entity. 58836
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(2) Division (B) (1) of this section shall not be construed to do any of the following: 58840
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(a) Prohibit any participating provider from voluntarily accepting an offer by a contracting entity to provide health care services under all of the contracting entity's products; 58842
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(b) Prohibit any contracting entity from offering any financial incentive or other form of consideration specified in the health care contract for a participating provider to provide health care services under all of the contracting entity's products; 58845
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(c) Require any contracting entity to contract with a participating provider to provide health care services for less than all of the contracting entity's products if the contracting entity does not wish to do so. 58850
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(3) (a) Notwithstanding division (B) (2) of this section, no contracting entity shall require, as a condition of contracting with the contracting entity, that the participating provider accept any future product offering that the contracting entity makes. 58854
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(b) If a participating provider refuses to accept any future product offering that the contracting entity makes, the contracting entity may terminate the health care contract based on the participating provider's refusal upon written notice to 58859
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the participating provider no sooner than one hundred eighty 58863
days after the refusal. 58864

(4) Once the contracting entity and the participating 58865
provider have signed the health care contract, it is presumed 58866
that the financial incentive or other form of consideration that 58867
is specified in the health care contract pursuant to division 58868
(B) (2) (b) of this section is the financial incentive or other 58869
form of consideration that was offered by the contracting entity 58870
to induce the participating provider to enter into the contract. 58871

(C) No contracting entity shall require, as a condition of 58872
contracting with the contracting entity, that a participating 58873
provider waive or forgo any right or benefit expressly conferred 58874
upon a participating provider by state or federal law. However, 58875
this division does not prohibit a contracting entity from 58876
restricting a participating provider's scope of practice for the 58877
services to be provided under the contract. 58878

(D) No health care contract shall do any of the following: 58879

(1) Prohibit any participating provider from entering into 58880
a health care contract with any other contracting entity; 58881

(2) Prohibit any contracting entity from entering into a 58882
health care contract with any other provider; 58883

(3) Preclude its use or disclosure for the purpose of 58884
enforcing this chapter or other state or federal law, except 58885
that a health care contract may require that appropriate 58886
measures be taken to preserve the confidentiality of any 58887
proprietary or trade-secret information. 58888

(E) (1) No contract or agreement between a contracting 58889
entity and a vision care provider shall do any of the following: 58890

(a) Require that a vision care provider accept as payment 58891
an amount set by the contracting entity for vision care services 58892
or vision care materials provided to an enrollee unless the 58893
services or materials are covered vision services. 58894

(i) Notwithstanding division (E) (1) (a) of this section, a 58895
vision care provider may, in a contract with a contracting 58896
entity, choose to accept as payment an amount set by the 58897
contracting entity for vision care services or vision care 58898
materials provided to an enrollee that are not covered vision 58899
services. 58900

(ii) No contract between a vision care provider and a 58901
contracting entity to provide covered vision services or vision 58902
care materials shall be contingent on whether the vision care 58903
provider has entered into an agreement addressing noncovered 58904
vision services pursuant to division (E) (1) (a) (i) of this 58905
section. 58906

(iii) A contracting entity may communicate to its 58907
enrollees which vision care providers choose to accept as 58908
payment an amount set by the contracting entity for vision care 58909
services or vision care materials provided to an enrollee that 58910
are not covered vision services pursuant to division (E) (1) (a) 58911
(i) of this section. Any communication to this effect shall 58912
treat all vision care providers equally in provider directories, 58913
provider locators, and other marketing materials as 58914
participating, in-network providers, annotated only as to their 58915
decision to accept payment pursuant to division (E) (1) (a) (i) of 58916
this section. 58917

(b) Require that a vision care provider contract with a 58918
plan offering supplemental or specialty health care services as 58919
a condition of contracting with a plan offering basic health 58920

care services;	58921
(c) Directly limit a vision care provider's choice of	58922
sources and suppliers of vision care materials;	58923
(d) Include a provision that prohibits a vision care	58924
provider from describing out-of-network options to an enrollee	58925
in accordance with division (E) (2) of this section.	58926
The provisions of divisions (E) (1) (a) to (d) of this	58927
section shall be effective for contracts entered into, amended,	58928
or renewed on or after January 1, 2019.	58929
(2) A vision care provider recommending an out-of-network	58930
source or supplier of vision care materials to an enrollee shall	58931
notify the enrollee in writing that the source or supplier is	58932
out-of-network and shall inform the enrollee of the cost of	58933
those materials. The vision care provider shall also disclose in	58934
writing to an enrollee any business interest the provider has in	58935
a recommended out-of-network source or supplier utilized by the	58936
enrollee.	58937
(3) A vision care provider who chooses not to accept as	58938
payment an amount set by a contracting entity for vision care	58939
services or vision care materials that are not covered vision	58940
services shall do both of the following:	58941
(a) Upon the request of an enrollee seeking vision care	58942
services or vision care materials that are not covered vision	58943
services, provide to the enrollee pricing and reimbursement	58944
information, including all of the following:	58945
(i) The estimated fee or discounted price suggested by the	58946
contracting entity for the noncovered service or material;	58947
(ii) The estimated fee charged by the vision care provider	58948

for the noncovered service or material; 58949

(iii) The amount the vision care provider expects to be 58950
reimbursed by the contracting entity for the noncovered service 58951
or material; 58952

(iv) The estimated pricing and reimbursement information 58953
for any covered services or materials that are also expected to 58954
be provided during the enrollee's visit. 58955

(b) Post, in a conspicuous place, a notice stating the 58956
following: 58957

"IMPORTANT: This vision care provider does not accept the 58958
fee schedule set by your insurer for vision care services and 58959
vision care materials that are not covered benefits under your 58960
plan and instead charges his or her normal fee for those 58961
services and materials. This vision care provider will provide 58962
you with an estimated cost for each non-covered service or 58963
material upon your request." 58964

(4) Nothing in division (E) of this section shall do any 58965
of the following: 58966

(a) Restrict or limit a contracting entity's determination 58967
of specific amounts of coverage or reimbursement for the use of 58968
network or out-of-network sources or suppliers of vision care 58969
materials as set forth in an enrollee's benefit plan; 58970

(b) Restrict or limit a contracting entity's ability to 58971
enter into an agreement with another contracting entity or an 58972
affiliate of another contracting entity; 58973

(c) Restrict or limit a health care plan's ability to 58974
enter into an agreement with a vision care plan to deliver 58975
routine vision care services that are covered under an 58976

enrollee's plan;	58977
(d) Restrict or limit a vision care plan network from acting as a network for a health care plan;	58978 58979
(e) Prohibit a contracting entity from requiring participating vision care providers to offer network sources or suppliers of vision care materials to enrollees;	58980 58981 58982
(f) Prohibit an enrollee from utilizing a network source or supplier of vision care materials as set forth in an enrollee's plan;	58983 58984 58985
(g) Prohibit a participating vision care provider from accepting as payment an amount that is the same as the amount set by the contracting entity for vision care services or vision care materials that are not covered vision services.	58986 58987 58988 58989
(F) (1) No contract or agreement between a contracting entity and a dental care provider shall do any of the following:	58990 58991
(a) Require that a dental care provider accept as payment an amount set by the contracting entity for dental care services provided to an enrollee unless the services are covered dental services.	58992 58993 58994 58995
(i) Notwithstanding division (F) (1) (a) of this section, a dental care provider may, in a contract with a contracting entity, choose to accept as payment an amount set by the contracting entity for dental care services provided to an enrollee that are not covered dental services.	58996 58997 58998 58999 59000
(ii) No contract between a dental care provider and a contracting entity to provide covered dental services shall be contingent on whether the dental care provider has entered into an agreement addressing noncovered dental services pursuant to	59001 59002 59003 59004

division (F) (1) (a) (i) of this section. 59005

(iii) A contracting entity may communicate to its 59006
enrollees which dental care providers choose to accept as 59007
payment an amount set by the contracting entity for dental care 59008
services provided to an enrollee that are not covered dental 59009
services pursuant to division (F) (1) (a) (i) of this section. Any 59010
communication to this effect shall treat all dental care 59011
providers equally in provider directories, provider locators, 59012
and other marketing materials as participating, in-network 59013
providers, annotated only as to their decision to accept payment 59014
pursuant to division (F) (1) (a) (i) of this section. 59015

(b) Require that a dental care provider contract with a 59016
plan offering supplemental or specialty health care services as 59017
a condition of contracting with a plan offering basic health 59018
care services. 59019

The provisions of divisions (F) (1) (a) and (b) of this 59020
section apply to contracts entered into, amended, or renewed on 59021
or after January 1, 2025. 59022

(2) A dental care provider who chooses not to accept as 59023
payment an amount set by a contracting entity for dental care 59024
services that are not covered dental services shall do both of 59025
the following: 59026

(a) Provide to an enrollee seeking dental care services 59027
that are not covered dental services pricing and reimbursement 59028
information, including all of the following: 59029

(i) The estimated fee or discounted price suggested by the 59030
contracting entity for the noncovered service; 59031

(ii) The estimated fee charged by the dental care provider 59032
for the noncovered service; 59033

(iii) The amount the dental care provider expects to be reimbursed by the contracting entity for the noncovered service; 59034
59035

(iv) The estimated pricing and reimbursement information for any covered services that are also expected to be provided during the enrollee's visit. 59036
59037
59038

(b) Post, in a conspicuous place, a notice stating the following: 59039
59040

"IMPORTANT: This dental care provider does not accept the fee schedule set by your insurer for dental care services that are not covered benefits under your plan and instead charges his or her normal fee for those services. This dental care provider will provide you with an estimated cost for each noncovered service." 59041
59042
59043
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59046

(3) Nothing in division (F) of this section shall do any of the following: 59047
59048

(a) Restrict or limit a contracting entity's ability to enter into an agreement with another contracting entity or an affiliate of another contracting entity; 59049
59050
59051

(b) Restrict or limit a health care plan's ability to enter into an agreement with a dental care plan to deliver routine dental care services that are covered under an enrollee's plan; 59052
59053
59054
59055

(c) Restrict or limit a dental care plan network from acting as a network for a health care plan; 59056
59057

(d) Prohibit a participating dental care provider from accepting as payment an amount that is the same as the amount set by the contracting entity for dental care services that are not covered dental services. 59058
59059
59060
59061

(G) (1) In addition to any other lawful reasons for 59062
terminating a health care contract, a health care contract may 59063
only be terminated under the circumstances described in division 59064
(A) (3) of section 3963.04 of the Revised Code. 59065

(2) If the health care contract provides for termination 59066
for cause by either party, the health care contract shall state 59067
the reasons that may be used for termination for cause, which 59068
terms shall be reasonable. Once the contracting entity and the 59069
participating provider have signed the health care contract, it 59070
is presumed that the reasons stated in the health care contract 59071
for termination for cause by either party are reasonable. 59072
Subject to division (G) (3) of this section, the health care 59073
contract shall state the time by which the parties must provide 59074
notice of termination for cause and to whom the parties shall 59075
give the notice. 59076

(3) Nothing in divisions (G) (1) and (2) of this section 59077
shall be construed as prohibiting any health insuring 59078
corporation from terminating a participating provider's contract 59079
for any of the causes described in divisions (A), (D), and (F) 59080
(1) and (2) of section 1753.09 of the Revised Code. 59081
Notwithstanding any provision in a health care contract pursuant 59082
to division (G) (2) of this section, section 1753.09 of the 59083
Revised Code applies to the termination of a participating 59084
provider's contract for any of the causes described in divisions 59085
(A), (D), and (F) (1) and (2) of section 1753.09 of the Revised 59086
Code. 59087

(4) Subject to sections 3963.01 to 3963.11 of the Revised 59088
Code, nothing in this section prohibits the termination of a 59089
health care contract without cause if the health care contract 59090
otherwise provides for termination without cause. 59091

(5) Nothing in division (G) of this section shall be construed to expand the regulatory authority of the superintendent to vision care providers or dental care providers.

(H) (1) Disputes among parties to a health care contract that only concern the enforcement of the contract rights conferred by section 3963.02, divisions (A) and (D) of section 3963.03, and section 3963.04 of the Revised Code are subject to a mutually agreed upon arbitration mechanism that is binding on all parties. The arbitrator may award reasonable attorney's fees and costs for arbitration relating to the enforcement of this section to the prevailing party.

(2) The arbitrator shall make the arbitrator's decision in an arbitration proceeding having due regard for any applicable ~~rules,~~ bulletins, rulings, or decisions issued by the department of insurance or any court concerning the enforcement of the contract rights conferred by section 3963.02, divisions (A) and (D) of section 3963.03, and section 3963.04 of the Revised Code.

(3) A party shall not simultaneously maintain an arbitration proceeding as described in division (H) (1) of this section and pursue a complaint with the superintendent of insurance to investigate the subject matter of the arbitration proceeding. However, if a complaint is filed with the department of insurance, the superintendent may choose to investigate the complaint or, after reviewing the complaint, advise the complainant to proceed with arbitration to resolve the complaint. The superintendent may request to receive a copy of the results of the arbitration. If the superintendent of insurance notifies an insurer or a health insuring corporation in writing that the superintendent has initiated a market

conduct examination into the specific subject matter of the 59122
arbitration proceeding pending against that insurer or health 59123
insuring corporation, the arbitration proceeding shall be stayed 59124
at the request of the insurer or health insuring corporation 59125
pending the outcome of the market conduct investigation by the 59126
superintendent. 59127

Sec. 3964.07. (A) A captive insurance company shall not be 59128
required to make any annual report except as required by this 59129
section. 59130

(B) (1) The chief financial officer and at least one 59131
additional executive officer of a captive insurance company, or 59132
a majority of the directors of a captive insurance company 59133
annually, on the first day of January, or within sixty days 59134
thereafter prepare under oath and deposit in the office of the 59135
superintendent, a statement showing the financial condition of 59136
the captive insurance company on the thirty-first day of the 59137
December next preceding. An actuarial opinion from a qualified 59138
actuary regarding the adequacy of the company's required 59139
reserves to make full provision for the company's liabilities, 59140
insured or reinsured, shall be included in this statement. The 59141
qualified actuary shall submit a memorandum to the 59142
superintendent detailing the support for that opinion. 59143

(2) All captive insurance companies shall have an annual 59144
audit by an independent certified public accountant and shall 59145
file an audited financial report with the superintendent on or 59146
before the first day of June as a supplement to the annual 59147
statement required under division (B) (1) of this section. 59148

(C) Each captive insurance company shall report using 59149
generally accepted accounting principles, unless the 59150
superintendent requires, approves, or accepts the use of 59151

statutory accounting principles or other comprehensive basis 59152
accounting, any appropriate, necessary modifications or 59153
adaptations required or approved or accepted by the 59154
superintendent for each type of insurance or kind of insurance 59155
company that makes such a report, and as supplemented by 59156
additional information required by the superintendent. 59157

(D) Captive insurance companies shall prepare, at a 59158
minimum, internal quarterly financial statements. These 59159
statements shall be made available upon request to the 59160
superintendent. 59161

(E) The superintendent shall adopt by rule the prescribed 59162
forms, instructions, and manuals by which captive insurance 59163
companies shall make the reports required under this section, as 59164
the superintendent considers necessary. 59165

(F) Division (H) of section 3964.03 of the Revised Code 59166
shall apply to each report filed under this section. 59167

(G) (1) Special purpose financial captive insurance 59168
companies are subject to sections 3903.81 to ~~3903.93~~ 3903.92 of 59169
the Revised Code. 59170

(2) (a) Notwithstanding division (G) (1) of this section, 59171
the superintendent shall establish an acceptable total capital 59172
and surplus requirement for a special purpose financial captive 59173
insurance company that is permitted by the superintendent to use 59174
an alternative reserve basis pursuant to division (E) (2) of 59175
section 3964.03 of the Revised Code if there is an inherent 59176
inconsistency between the approved alternative reserve basis and 59177
sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code. 59178

(b) The total capital and surplus requirement as 59179
established by the superintendent shall be determined in 59180

accordance with a minimum required total capital and surplus 59181
methodology that meets both of the following: 59182

(i) Is consistent with current risk-based capital 59183
principles; 59184

(ii) Takes into account all material risks and 59185
obligations, as well as the assets, of the special purpose 59186
financial captive insurance company. 59187

Sec. 3964.19. (A) As used in sections 3964.19 to 3964.194 59188
of the Revised Code: 59189

(1) "Counterparty" means a special purpose financial 59190
captive insurance company's parent or an affiliated entity that 59191
is an insurer domiciled in this state that cedes life insurance 59192
risks to the special purpose financial captive insurance company 59193
pursuant to a special purpose financial captive insurance 59194
company contract. 59195

(2) "Insolvency" or "insolvent" means that the special 59196
purpose financial captive insurance company is unable to pay its 59197
obligations when they are due, unless those obligations are the 59198
subject of a bona fide dispute. 59199

(3) "Insurance securitization" means a package of related 59200
risk transfer instruments, capital market offerings, and 59201
facilitating administrative agreements, for which a special 59202
purpose financial captive insurance company obtains proceeds, 59203
either directly or indirectly, through the issuance of 59204
securities, where the investment risk to the holders of the 59205
securities is contingent upon the obligations of the special 59206
purpose financial captive insurance company to the counterparty 59207
under the special purpose financial captive insurance company 59208
contract, in accordance with the transaction terms, and pursuant 59209

to this section. This includes situations where the 59210
securitization proceeds are held in trust to secure the 59211
obligations of the special purpose financial captive insurance 59212
company under one or more special purpose financial captive 59213
insurance company contracts. 59214

(4) "Organizational document" means the special purpose 59215
financial captive insurance company's articles of incorporation, 59216
bylaws, code of regulations, operating agreement, or other 59217
foundational documents that establish the special purpose 59218
financial captive insurance company as a legal entity. 59219

(5) "Securities" means debt obligations, equity 59220
investments, surplus certificates, surplus notes, funding 59221
agreements, derivatives, and other legal forms of financial 59222
instruments. 59223

(6) "Special purpose financial captive insurance company 59224
contract" means a contract between a special purpose financial 59225
captive insurance company and a counterparty pursuant to which 59226
the special purpose financial captive insurance company agrees 59227
to provide insurance or reinsurance protection to the 59228
counterparty for risks associated with the counterparty's 59229
insurance or reinsurance business, and includes a contract 59230
entered into under division (F) of this section. 59231

(7) "Special purpose financial captive insurance company 59232
securities" means the securities issued by a special purpose 59233
financial captive insurance company. 59234

(B) The requirements of this section shall not apply to a 59235
specific special purpose financial captive insurance company if 59236
the superintendent finds a specific requirement is inappropriate 59237
due to the nature of the risks to be insured by the special 59238

purpose financial captive insurance company and if the special 59239
purpose financial captive insurance company meets the criteria 59240
established by ~~rules and regulations adopted and promulgated by~~ 59241
the superintendent. 59242

(C) (1) A special purpose financial captive insurance 59243
company may not issue a contract for assumption of risk or 59244
indemnification of loss other than a special purpose financial 59245
captive insurance company contract. However, the special purpose 59246
financial captive insurance company may cede a risk assumed 59247
through a special purpose financial captive insurance company 59248
contract to a third-party reinsurer through the purchase of 59249
reinsurance or retrocession protection if approved by the 59250
superintendent. 59251

(2) A special purpose financial captive insurance company 59252
may enter into contracts and conduct other commercial activities 59253
related or incidental to and necessary to fulfill the purposes 59254
of special purpose financial captive insurance company 59255
contracts, insurance securitization, and this section. Those 59256
activities may include: 59257

(a) Entering into special purpose financial captive 59258
insurance company contracts; 59259

(b) Issuing securities of the special purpose financial 59260
captive insurance company in accordance with applicable 59261
securities law; 59262

(c) Complying with the terms of special purpose financial 59263
captive insurance company contracts or securities; 59264

(d) Entering into trust, swap, tax, administration, 59265
reimbursement, or fiscal agent transactions; 59266

(e) Complying with trust indenture, reinsurance, 59267

retrocession, and other agreements necessary or incidental to 59268
effectuate an insurance securitization in compliance with this 59269
section and in the plan of operation considered by the 59270
superintendent under division (F) (5) of section 3964.03 of the 59271
Revised Code. 59272

(D) (1) A special purpose financial captive insurance 59273
company may issue securities, subject to and in accordance with 59274
applicable law, its plan of operation considered by the 59275
superintendent under division (E) of section 3964.03 of the 59276
Revised Code, and its organizational documents. 59277

(2) A special purpose financial captive insurance company, 59278
in connection with the issuance of securities, may enter into 59279
and perform all of its obligations under any required contracts 59280
to facilitate the issuance of these securities. 59281

(3) The obligation to repay principal or interest, or 59282
both, on the securities issued by the special purpose financial 59283
captive insurance company shall reflect the risk associated with 59284
the obligations of the special purpose financial captive 59285
insurance company to the counterparty under the special purpose 59286
financial captive insurance company contract. 59287

(E) (1) (a) A special purpose financial captive insurance 59288
company may enter into the following types of transactions for 59289
the purposes described in division (E) (1) (b) of this section: 59290

(i) Asset management agreements, including swap 59291
agreements; 59292

(ii) Guaranteed investment contracts; 59293

(iii) Other transactions with the objective of reducing 59294
timing differences in the funding of upfront, or ongoing, 59295
transaction expenses, or managing asset, credit, prepayment, or 59296

interest rate risk of the investments of the special purpose
financial captive insurance company. 59297
59298

(b) The purpose of the transactions described in division 59299
(E) (1) (a) of this section shall be any of the following: 59300

(i) To ensure that the investments are sufficient to 59301
assure payment or repayment of the securities, and related 59302
interest or principal payments, issued pursuant to a special 59303
purpose financial captive insurance company insurance 59304
securitization transaction; 59305

(ii) To ensure that the investments are sufficient to 59306
assure payment or repayment of the obligations required under a 59307
special purpose financial captive insurance company contract; 59308

(iii) Any other purpose approved by the superintendent. 59309

(2) An asset management agreement shall not be entered 59310
into under this section by a special purpose financial captive 59311
insurance company unless it has been approved by the 59312
superintendent. 59313

(F) (1) If a special purpose financial captive insurance 59314
company has entered into a special purpose financial captive 59315
insurance company contract with a counterparty and the special 59316
purpose financial captive insurance company has conducted an 59317
insurance securitization that is made up, in part or in whole, 59318
of the risks of that contract, then the special purpose 59319
financial captive insurance company may enter into a second 59320
contract with the counterparty under which the counterparty is 59321
held liable for those losses or other obligations that were 59322
securitized. 59323

(2) Such obligations may be funded and secured with assets 59324
held in trust for the benefit of the counterparty pursuant to 59325

agreements contemplated by this section and invested in a manner 59326
that meet the criteria in sections 3907.14 and 3907.141 of the 59327
Revised Code. 59328

(G) (1) A special purpose financial captive insurance 59329
company may enter into agreements with affiliated companies and 59330
third parties and conduct business necessary to fulfill its 59331
obligations and administrative duties incidental to an insurance 59332
securitization and a special purpose financial captive insurance 59333
company contract entered into under division (F) of this 59334
section. 59335

(2) The agreements may include management and 59336
administrative services agreements and other allocation and cost 59337
sharing agreements, or swap and asset management agreements, or 59338
both, or agreements for other contemplated types of transactions 59339
provided in this section. 59340

(H) A special purpose financial captive insurance company 59341
contract entered into under division (F) of this section shall 59342
contain all of the following: 59343

(1) A requirement that the special purpose financial 59344
captive insurance company do either of the following: 59345

(a) Enter into a trust agreement specifying what 59346
recoverables or reserves, or both, the agreement is to cover and 59347
to establish a trust account for the benefit of the counterparty 59348
and the security holders; 59349

(b) Establish such other methods of security acceptable to 59350
the superintendent. 59351

(2) A stipulation that assets deposited in the trust 59352
account shall be valued in accordance with their current fair- 59353
market value and shall consist only of investments permitted by 59354

sections 3907.14 and 3907.141 of the Revised Code; 59355

(3) A requirement that, if a trust arrangement is used, 59356
the special purpose financial captive insurance company, before 59357
depositing assets with the trustee, execute assignments, execute 59358
endorsements in blank, or take such actions as are necessary to 59359
transfer legal title to the trustee of all assets requiring 59360
assignment, in order that the counterparty, or the trustee upon 59361
the direction of the counterparty, may negotiate whenever 59362
necessary the assets without consent or signature from the 59363
special purpose financial captive insurance company or another 59364
entity; 59365

(4) A stipulation that, if a trust arrangement is used, 59366
the special purpose financial captive insurance company and the 59367
counterparty agree that the assets in the trust account 59368
established pursuant to the contract: 59369

(a) May be withdrawn by the counterparty, or the trustee 59370
on its behalf, at any time, but only in accordance with the 59371
terms of the contract; 59372

(b) Shall be utilized and applied by the counterparty, 59373
without diminution because of insolvency on the part of the 59374
counterparty or the special purpose financial captive insurance 59375
company, only for the purposes set forth in the credit for 59376
reinsurance laws ~~and rules~~ of this state. As used in this 59377
division, "counterparty" includes any successor of the 59378
counterparty by operation of law, including, subject to the 59379
provisions of this section, but without further limitation, any 59380
liquidator, rehabilitator, or receiver of the counterparty. 59381

(I) A special purpose financial captive insurance company 59382
contract entered into under division (F) of this section may 59383

contain provisions that give the special purpose financial 59384
captive insurance company the right to seek approval from the 59385
counterparty to withdraw from the trust all or part of the 59386
assets, or income from them, contained in the trust and to 59387
transfer the assets to the special purpose financial captive 59388
insurance company if such provisions comply with the credit for 59389
reinsurance laws ~~and rules~~ of this state. 59390

(J) (1) A special purpose financial captive insurance 59391
company contract entered into under division (F) of this 59392
section, meeting the requirements of this section, shall be 59393
granted credit for reinsurance treatment or otherwise qualify as 59394
an asset or a reduction from liability for reinsurance ceded by 59395
a domestic insurer to a special purpose financial captive 59396
insurance company as an assuming insurer for the benefit of the 59397
counterparty if both of the following apply: 59398

(a) The assets are held or invested in one or more of the 59399
forms allowed in sections 3907.14 and 3907.141 of the Revised 59400
Code. 59401

(b) The agreement is in compliance with section 3901.64 of 59402
the Revised Code. 59403

(2) The contract shall be granted credit or otherwise 59404
qualify as an asset or reduction from liability only to the 59405
extent of the value of the assets held in trust for, or letters 59406
of credit, that meet the requirements set forth in division (C) 59407
of section 3964.05 of the Revised Code, or as approved by the 59408
superintendent, for the benefit of the counterparty under the 59409
special purpose financial captive insurance company contract. 59410

(K) A special purpose financial captive insurance company 59411
may make investments that meet the qualifications set forth in 59412

sections 3907.14 and 3907.141 of the Revised Code, however these 59413
investments shall not be subject to any limitations contained in 59414
such sections as to invested amounts. The superintendent may 59415
prohibit or limit any investment that threatens the solvency or 59416
liquidity of a special purpose financial captive insurance 59417
company or that is not made in accordance with the approved plan 59418
of operation. 59419

Sec. 3965.09. Notwithstanding any other provision of law, 59420
the provisions of this chapter ~~and any rules adopted pursuant to~~ 59421
~~this chapter~~ constitute the exclusive state standards and 59422
requirements applicable to licensees regarding cybersecurity 59423
events, the security of nonpublic information, data security, 59424
investigation of cybersecurity events, and notification to the 59425
superintendent of cybersecurity events. 59426

Sec. 3965.11. The superintendent of insurance shall 59427
consider the nature, scale, and complexity of licensees in 59428
administering this chapter ~~and adopting rules pursuant to this~~ 59429
~~chapter.~~ 59430

Sec. 4111.05. The director of commerce shall adopt rules 59431
in accordance with Chapter 119. of the Revised Code ~~as the~~ 59432
~~director considers appropriate to carry out the purposes of~~ 59433
~~sections 4111.01 to 4111.17 of the Revised Code. The rules may~~ 59434
~~be amended from time to time and may include, but are not~~ 59435
~~limited to, rules defining and governing apprentices, their~~ 59436
number, proportion, and length of service; bonuses and special 59437
pay for special or extra work; permitted deductions or charges 59438
to employees for board, lodging, apparel, or other facilities or 59439
services customarily furnished by employers to employees; 59440
inclusion of ascertainable gratuities in wages paid; allowances 59441
for unascertainable gratuities or for other special conditions 59442

or circumstances which may be usual in particular employer- 59443
employee relationships; and the method of computation or the 59444
period of time over which wages may be averaged to determine 59445
whether the minimum wage or overtime rate has been paid. 59446

Sec. 4111.06. In order to prevent curtailment of 59447
opportunities for employment, to avoid undue hardship, and to 59448
safeguard the minimum wage rates under sections 4111.01 to 59449
4111.17 of the Revised Code, the director of commerce shall 59450
adopt rules ~~under section 4111.05 of the Revised Code, in~~ 59451
accordance with Chapter 119. of the Revised Code permitting 59452
employment in any occupation at wages lower than the wage rates 59453
applicable under sections 4111.01 to 4111.17 of the Revised 59454
Code, of individuals whose earning capacity is impaired by 59455
physical or mental disabilities or injuries. The rules shall 59456
provide for licenses to be issued authorizing employment at the 59457
wages of specific individuals or groups of employees, or by 59458
specific employers or groups of employers, pursuant to the 59459
rules. The rules shall not conflict with the "Americans with 59460
Disabilities Act of 1990," 104 Stat. 328, 42 U.S.C.A. 12111, et 59461
seq. 59462

Sec. 4111.08. Every employer subject to section 4111.03 of 59463
the Revised Code, ~~or to any rule adopted thereunder,~~ shall make 59464
and keep for a period of not less than three years a record of 59465
the name, address, and occupation of each of the employer's 59466
employees, the rate of pay and the amount paid each pay period 59467
to each employee, and the hours worked each day and each work 59468
week by the employee, ~~and other information as the director of~~ 59469
~~commerce prescribes by rule as necessary or appropriate for the~~ 59470
~~enforcement of section 4111.03 of the Revised Code, or of the~~ 59471
~~rules thereunder.~~ Records may be opened for inspection or 59472
copying by the director at any reasonable time. 59473

Sec. 4117.02. (A) There is hereby created the state 59474
employment relations board, consisting of three members to be 59475
appointed by the governor with the advice and consent of the 59476
senate. Members shall be knowledgeable about labor relations or 59477
personnel practices. No more than two of the three members shall 59478
belong to the same political party. A member of the state 59479
employment relations board during the member's period of service 59480
shall hold no other public office or public or private 59481
employment and shall allow no other responsibilities to 59482
interfere or conflict with the member's duties as a full-time 59483
state employment relations board member. Of the initial 59484
appointments made to the state employment relations board, one 59485
shall be for a term ending October 6, 1984, one shall be for a 59486
term ending October 6, 1985, and one shall be for a term ending 59487
October 6, 1986. Thereafter, terms of office shall be for six 59488
years, each term ending on the same day of the same month of the 59489
year as did the term that it succeeds. Each member shall hold 59490
office from the date of the member's appointment until the end 59491
of the term for which the member is appointed. Any member 59492
appointed to fill a vacancy occurring prior to the expiration of 59493
the term for which the member's predecessor was appointed shall 59494
hold office for the remainder of the term. Any member shall 59495
continue in office subsequent to the expiration of the member's 59496
term until the member's successor takes office or until a period 59497
of sixty days has elapsed, whichever occurs first. The governor 59498
may remove any member of the state employment relations board, 59499
upon notice and public hearing, for neglect of duty or 59500
malfeasance in office, but for no other cause. 59501

(B) (1) The governor shall designate one member of the 59502
state employment relations board to serve as chairperson of the 59503
state employment relations board. The chairperson is the head of 59504

the state employment relations board and its chief executive officer. 59505
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(2) The chairperson shall exercise all administrative powers and duties conferred upon the state employment relations board under this chapter and shall do all of the following: 59507
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59509

(a) Employ, promote, supervise, and remove all employees of the state employment relations board, and establish, change, or abolish positions and assign or reassign the duties of those employees as the chairperson determines necessary to achieve the most efficient performance of the duties of the state employment relations board under this chapter; 59510
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(b) Determine the utilization by the state personnel board of review of employees of the state employment relations board as necessary for the state personnel board of review to exercise the powers and perform the duties of the state personnel board of review; 59516
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(c) Maintain the office of the state employment relations board in Columbus and manage the office's daily operations, including securing offices, facilities, equipment, and supplies necessary to house the state employment relations board, employees of the state employment relations board, the state personnel board of review, and files and records under the control of the state employment relations board and under the control of the state personnel board of review; 59521
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(d) Prepare and submit to the office of budget and management a budget for each biennium according to section 107.03 of the Revised Code, and include in the budget the costs of the state employment relations board and its staff and the costs of the state employment relations board in discharging any 59529
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duty imposed by law upon the state employment relations board, 59534
the chairperson, or any of the employees or agents of the state 59535
employment relations board, and the costs of the state personnel 59536
board of review in discharging any duty imposed by law on the 59537
state personnel board of review or an agent of the state 59538
personnel board of review. 59539

(C) The vacancy on the state employment relations board 59540
does not impair the right of the remaining members to exercise 59541
all the powers of the state employment relations board, and two 59542
members of the state employment relations board, at all times, 59543
constitute a quorum. The state employment relations board shall 59544
have an official seal of which courts shall take judicial 59545
notice. 59546

(D) The state employment relations board shall make an 59547
annual report in writing to the governor and to the general 59548
assembly, stating in detail the work it has done. 59549

(E) Compensation of the chairperson and members shall be 59550
in accordance with division (J) of section 124.15 of the Revised 59551
Code. The chairperson and the members are eligible for 59552
reappointment. In addition to such compensation, all members 59553
shall be reimbursed for their necessary expenses incurred in the 59554
performance of their work as members. 59555

(F) (1) The chairperson, after consulting with the other 59556
state employment relations board members and receiving the 59557
consent of at least one other board member, shall appoint an 59558
executive director. The chairperson also shall appoint attorneys 59559
and shall appoint an assistant executive director who shall be 59560
an attorney admitted to practice law in this state and who shall 59561
serve as a liaison to the attorney general on legal matters 59562
before the state employment relations board. 59563

(2) The state employment relations board shall appoint 59564
members of fact-finding panels and shall prescribe their job 59565
duties. 59566

(G) (1) The executive director shall serve at the pleasure 59567
of the chairperson. The executive director, under the direction 59568
of the chairperson, shall do all of the following: 59569

(a) Act as chief administrative officer for the state 59570
employment relations board; 59571

(b) Ensure that all employees of the state employment 59572
relations board comply with the rules of the state employment 59573
relations board; 59574

(c) Do all things necessary for the efficient and 59575
effective implementation of the duties of the state employment 59576
relations board. 59577

(2) The duties of the executive director described in 59578
division (G) (1) of this section do not relieve the chairperson 59579
from final responsibility for the proper performance of the 59580
duties described in that division. 59581

(H) The attorney general shall be the legal adviser of the 59582
state employment relations board and shall appear for and 59583
represent the state employment relations board and its agents in 59584
all legal proceedings. The state employment relations board may 59585
utilize regional, local, or other agencies, and utilize 59586
voluntary and uncompensated services as needed. The state 59587
employment relations board may contract with the federal 59588
mediation and conciliation service for the assistance of 59589
mediators, arbitrators, and other personnel the service makes 59590
available. The chairperson shall appoint all employees on the 59591
basis of training, practical experience, education, and 59592

character, notwithstanding the requirements established by 59593
section 119.09 of the Revised Code. The chairperson shall give 59594
special regard to the practical training and experience that 59595
employees have for the particular position involved. The 59596
executive director, assistant executive director, administrative 59597
law judges, employees holding a fiduciary or administrative 59598
relation to the state employment relations board as described in 59599
division (A) (9) of section 124.11 of the Revised Code, and the 59600
personal secretaries and assistants of the state employment 59601
relations board members are in the unclassified service. All 59602
other full-time employees of the state employment relations 59603
board are in the classified service. All employees of the state 59604
employment relations board shall be paid in accordance with 59605
Chapter 124. of the Revised Code. 59606

(I) The chairperson shall select and assign administrative 59607
law judges and other agents whose functions are to conduct 59608
hearings with due regard to their impartiality, judicial 59609
temperament, and knowledge. If in any proceeding under this 59610
chapter, any party prior to five days before the hearing thereto 59611
files with the state employment relations board a sworn 59612
statement charging that the administrative law judge or other 59613
agent designated to conduct the hearing is biased or partial in 59614
the proceeding, the state employment relations board may 59615
disqualify the person and designate another administrative law 59616
judge or agent to conduct the proceeding. At least ten days 59617
before any hearing, the state employment relations board shall 59618
notify all parties to a proceeding of the name of the 59619
administrative law judge or agent designated to conduct the 59620
hearing. 59621

(J) The principal office of the state employment relations 59622
board is in Columbus, but it may meet and exercise any or all of 59623

its powers at any other place within the state. The state 59624
employment relations board may, by one or more of its employees, 59625
or any agents or agencies it designates, conduct in any part of 59626
this state any proceeding, hearing, investigation, inquiry, or 59627
election necessary to the performance of its functions; 59628
provided, that no person so designated may later sit in 59629
determination of an appeal of the decision of that cause or 59630
matter. 59631

(K) In addition to the powers and functions provided in 59632
other sections of this chapter, the state employment relations 59633
board shall do all of the following: 59634

(1) Create a bureau of mediation within the state 59635
employment relations board, to perform the functions provided in 59636
section 4117.14 of the Revised Code. This bureau shall also 59637
establish, after consulting representatives of employee 59638
organizations and public employers, panels of qualified persons 59639
to be available to serve as members of fact-finding panels and 59640
arbitrators. 59641

(2) Conduct studies of problems involved in representation 59642
and negotiation and make recommendations for legislation; 59643

(3) Hold hearings pursuant to this chapter and, for the 59644
purpose of the hearings and inquiries, administer oaths and 59645
affirmations, examine witnesses and documents, take testimony 59646
and receive evidence, compel the attendance of witnesses and the 59647
production of documents by the issuance of subpoenas, and 59648
delegate these powers to any members of the state employment 59649
relations board or any administrative law judge employed by the 59650
state employment relations board for the performance of its 59651
functions; 59652

(4) Train representatives of employee organizations and public employers in the rules and techniques of collective bargaining procedures;

(5) Make studies and analyses of, and act as a clearinghouse of information relating to, conditions of employment of public employees throughout the state and request assistance, services, and data from any public employee organization, public employer, or governmental unit. Public employee organizations, public employers, and governmental units shall provide such assistance, services, and data as will enable the state employment relations board to carry out its functions and powers.

(6) Make available to employee organizations, public employers, mediators, fact-finding panels, arbitrators, and joint study committees statistical data relating to wages, benefits, and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve issues in negotiations;

(7) Notwithstanding section 119.13 of the Revised Code, establish standards of persons who practice before it;

(8) Adopt, amend, and rescind ~~rules and procedures and exercise other powers~~ appropriate to carry out this chapter. Before the adoption, amendment, or rescission of ~~rules and procedures~~ under this section, the state employment relations board shall do all of the following:

(a) Maintain a list of interested public employers and employee organizations and mail notice to such groups of any proposed ~~rule or procedure~~, amendment thereto, or rescission thereof at least thirty days before any public hearing thereon;

(b) Mail a copy of each proposed ~~rule~~ or procedure, 59682
amendment thereto, or rescission thereof to any person who 59683
requests a copy within five days after receipt of the request 59684
therefor; 59685

(c) Consult with appropriate statewide organizations 59686
representing public employers or employees who would be affected 59687
by the proposed ~~rule~~ or procedure. 59688

Although the state employment relations board is expected 59689
to discharge these duties diligently, failure to mail any notice 59690
or copy, or to so consult with any person, is not jurisdictional 59691
and shall not be construed to invalidate any proceeding or 59692
action of the state employment relations board. 59693

(L) In case of neglect or refusal to obey a subpoena 59694
issued to any person, the court of common pleas of the county in 59695
which the investigation or the public hearing occurs, upon 59696
application by the state employment relations board, may issue 59697
an order requiring the person to appear before the state 59698
employment relations board and give testimony about the matter 59699
under investigation. The court may punish a failure to obey the 59700
order as contempt. 59701

(M) Any subpoena, notice of hearing, or other process or 59702
notice of the state employment relations board issued under this 59703
section may be served personally, by certified mail, or by 59704
leaving a copy at the principal office or personal residence of 59705
the respondent required to be served. A return, made and 59706
verified by the individual making the service and setting forth 59707
the manner of service, is proof of service, and a return post 59708
office receipt, when certified mail is used, is proof of 59709
service. All process in any court to which application is made 59710
under this chapter may be served in the county wherein the 59711

persons required to be served reside or are found. 59712

(N) All expenses of the state employment relations board, 59713
including all necessary traveling and subsistence expenses 59714
incurred by the members or employees of the state employment 59715
relations board under its orders, shall be paid pursuant to 59716
itemized vouchers approved by the chairperson of the state 59717
employment relations board, the executive director, or both, or 59718
such other person as the chairperson designates for that 59719
purpose. 59720

(O) Whenever the state employment relations board 59721
determines that a substantial controversy exists with respect to 59722
the application or interpretation of this chapter and the matter 59723
is of public or great general interest, the state employment 59724
relations board shall certify its final order directly to the 59725
court of appeals having jurisdiction over the area in which the 59726
principal office of the public employer directly affected by the 59727
application or interpretation is located. The chairperson shall 59728
file with the clerk of the court a certified copy of the 59729
transcript of the proceedings before the state employment 59730
relations board pertaining to the final order. If upon hearing 59731
and consideration the court decides that the final order of the 59732
state employment relations board is unlawful or is not supported 59733
by substantial evidence on the record as a whole, the court 59734
shall reverse and vacate the final order or modify it and enter 59735
final judgment in accordance with the modification; otherwise, 59736
the court shall affirm the final order. The notice of the final 59737
order of the state employment relations board to the interested 59738
parties shall contain a certification by the chairperson of the 59739
state employment relations board that the final order is of 59740
public or great general interest and that a certified transcript 59741
of the record of the proceedings before the state employment 59742

relations board had been filed with the clerk of the court as an appeal to the court. For the purposes of this division, the state employment relations board has standing to bring its final order properly before the court of appeals.

(P) Except as otherwise specifically provided in this section, the state employment relations board is subject to Chapter 119. of the Revised Code, including the procedure for submission of proposed rules to the general assembly for legislative review under division (C) of section 119.03 of the Revised Code.

Sec. 4121.61. (A) As used in sections ~~4121.61~~ 4121.62 to 4121.69 of the Revised Code, "self-insuring employer" has the same meaning as in section 4123.01 of the Revised Code.

(B) The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall ~~adopt rules, take measures, other than~~ adopting rules, and make expenditures as it deems necessary to aid claimants who have sustained compensable injuries or incurred compensable occupational diseases pursuant to Chapter 4123., 4127., or 4131. of the Revised Code to return to work or to assist in lessening or removing any resulting impairment.

Sec. 4123.32. The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt the following rules with respect to the collection, maintenance, and disbursements of the state insurance fund ~~including all of the following:~~

(A) A rule providing for ascertaining the correctness of any employer's report of estimated or actual expenditure of wages and the determination and adjustment of proper premiums

and the payment of those premiums by the employer; 59772

~~(B) Such special rules as the administrator considers~~ 59773
~~necessary to safeguard the fund and that are just in the~~ 59774
~~circumstances,~~A rule covering the rates to be applied where one 59775
employer takes over the occupation or industry of another or 59776
where an employer first makes application for state insurance, 59777
and the administrator may require that if any employer transfers 59778
a business in whole or in part or otherwise reorganizes the 59779
business, the successor in interest shall assume, in proportion 59780
to the extent of the transfer, as determined by the 59781
administrator, the employer's account and shall continue the 59782
payment of all contributions due under this chapter; 59783

(C) A rule providing that an employer who employs an 59784
employee covered under the federal "Longshore and Harbor 59785
Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 59786
seq., and this chapter and Chapter 4121. of the Revised Code 59787
shall be assessed a premium in accordance with the expenditure 59788
of wages, payroll, or both attributable to only labor performed 59789
and services provided by such an employee when the employee 59790
performs labor and provides services for which the employee is 59791
not eligible to receive compensation and benefits under that 59792
federal act. 59793

(D) A rule providing for all of the following: 59794

(1) If an employer fails to file a report of the 59795
employer's actual payroll expenditures pursuant to section 59796
4123.26 of the Revised Code for private employers or pursuant to 59797
section 4123.41 of the Revised Code for public employers, the 59798
premium and assessments due from the employer for the period 59799
shall be calculated based on the estimated payroll of the 59800
employer used in calculating the estimated premium due, 59801

increased by ten per cent; 59802

(2) (a) If an employer fails to pay the premium or 59803
assessments when due for a policy year commencing prior to July 59804
1, 2015, the administrator may add a late fee penalty of not 59805
more than thirty dollars to the premium plus an additional 59806
penalty amount as follows: 59807

(i) For a premium from sixty-one to ninety days past due, 59808
the prime interest rate, multiplied by the premium due; 59809

(ii) For a premium from ninety-one to one hundred twenty 59810
days past due, the prime interest rate plus two per cent, 59811
multiplied by the premium due; 59812

(iii) For a premium from one hundred twenty-one to one 59813
hundred fifty days past due, the prime interest rate plus four 59814
per cent, multiplied by the premium due; 59815

(iv) For a premium from one hundred fifty-one to one 59816
hundred eighty days past due, the prime interest rate plus six 59817
per cent, multiplied by the premium due; 59818

(v) For a premium from one hundred eighty-one to two 59819
hundred ten days past due, the prime interest rate plus eight 59820
per cent, multiplied by the premium due; 59821

(vi) For each additional thirty-day period or portion 59822
thereof that a premium remains past due after it has remained 59823
past due for more than two hundred ten days, the prime interest 59824
rate plus eight per cent, multiplied by the premium due. 59825

(b) For purposes of division (D) (2) (a) of this section, 59826
"prime interest rate" means the average bank prime rate, and the 59827
administrator shall determine the prime interest rate in the 59828
same manner as a county auditor determines the average bank 59829

prime rate under section 929.02 of the Revised Code. 59830

(c) If an employer fails to pay the premium or assessments 59831
when due for a policy year commencing on or after July 1, 2015, 59832
the administrator may assess a penalty at the interest rate 59833
established by the state tax commissioner pursuant to section 59834
5703.47 of the Revised Code. 59835

(3) Notwithstanding the interest rates specified in 59836
division (D)(2)(a) or (c) of this section, at no time shall the 59837
additional penalty amount assessed under division (D)(2)(a) or 59838
(c) of this section exceed fifteen per cent of the premium due. 59839

(4) If an employer recognized by the administrator as a 59840
professional employer organization or alternate employer 59841
organization fails to make a timely payment of premiums or 59842
assessments as required by section 4123.35 of the Revised Code, 59843
the administrator shall revoke the organization's registration 59844
pursuant to section 4125.06 or 4133.09 of the Revised Code, as 59845
applicable. 59846

(5) An employer may appeal a late fee penalty or 59847
additional penalty to an adjudicating committee pursuant to 59848
section 4123.291 of the Revised Code. 59849

(6) If the employer files an appropriate payroll report 59850
within the time provided by law, the employer shall not be in 59851
default and division (D)(2) of this section shall not apply if 59852
the employer pays the premiums within fifteen days after being 59853
first notified by the administrator of the amount due. 59854

(7) Any deficiencies in the amounts of the premium 59855
security deposit paid by an employer prior to July 1, 2015, 59856
shall be subject to an interest charge of six per cent per annum 59857
from the date the premium obligation is incurred. In determining 59858

the interest due on deficiencies in premium security deposit 59859
payments, a charge in each case shall be made against the 59860
employer in an amount equal to interest at the rate of six per 59861
cent per annum on the premium security deposit due but remaining 59862
unpaid sixty days after notice by the administrator. 59863

(8) Any interest charges or penalties provided for in 59864
divisions (D) (2) and (7) of this section shall be credited to 59865
the employer's account for rating purposes in the same manner as 59866
premiums. 59867

(E) A rule providing that each employer, on the occasion 59868
of instituting coverage under this chapter for an effective date 59869
prior to July 1, 2015, shall submit a premium security deposit. 59870
The deposit shall be calculated equivalent to thirty per cent of 59871
the semiannual premium obligation of the employer based upon the 59872
employer's estimated expenditure for wages for the ensuing six- 59873
month period plus thirty per cent of an additional adjustment 59874
period of two months but only up to a maximum of one thousand 59875
dollars and not less than ten dollars. The administrator shall 59876
review the security deposit of every employer who has submitted 59877
a deposit which is less than the one-thousand-dollar maximum. 59878
The administrator may require any such employer to submit 59879
additional money up to the maximum of one thousand dollars that, 59880
in the administrator's opinion, reflects the employer's current 59881
payroll expenditure for an eight-month period. 59882

(F) A rule providing that each employer, on the occasion 59883
of instituting coverage under this chapter, shall submit an 59884
application fee and an application for coverage that completely 59885
provides all of the information required for the administrator 59886
to establish coverage for that employer, and that the employer's 59887
failure to pay the application fee or to provide all of the 59888

information requested on the application may be grounds for the 59889
administrator to deny coverage for that employer. 59890

(G) A rule providing that, in addition to any other 59891
remedies permitted in this chapter, the administrator may 59892
discontinue an employer's coverage if the employer fails to pay 59893
the premium due on or before the premium's due date. 59894

(H) A rule providing that if after a final adjudication it 59895
is determined that an employer has failed to pay an obligation, 59896
billing, account, or assessment that is greater than one 59897
thousand dollars on or before its due date, the administrator 59898
may discontinue the employer's coverage in addition to any other 59899
remedies permitted in this chapter, and that the administrator 59900
shall not discontinue an employer's coverage pursuant to this 59901
division prior to a final adjudication regarding the employer's 59902
failure to pay such obligation, billing, account, or assessment 59903
on or before its due date. 59904

(I) As used in divisions (G) and (H) of this section: 59905

(1) "Employer" has the same meaning as in section 4123.01 59906
of the Revised Code except that "employer" does not include the 59907
state, a state hospital, or a state university or college. 59908

(2) "State university or college" has the same meaning as 59909
in section 3345.12 of the Revised Code and also includes the 59910
Ohio agricultural research and development center and OSU 59911
extension. 59912

(3) "State hospital" means the Ohio state university 59913
hospital and its ancillary facilities and the medical university 59914
of Ohio at Toledo hospital. 59915

Sec. 4123.35. (A) Except as provided in this section, and 59916
until the policy year commencing July 1, 2015, every private 59917

employer and every publicly owned utility shall pay semiannually 59918
in the months of January and July into the state insurance fund 59919
the amount of annual premium the administrator of workers' 59920
compensation fixes for the employment or occupation of the 59921
employer, the amount of which premium to be paid by each 59922
employer to be determined by the classifications, rules, and 59923
rates made and published by the administrator. The employer 59924
shall pay semiannually a further sum of money into the state 59925
insurance fund as may be ascertained to be due from the employer 59926
by applying the rules of the administrator. 59927

Except as otherwise provided in this section, for a policy 59928
year commencing on or after July 1, 2015, every private employer 59929
and every publicly owned utility shall pay annually in the month 59930
of June immediately preceding the policy year into the state 59931
insurance fund the amount of estimated annual premium the 59932
administrator fixes for the employment or occupation of the 59933
employer, the amount of which estimated premium to be paid by 59934
each employer to be determined by the classifications, rules, 59935
and rates made and published by the administrator. The employer 59936
shall pay a further sum of money into the state insurance fund 59937
as may be ascertained to be due from the employer by applying 59938
the rules of the administrator. Upon receipt of the payroll 59939
report required by division (B) of section 4123.26 of the 59940
Revised Code, the administrator shall adjust the premium and 59941
assessments charged to each employer for the difference between 59942
estimated gross payrolls and actual gross payrolls, and any 59943
balance due to the administrator shall be immediately paid by 59944
the employer. Any balance due the employer shall be credited to 59945
the employer's account. 59946

For a policy year commencing on or after July 1, 2015, 59947
each employer that is recognized by the administrator as a 59948

professional employer organization or alternate employer 59949
organization shall pay monthly into the state insurance fund the 59950
amount of premium the administrator fixes for the employer for 59951
the prior month based on the actual payroll of the employer 59952
reported pursuant to division (C) of section 4123.26 of the 59953
Revised Code. 59954

A receipt certifying that payment has been made shall be 59955
issued to the employer by the bureau of workers' compensation. 59956
The receipt is prima-facie evidence of the payment of the 59957
premium. The administrator shall provide each employer written 59958
proof of workers' compensation coverage as is required in 59959
section 4123.83 of the Revised Code. Proper posting of the 59960
notice constitutes the employer's compliance with the notice 59961
requirement mandated in section 4123.83 of the Revised Code. 59962

The bureau shall verify with the secretary of state the 59963
existence of all corporations and organizations making 59964
application for workers' compensation coverage and shall require 59965
every such application to include the employer's federal 59966
identification number. 59967

A private employer who has contracted with a subcontractor 59968
is liable for the unpaid premium due from any subcontractor with 59969
respect to that part of the payroll of the subcontractor that is 59970
for work performed pursuant to the contract with the employer. 59971

Division (A) of this section providing for the payment of 59972
premiums semiannually does not apply to any employer who was a 59973
subscriber to the state insurance fund prior to January 1, 1914, 59974
or, until July 1, 2015, who may first become a subscriber to the 59975
fund in any month other than January or July. Instead, the 59976
semiannual premiums shall be paid by those employers from time 59977
to time upon the expiration of the respective periods for which 59978

payments into the fund have been made by them. After July 1, 59979
2015, an employer who first becomes a subscriber to the fund on 59980
any day other than the first day of July shall pay premiums 59981
according to rules adopted by the administrator, with the advice 59982
and consent of the bureau of workers' compensation board of 59983
directors, for the remainder of the policy year for which the 59984
coverage is effective. 59985

The administrator, with the advice and consent of the 59986
board, shall adopt rules to permit employers to make periodic 59987
payments of the premium and assessment due under this division. 59988
The rules shall include provisions for the assessment of 59989
interest charges, where appropriate, and for the assessment of 59990
penalties when an employer fails to make timely premium 59991
payments. The administrator, in the rules the administrator 59992
adopts, may set an administrative fee for these periodic 59993
payments. An employer who timely pays the amounts due under this 59994
division is entitled to all of the benefits and protections of 59995
this chapter. Upon receipt of payment, the bureau shall issue a 59996
receipt to the employer certifying that payment has been made, 59997
which receipt is prima-facie evidence of payment. Workers' 59998
compensation coverage under this chapter continues uninterrupted 59999
upon timely receipt of payment under this division. 60000

Every public employer, except public employers that are 60001
self-insuring employers under this section, shall comply with 60002
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 60003
regard to the contribution of moneys to the public insurance 60004
fund. 60005

(B) Employers who will abide by the rules of the 60006
administrator and who may be of sufficient financial ability to 60007
render certain the payment of compensation to injured employees 60008

or the dependents of killed employees, and the furnishing of 60009
medical, surgical, nursing, and hospital attention and services 60010
and medicines, and funeral expenses, equal to or greater than is 60011
provided for in sections 4123.52, 4123.55 to 4123.62, and 60012
4123.64 to 4123.67 of the Revised Code, and who do not desire to 60013
insure the payment thereof or indemnify themselves against loss 60014
sustained by the direct payment thereof, upon a finding of such 60015
facts by the administrator, may be granted the privilege to pay 60016
individually compensation, and furnish medical, surgical, 60017
nursing, and hospital services and attention and funeral 60018
expenses directly to injured employees or the dependents of 60019
killed employees, thereby being granted status as a self- 60020
insuring employer. The administrator may charge employers who 60021
apply for the status as a self-insuring employer a reasonable 60022
application fee to cover the bureau's costs in connection with 60023
processing and making a determination with respect to an 60024
application. 60025

All employers granted status as self-insuring employers 60026
shall demonstrate sufficient financial and administrative 60027
ability to assure that all obligations under this section are 60028
promptly met. The administrator shall deny the privilege where 60029
the employer is unable to demonstrate the employer's ability to 60030
promptly meet all the obligations imposed on the employer by 60031
this section. 60032

(1) The administrator shall consider, but is not limited 60033
to, the following factors, where applicable, in determining the 60034
employer's ability to meet all of the obligations imposed on the 60035
employer by this section: 60036

(a) The employer has operated in this state for a minimum 60037
of two years, provided that an employer who has purchased, 60038

acquired, or otherwise succeeded to the operation of a business, 60039
or any part thereof, situated in this state that has operated 60040
for at least two years in this state, also shall qualify; 60041

(b) Where the employer previously contributed to the state 60042
insurance fund or is a successor employer as defined by bureau 60043
rules, the amount of the buyout, as defined by bureau rules; 60044

(c) The sufficiency of the employer's assets located in 60045
this state to insure the employer's solvency in paying 60046
compensation directly; 60047

(d) The financial records, documents, and data, certified 60048
by a certified public accountant, necessary to provide the 60049
employer's full financial disclosure. The records, documents, 60050
and data include, but are not limited to, balance sheets and 60051
profit and loss history for the current year and previous four 60052
years. 60053

(e) The employer's organizational plan for the 60054
administration of the workers' compensation law; 60055

(f) The employer's proposed plan to inform employees of 60056
the change from a state fund insurer to a self-insuring 60057
employer, the procedures the employer will follow as a self- 60058
insuring employer, and the employees' rights to compensation and 60059
benefits; and 60060

(g) The employer has either an account in a financial 60061
institution in this state, or if the employer maintains an 60062
account with a financial institution outside this state, ensures 60063
that workers' compensation checks are drawn from the same 60064
account as payroll checks or the employer clearly indicates that 60065
payment will be honored by a financial institution in this 60066
state. 60067

The administrator may waive the requirements of division 60068
(B) (1) (a) of this section and the requirement of division (B) (1) 60069
(d) of this section that the financial records, documents, and 60070
data be certified by a certified public accountant. The 60071
administrator shall adopt rules establishing the criteria that 60072
an employer shall meet in order for the administrator to waive 60073
the requirements of divisions (B) (1) (a) and (d) of this section. 60074
Such rules may require additional security of that employer 60075
pursuant to division (E) of section 4123.351 of the Revised 60076
Code. 60077

The administrator shall not grant the status of self- 60078
insuring employer to the state, except that the administrator 60079
may grant the status of self-insuring employer to a state 60080
institution of higher education, including its hospitals, that 60081
meets the requirements of division (B) (2) of this section. 60082

(2) When considering the application of a public employer, 60083
except for a board of county commissioners described in division 60084
(G) of section 4123.01 of the Revised Code, a board of a county 60085
hospital, or a publicly owned utility, the administrator shall 60086
verify that the public employer satisfies all of the following 60087
requirements as the requirements apply to that public employer: 60088

(a) For the two-year period preceding application under 60089
this section, the public employer has maintained an unvoted debt 60090
capacity equal to at least two times the amount of the current 60091
annual premium established by the administrator under this 60092
chapter for that public employer for the year immediately 60093
preceding the year in which the public employer makes 60094
application under this section. 60095

(b) For each of the two fiscal years preceding application 60096
under this section, the unreserved and undesignated year-end 60097

fund balance in the public employer's general fund is equal to 60098
at least five per cent of the public employer's general fund 60099
revenues for the fiscal year computed in accordance with 60100
generally accepted accounting principles. 60101

(c) For the five-year period preceding application under 60102
this section, the public employer, to the extent applicable, has 60103
complied fully with the continuing disclosure requirements 60104
established in rules adopted by the United States securities and 60105
exchange commission under 17 C.F.R. 240.15c 2-12. 60106

(d) For the five-year period preceding application under 60107
this section, the public employer has not had its local 60108
government fund distribution withheld on account of the public 60109
employer being indebted or otherwise obligated to the state. 60110

(e) For the five-year period preceding application under 60111
this section, the public employer has not been under a fiscal 60112
watch or fiscal emergency pursuant to section 118.023, 118.04, 60113
or 3316.03 of the Revised Code. 60114

(f) For the public employer's fiscal year preceding 60115
application under this section, the public employer has obtained 60116
an annual financial audit as required under section 117.10 of 60117
the Revised Code, which has been released by the auditor of 60118
state within seven months after the end of the public employer's 60119
fiscal year. 60120

(g) On the date of application, the public employer holds 60121
a debt rating of Aa3 or higher according to Moody's investors 60122
service, inc., or a comparable rating by an independent rating 60123
agency similar to Moody's investors service, inc. 60124

(h) The public employer agrees to generate an annual 60125
accumulating book reserve in its financial statements reflecting 60126

an actuarially generated reserve adequate to pay projected 60127
claims under this chapter for the applicable period of time, as 60128
determined by the administrator. 60129

(i) For a public employer that is a hospital, the public 60130
employer shall submit audited financial statements showing the 60131
hospital's overall liquidity characteristics, and the 60132
administrator shall determine, on an individual basis, whether 60133
the public employer satisfies liquidity standards equivalent to 60134
the liquidity standards of other public employers. 60135

~~(j) Any additional criteria that the administrator adopts~~ 60136
~~by rule pursuant to division (E) of this section.~~ 60137

The administrator may adopt rules establishing the 60138
criteria that a public employer shall satisfy in order for the 60139
administrator to waive any of the requirements listed in 60140
divisions (B) (2) (a) to ~~(j)~~(i) of this section. The rules may 60141
require additional security from that employer pursuant to 60142
division (E) of section 4123.351 of the Revised Code. The 60143
administrator shall not waive any of the requirements listed in 60144
divisions (B) (2) (a) to ~~(j)~~(i) of this section for a public 60145
employer who does not satisfy the criteria established in the 60146
rules the administrator adopts. 60147

(C) A board of county commissioners described in division 60148
(G) of section 4123.01 of the Revised Code, as an employer, that 60149
will abide by the rules of the administrator and that may be of 60150
sufficient financial ability to render certain the payment of 60151
compensation to injured employees or the dependents of killed 60152
employees, and the furnishing of medical, surgical, nursing, and 60153
hospital attention and services and medicines, and funeral 60154
expenses, equal to or greater than is provided for in sections 60155
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the 60156

Revised Code, and that does not desire to insure the payment 60157
thereof or indemnify itself against loss sustained by the direct 60158
payment thereof, upon a finding of such facts by the 60159
administrator, may be granted the privilege to pay individually 60160
compensation, and furnish medical, surgical, nursing, and 60161
hospital services and attention and funeral expenses directly to 60162
injured employees or the dependents of killed employees, thereby 60163
being granted status as a self-insuring employer. The 60164
administrator may charge a board of county commissioners 60165
described in division (G) of section 4123.01 of the Revised Code 60166
that applies for the status as a self-insuring employer a 60167
reasonable application fee to cover the bureau's costs in 60168
connection with processing and making a determination with 60169
respect to an application. All employers granted such status 60170
shall demonstrate sufficient financial and administrative 60171
ability to assure that all obligations under this section are 60172
promptly met. The administrator shall deny the privilege where 60173
the employer is unable to demonstrate the employer's ability to 60174
promptly meet all the obligations imposed on the employer by 60175
this section. The administrator shall consider, but is not 60176
limited to, the following factors, where applicable, in 60177
determining the employer's ability to meet all of the 60178
obligations imposed on the board as an employer by this section: 60179

(1) The board has operated in this state for a minimum of 60180
two years; 60181

(2) Where the board previously contributed to the state 60182
insurance fund or is a successor employer as defined by bureau 60183
rules, the amount of the buyout, as defined by bureau rules; 60184

(3) The sufficiency of the board's assets located in this 60185
state to insure the board's solvency in paying compensation 60186

directly; 60187

(4) The financial records, documents, and data, certified 60188
by a certified public accountant, necessary to provide the 60189
board's full financial disclosure. The records, documents, and 60190
data include, but are not limited to, balance sheets and profit 60191
and loss history for the current year and previous four years. 60192

(5) The board's organizational plan for the administration 60193
of the workers' compensation law; 60194

(6) The board's proposed plan to inform employees of the 60195
proposed self-insurance, the procedures the board will follow as 60196
a self-insuring employer, and the employees' rights to 60197
compensation and benefits; 60198

(7) The board has either an account in a financial 60199
institution in this state, or if the board maintains an account 60200
with a financial institution outside this state, ensures that 60201
workers' compensation checks are drawn from the same account as 60202
payroll checks or the board clearly indicates that payment will 60203
be honored by a financial institution in this state; 60204

(8) The board shall provide the administrator a surety 60205
bond in an amount equal to one hundred twenty-five per cent of 60206
the projected losses as determined by the administrator. 60207

(D) The administrator shall require a surety bond from all 60208
self-insuring employers, issued pursuant to section 4123.351 of 60209
the Revised Code, that is sufficient to compel, or secure to 60210
injured employees, or to the dependents of employees killed, the 60211
payment of compensation and expenses, which shall in no event be 60212
less than that paid or furnished out of the state insurance fund 60213
in similar cases to injured employees or to dependents of killed 60214
employees whose employers contribute to the fund, except when an 60215

employee of the employer, who has suffered the loss of a hand, 60216
arm, foot, leg, or eye prior to the injury for which 60217
compensation is to be paid, and thereafter suffers the loss of 60218
any other of the members as the result of any injury sustained 60219
in the course of and arising out of the employee's employment, 60220
the compensation to be paid by the self-insuring employer is 60221
limited to the disability suffered in the subsequent injury, 60222
additional compensation, if any, to be paid by the bureau out of 60223
the surplus created by section 4123.34 of the Revised Code. 60224

(E) In addition to the requirements of this section, the 60225
administrator shall make and publish rules governing the manner 60226
of making application and the nature and extent of the proof 60227
required to justify a finding of fact by the administrator as to 60228
granting the status of a self-insuring employer, which rules 60229
shall be general in their application, one of which rules shall 60230
provide that all self-insuring employers shall pay into the 60231
state insurance fund such amounts as are required to be credited 60232
to the surplus fund in division (B) of section 4123.34 of the 60233
Revised Code. ~~The administrator may adopt rules establishing~~ 60234
~~requirements in addition to the requirements described in~~ 60235
~~division (B) (2) of this section that a public employer shall~~ 60236
~~meet in order to qualify for self-insuring status.~~ 60237

Employers shall secure directly from the bureau central 60238
offices application forms upon which the bureau shall stamp a 60239
designating number. Prior to submission of an application, an 60240
employer shall make available to the bureau, and the bureau 60241
shall review, the information described in division (B) (1) of 60242
this section, and public employers shall make available, and the 60243
bureau shall review, the information necessary to verify whether 60244
the public employer meets the requirements listed in division 60245
(B) (2) of this section. An employer shall file the completed 60246

application forms with an application fee, which shall cover the 60247
costs of processing the application, as established by the 60248
administrator, by rule, with the bureau at least ninety days 60249
prior to the effective date of the employer's new status as a 60250
self-insuring employer. The application form is not deemed 60251
complete until all the required information is attached thereto. 60252
The bureau shall only accept applications that contain the 60253
required information. 60254

(F) The bureau shall review completed applications within 60255
a reasonable time. If the bureau determines to grant an employer 60256
the status as a self-insuring employer, the bureau shall issue a 60257
statement, containing its findings of fact, that is prepared by 60258
the bureau and signed by the administrator. If the bureau 60259
determines not to grant the status as a self-insuring employer, 60260
the bureau shall notify the employer of the determination and 60261
require the employer to continue to pay its full premium into 60262
the state insurance fund. The administrator also shall adopt 60263
rules establishing a minimum level of performance as a criterion 60264
for granting and maintaining the status as a self-insuring 60265
employer and fixing time limits beyond which failure of the 60266
self-insuring employer to provide for the necessary medical 60267
examinations and evaluations may not delay a decision on a 60268
claim. 60269

(G) The administrator shall adopt rules setting forth 60270
procedures for auditing the program of self-insuring employers. 60271
The bureau shall conduct the audit upon a random basis or 60272
whenever the bureau has grounds for believing that a self- 60273
insuring employer is not in full compliance with bureau rules or 60274
this chapter. 60275

The administrator shall monitor the programs conducted by 60276

self-insuring employers, to ensure compliance with bureau 60277
requirements and for that purpose, shall develop and issue to 60278
self-insuring employers standardized forms for use by the self- 60279
insuring employer in all aspects of the self-insuring employers' 60280
direct compensation program and for reporting of information to 60281
the bureau. 60282

The bureau shall receive and transmit to the self-insuring 60283
employer all complaints concerning any self-insuring employer. 60284
In the case of a complaint against a self-insuring employer, the 60285
administrator shall handle the complaint through the self- 60286
insurance division of the bureau. The bureau shall maintain a 60287
file by employer of all complaints received that relate to the 60288
employer. The bureau shall evaluate each complaint and take 60289
appropriate action. 60290

The administrator shall adopt as a rule a prohibition 60291
against any self-insuring employer from harassing, dismissing, 60292
or otherwise disciplining any employee making a complaint, which 60293
rule shall provide for a financial penalty to be levied by the 60294
administrator payable by the offending self-insuring employer. 60295

(H) For the purpose of making determinations as to whether 60296
to grant status as a self-insuring employer, the administrator 60297
may subscribe to and pay for a credit reporting service that 60298
offers financial and other business information about individual 60299
employers. The costs in connection with the bureau's 60300
subscription or individual reports from the service about an 60301
applicant may be included in the application fee charged 60302
employers under this section. 60303

(I) A self-insuring employer that returns to the state 60304
insurance fund as a state fund employer shall provide the 60305
administrator with medical costs and indemnity costs by claim, 60306

and payroll by manual classification and year, and such other 60307
information the administrator may require. The self-insuring 60308
employer shall submit this information by dates and in a format 60309
determined by the administrator. The administrator shall develop 60310
a state fund experience modification factor for a self-insuring 60311
employer that returns to the state insurance fund based in whole 60312
or in part on the employer's self-insured experience and the 60313
information submitted. 60314

(J) On the first day of July of each year, the 60315
administrator shall calculate separately each self-insuring 60316
employer's assessments for the safety and hygiene fund, 60317
administrative costs pursuant to section 4123.342 of the Revised 60318
Code, and for the surplus fund under division (B) of section 60319
4123.34 of the Revised Code, on the basis of the paid 60320
compensation attributable to the individual self-insuring 60321
employer according to the following calculation: 60322

(1) The total assessment against all self-insuring 60323
employers as a class for each fund and for the administrative 60324
costs for the year that the assessment is being made, as 60325
determined by the administrator, divided by the total amount of 60326
paid compensation for the previous calendar year attributable to 60327
all amenable self-insuring employers; 60328

(2) Multiply the quotient in division (J)(1) of this 60329
section by the total amount of paid compensation for the 60330
previous calendar year that is attributable to the individual 60331
self-insuring employer for whom the assessment is being 60332
determined. Each self-insuring employer shall pay the assessment 60333
that results from this calculation, unless the assessment 60334
resulting from this calculation falls below a minimum 60335
assessment, which minimum assessment the administrator shall 60336

determine on the first day of July of each year with the advice 60337
and consent of the bureau of workers' compensation board of 60338
directors, in which event, the self-insuring employer shall pay 60339
the minimum assessment. 60340

In determining the total amount due for the total 60341
assessment against all self-insuring employers as a class for 60342
each fund and the administrative assessment, the administrator 60343
shall reduce proportionately the total for each fund and 60344
assessment by the amount of money in the self-insurance 60345
assessment fund as of the date of the computation of the 60346
assessment. 60347

The administrator shall calculate the assessment for the 60348
portion of the surplus fund under division (B) of section 60349
4123.34 of the Revised Code that is used for reimbursement to a 60350
self-insuring employer under division (H) of section 4123.512 of 60351
the Revised Code in the same manner as set forth in divisions 60352
(J) (1) and (2) of this section except that the administrator 60353
shall calculate the total assessment for this portion of the 60354
surplus fund only on the basis of those self-insuring employers 60355
that retain participation in reimbursement to the self-insuring 60356
employer under division (H) of section 4123.512 of the Revised 60357
Code and the individual self-insuring employer's proportion of 60358
paid compensation shall be calculated only for those self- 60359
insuring employers who retain participation in reimbursement to 60360
the self-insuring employer under division (H) of section 60361
4123.512 of the Revised Code. 60362

An employer who no longer is a self-insuring employer in 60363
this state or who no longer is operating in this state, shall 60364
continue to pay assessments for administrative costs and for the 60365
surplus fund under division (B) of section 4123.34 of the 60366

Revised Code based upon paid compensation attributable to claims 60367
that occurred while the employer was a self-insuring employer 60368
within this state. 60369

(K) There is hereby created in the state treasury the 60370
self-insurance assessment fund. All investment earnings of the 60371
fund shall be deposited in the fund. The administrator shall use 60372
the money in the self-insurance assessment fund only for 60373
administrative costs as specified in section 4123.341 of the 60374
Revised Code. 60375

(L) Every self-insuring employer shall certify, in 60376
affidavit form subject to the penalty for perjury, to the bureau 60377
the amount of the self-insuring employer's paid compensation for 60378
the previous calendar year. In reporting paid compensation paid 60379
for the previous year, a self-insuring employer shall exclude 60380
from the total amount of paid compensation any reimbursement the 60381
self-insuring employer receives in the previous calendar year 60382
from the surplus fund pursuant to section 4123.512 of the 60383
Revised Code for any paid compensation. The self-insuring 60384
employer also shall exclude from the paid compensation reported 60385
any amount recovered under section 4123.931 of the Revised Code 60386
and any amount that is determined not to have been payable to or 60387
on behalf of a claimant in any final administrative or judicial 60388
proceeding. The self-insuring employer shall exclude such 60389
amounts from the paid compensation reported in the reporting 60390
period subsequent to the date the determination is made. The 60391
administrator shall adopt rules, in accordance with Chapter 119. 60392
of the Revised Code, that provide for all of the following: 60393

(1) Establishing the date by which self-insuring employers 60394
must submit such information and the amount of the assessments 60395
provided for in division (J) of this section for employers who 60396

have been granted self-insuring status within the last calendar year; 60397
60398

(2) If an employer fails to pay the assessment when due, 60399
the administrator may add a late fee penalty of not more than 60400
five hundred dollars to the assessment plus an additional 60401
penalty amount as follows: 60402

(a) For an assessment from sixty-one to ninety days past 60403
due, the prime interest rate, multiplied by the assessment due; 60404

(b) For an assessment from ninety-one to one hundred 60405
twenty days past due, the prime interest rate plus two per cent, 60406
multiplied by the assessment due; 60407

(c) For an assessment from one hundred twenty-one to one 60408
hundred fifty days past due, the prime interest rate plus four 60409
per cent, multiplied by the assessment due; 60410

(d) For an assessment from one hundred fifty-one to one 60411
hundred eighty days past due, the prime interest rate plus six 60412
per cent, multiplied by the assessment due; 60413

(e) For an assessment from one hundred eighty-one to two 60414
hundred ten days past due, the prime interest rate plus eight 60415
per cent, multiplied by the assessment due; 60416

(f) For each additional thirty-day period or portion 60417
thereof that an assessment remains past due after it has 60418
remained past due for more than two hundred ten days, the prime 60419
interest rate plus eight per cent, multiplied by the assessment 60420
due. 60421

(3) An employer may appeal a late fee penalty and penalty 60422
assessment to the administrator. 60423

For purposes of division (L) (2) of this section, "prime 60424

interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.

The administrator shall include any assessment and penalties that remain unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section.

(M) As used in this section, "paid compensation" means all amounts paid by a self-insuring employer for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded by the self-insuring employer, and all amounts paid by a self-insuring employer for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code.

(N) Should any section of this chapter or Chapter 4121. of the Revised Code providing for self-insuring employers' assessments based upon compensation paid be declared unconstitutional by a final decision of any court, then that section of the Revised Code declared unconstitutional shall revert back to the section in existence prior to November 3, 1989, providing for assessments based upon payroll.

(O) The administrator may grant a self-insuring employer the privilege to self-insure a construction project entered into by the self-insuring employer that is scheduled for completion within six years after the date the project begins, and the

total cost of which is estimated to exceed one hundred million 60455
dollars or, for employers described in division (R) of this 60456
section, if the construction project is estimated to exceed 60457
twenty-five million dollars. The administrator may waive such 60458
cost and time criteria and grant a self-insuring employer the 60459
privilege to self-insure a construction project regardless of 60460
the time needed to complete the construction project and 60461
provided that the cost of the construction project is estimated 60462
to exceed fifty million dollars. A self-insuring employer who 60463
desires to self-insure a construction project shall submit to 60464
the administrator an application listing the dates the 60465
construction project is scheduled to begin and end, the 60466
estimated cost of the construction project, the contractors and 60467
subcontractors whose employees are to be self-insured by the 60468
self-insuring employer, the provisions of a safety program that 60469
is specifically designed for the construction project, and a 60470
statement as to whether a collective bargaining agreement 60471
governing the rights, duties, and obligations of each of the 60472
parties to the agreement with respect to the construction 60473
project exists between the self-insuring employer and a labor 60474
organization. 60475

A self-insuring employer may apply to self-insure the 60476
employees of either of the following: 60477

(1) All contractors and subcontractors who perform labor 60478
or work or provide materials for the construction project; 60479

(2) All contractors and, at the administrator's 60480
discretion, a substantial number of all the subcontractors who 60481
perform labor or work or provide materials for the construction 60482
project. 60483

Upon approval of the application, the administrator shall 60484

mail a certificate granting the privilege to self-insure the 60485
construction project to the self-insuring employer. The 60486
certificate shall contain the name of the self-insuring employer 60487
and the name, address, and telephone number of the self-insuring 60488
employer's representatives who are responsible for administering 60489
workers' compensation claims for the construction project. The 60490
self-insuring employer shall post the certificate in a 60491
conspicuous place at the site of the construction project. 60492

The administrator shall maintain a record of the 60493
contractors and subcontractors whose employees are covered under 60494
the certificate issued to the self-insured employer. A self- 60495
insuring employer immediately shall notify the administrator 60496
when any contractor or subcontractor is added or eliminated from 60497
inclusion under the certificate. 60498

Upon approval of the application, the self-insuring 60499
employer is responsible for the administration and payment of 60500
all claims under this chapter and Chapter 4121. of the Revised 60501
Code for the employees of the contractor and subcontractors 60502
covered under the certificate who receive injuries or are killed 60503
in the course of and arising out of employment on the 60504
construction project, or who contract an occupational disease in 60505
the course of employment on the construction project. For 60506
purposes of this chapter and Chapter 4121. of the Revised Code, 60507
a claim that is administered and paid in accordance with this 60508
division is considered a claim against the self-insuring 60509
employer listed in the certificate. A contractor or 60510
subcontractor included under the certificate shall report to the 60511
self-insuring employer listed in the certificate, all claims 60512
that arise under this chapter and Chapter 4121. of the Revised 60513
Code in connection with the construction project for which the 60514
certificate is issued. 60515

A self-insuring employer who complies with this division 60516
is entitled to the protections provided under this chapter and 60517
Chapter 4121. of the Revised Code with respect to the employees 60518
of the contractors and subcontractors covered under a 60519
certificate issued under this division for death or injuries 60520
that arise out of, or death, injuries, or occupational diseases 60521
that arise in the course of, those employees' employment on that 60522
construction project, as if the employees were employees of the 60523
self-insuring employer, provided that the self-insuring employer 60524
also complies with this section. No employee of the contractors 60525
and subcontractors covered under a certificate issued under this 60526
division shall be considered the employee of the self-insuring 60527
employer listed in that certificate for any purposes other than 60528
this chapter and Chapter 4121. of the Revised Code. Nothing in 60529
this division gives a self-insuring employer authority to 60530
control the means, manner, or method of employment of the 60531
employees of the contractors and subcontractors covered under a 60532
certificate issued under this division. 60533

The contractors and subcontractors included under a 60534
certificate issued under this division are entitled to the 60535
protections provided under this chapter and Chapter 4121. of the 60536
Revised Code with respect to the contractor's or subcontractor's 60537
employees who are employed on the construction project which is 60538
the subject of the certificate, for death or injuries that arise 60539
out of, or death, injuries, or occupational diseases that arise 60540
in the course of, those employees' employment on that 60541
construction project. 60542

The contractors and subcontractors included under a 60543
certificate issued under this division shall identify in their 60544
payroll records the employees who are considered the employees 60545
of the self-insuring employer listed in that certificate for 60546

purposes of this chapter and Chapter 4121. of the Revised Code, 60547
and the amount that those employees earned for employment on the 60548
construction project that is the subject of that certificate. 60549
Notwithstanding any provision to the contrary under this chapter 60550
and Chapter 4121. of the Revised Code, the administrator shall 60551
exclude the payroll that is reported for employees who are 60552
considered the employees of the self-insuring employer listed in 60553
that certificate, and that the employees earned for employment 60554
on the construction project that is the subject of that 60555
certificate, when determining those contractors' or 60556
subcontractors' premiums or assessments required under this 60557
chapter and Chapter 4121. of the Revised Code. A self-insuring 60558
employer issued a certificate under this division shall include 60559
in the amount of paid compensation it reports pursuant to 60560
division (L) of this section, the amount of paid compensation 60561
the self-insuring employer paid pursuant to this division for 60562
the previous calendar year. 60563

Nothing in this division shall be construed as altering 60564
the rights of employees under this chapter and Chapter 4121. of 60565
the Revised Code as those rights existed prior to September 17, 60566
1996. Nothing in this division shall be construed as altering 60567
the rights devolved under sections 2305.31 and 4123.82 of the 60568
Revised Code as those rights existed prior to September 17, 60569
1996. 60570

As used in this division, "privilege to self-insure a 60571
construction project" means privilege to pay individually 60572
compensation, and to furnish medical, surgical, nursing, and 60573
hospital services and attention and funeral expenses directly to 60574
injured employees or the dependents of killed employees. 60575

(P) A self-insuring employer whose application is granted 60576

under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application.

A self-insuring employer whose application is granted under division (O) of this section shall employ an ombudsperson for the construction project that is the subject of the application. The ombudsperson shall have experience in workers' compensation or the construction industry, or both. The ombudsperson shall perform all of the following duties:

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project;

(2) Investigate the status of a claim upon the request of an employee to do so;

(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.

A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the

privilege to self-insure a construction project as provided 60606
under division (O) of this section: 60607

(1) Whether the self-insuring employer has an 60608
organizational plan for the administration of the workers' 60609
compensation law; 60610

(2) Whether the safety program that is specifically 60611
designed for the construction project provides for the safety of 60612
employees employed on the construction project, is applicable to 60613
all contractors and subcontractors who perform labor or work or 60614
provide materials for the construction project, and has as a 60615
component, a safety training program that complies with 60616
standards adopted pursuant to the "Occupational Safety and 60617
Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and 60618
provides for continuing management and employee involvement; 60619

(3) Whether granting the privilege to self-insure the 60620
construction project will reduce the costs of the construction 60621
project; 60622

(4) Whether the self-insuring employer has employed an 60623
ombudsperson as required under division (P) of this section; 60624

(5) Whether the self-insuring employer has sufficient 60625
surety to secure the payment of claims for which the self- 60626
insuring employer would be responsible pursuant to the granting 60627
of the privilege to self-insure a construction project under 60628
division (O) of this section. 60629

(R) As used in divisions (O), (P), and (Q), "self-insuring 60630
employer" includes the following employers, whether or not they 60631
have been granted the status of being a self-insuring employer 60632
under division (B) of this section: 60633

(1) A state institution of higher education; 60634

(2) A school district;	60635
(3) A county school financing district;	60636
(4) An educational service center;	60637
(5) A community school established under Chapter 3314. of the Revised Code;	60638 60639
(6) A municipal power agency as defined in section 3734.058 of the Revised Code.	60640 60641
(S) As used in this section:	60642
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	60643 60644 60645
(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.	60646 60647 60648 60649 60650 60651 60652 60653
Sec. 4123.351. (A) The administrator of workers' compensation shall require every self-insuring employer, including any self-insuring employer that is indemnified by a captive insurance company granted a certificate of authority under Chapter 3964. of the Revised Code, to pay a contribution, calculated under this section, to the self-insuring employers' guaranty fund established pursuant to this section. The fund shall provide for payment of compensation and benefits to employees of the self-insuring employer in order to cover any	60654 60655 60656 60657 60658 60659 60660 60661 60662

default in payment by that employer. 60663

(B) The bureau of workers' compensation shall operate the 60664
self-insuring employers' guaranty fund for self-insuring 60665
employers. The administrator annually shall establish the 60666
contributions due from self-insuring employers for the fund at 60667
rates as low as possible but such as will assure sufficient 60668
moneys to guarantee the payment of any claims against the fund. 60669
The bureau's operation of the fund is not subject to sections 60670
3929.10 to 3929.18 of the Revised Code or to regulation by the 60671
superintendent of insurance. 60672

(C) If a self-insuring employer defaults, the bureau shall 60673
recover the amounts paid as a result of the default from the 60674
self-insuring employers' guaranty fund. If a self-insuring 60675
employer defaults and is in compliance with this section for the 60676
payment of contributions to the fund, such self-insuring 60677
employer is entitled to the immunity conferred by section 60678
4123.74 of the Revised Code for any claim arising during any 60679
period the employer is in compliance with this section. 60680

(D) (1) There is hereby established a self-insuring 60681
employers' guaranty fund, which shall be in the custody of the 60682
treasurer of state and which shall be separate from the other 60683
funds established and administered pursuant to this chapter. The 60684
fund shall consist of contributions and other payments made by 60685
self-insuring employers under this section. All investment 60686
earnings of the fund shall be credited to the fund. The bureau 60687
shall make disbursements from the fund pursuant to this section. 60688

(2) The administrator has the same powers to invest any of 60689
the surplus or reserve belonging to the fund as are delegated to 60690
the administrator under section 4123.44 of the Revised Code with 60691
respect to the state insurance fund. The administrator shall 60692

apply interest earned solely to the reduction of assessments for 60693
contributions from self-insuring employers and to the payments 60694
required due to defaults. 60695

(3) If the bureau of workers' compensation board of 60696
directors determines that reinsurance of the risks of the fund 60697
is necessary to assure solvency of the fund, the board may: 60698

(a) Enter into contracts for the purchase of reinsurance 60699
coverage of the risks of the fund with any company or agency 60700
authorized by law to issue contracts of reinsurance; 60701

(b) Require the administrator to pay the cost of 60702
reinsurance from the fund; 60703

(c) Include the costs of reinsurance as a liability and 60704
estimated liability of the fund. 60705

(E) The administrator, with the advice and consent of the 60706
board, may adopt ~~rules~~ a rule pursuant to Chapter 119. of the 60707
Revised Code ~~for the implementation of this section, including a~~ 60708
~~rule~~, notwithstanding division (C) of this section, requiring 60709
self-insuring employers to provide security in addition to the 60710
contribution to the self-insuring employers' guaranty fund 60711
required by this section. The additional security required by 60712
the rule, as the administrator determines appropriate, shall be 60713
sufficient and adequate to provide for financial assurance to 60714
meet the obligations of self-insuring employers under this 60715
chapter and Chapter 4121. of the Revised Code. 60716

(F) The purchase of coverage under this section by self- 60717
insuring employers is valid notwithstanding the prohibitions 60718
contained in division (A) of section 4123.82 of the Revised Code 60719
and is in addition to the indemnity contracts that self-insuring 60720
employers may purchase pursuant to division (B) of section 60721

4123.82 of the Revised Code. 60722

(G) The administrator, on behalf of the self-insuring employers' guaranty fund, has the rights of reimbursement and subrogation and shall collect from a defaulting self-insuring employer or other liable person all amounts the administrator has paid or reasonably expects to pay from the fund on account of the defaulting self-insuring employer. 60723
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(H) The assessments for contributions, the administration of the self-insuring employers' guaranty fund, the investment of the money in the fund, and the payment of liabilities incurred by the fund do not create any liability upon the state. 60729
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Except for a gross abuse of discretion, neither the board, nor the individual members thereof, nor the administrator shall incur any obligation or liability respecting the assessments for contributions, the administration of the self-insuring employers' guaranty fund, the investment of the fund, or the payment of liabilities therefrom. 60733
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Sec. 4125.02. The administrator of workers' compensation shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to administer and enforce this chapter, including rules to~~ administer and enforce division (B) of section 4125.03 of the Revised Code. 60739
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The administrator may adopt rules for the acceptance of electronic filings in accordance with Chapter 1306. of the Revised Code for applications, documents, reports, and other filings required by this chapter. 60744
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The administrator may allow an independent assurance organization to act on behalf of a professional employer organization or professional employer organization reporting 60748
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entity in complying with this chapter and any rules adopted 60751
under it. The assurance organization shall be approved by the 60752
administrator before acting on behalf of the professional 60753
employer organization or the professional employer organization 60754
reporting entity and shall abide by all standards and procedures 60755
established by the administrator for that approval. The 60756
administrator may permit a professional employer organization or 60757
professional employer organization reporting entity to authorize 60758
an assurance organization approved by the administrator to act 60759
on behalf of the professional employer organization or 60760
professional employer organization reporting entity, and the 60761
administrator shall specify certain provisions of this chapter 60762
that may be satisfied by an assurance organization acting with 60763
that authority. The rules shall also stipulate that the use of 60764
an assurance organization by a professional employer 60765
organization to comply with this chapter is not required and is 60766
strictly voluntary. 60767

Sec. 4133.02. The administrator of workers' compensation 60768
shall adopt rules in accordance with Chapter 119. of the Revised 60769
Code ~~to administer and enforce this chapter, including rules to~~ 60770
administer and enforce division (E) of section 4133.03 of the 60771
Revised Code. 60772

The administrator may adopt rules for the acceptance of 60773
electronic filings in accordance with Chapter 1306. of the 60774
Revised Code for applications, documents, reports, and other 60775
filings required by this chapter. 60776

Sec. 4141.06. There is hereby created an unemployment 60777
compensation review commission consisting of three full-time 60778
members appointed by the governor, with the advice and consent 60779
of the senate. Terms of office shall be staggered and shall be 60780

for six years, commencing on the twenty-eighth day of February 60781
and ending on the twenty-seventh day of February. Each member 60782
shall hold office from the date of appointment until the end of 60783
the term for which the member was appointed. Any member 60784
appointed to fill a vacancy occurring prior to the expiration of 60785
the term for which the member's predecessor was appointed shall 60786
hold office for the remainder of such term. Any member shall 60787
continue in office subsequent to the expiration date of the 60788
member's term until the member's successor takes office, or 60789
until a period of sixty days has elapsed, whichever occurs 60790
first. The chairperson of the commission and each member shall 60791
be paid a salary fixed pursuant to section 124.14 of the Revised 60792
Code. The governor, at any time, may remove any member for 60793
inefficiency, neglect of duty, malfeasance, misfeasance, or 60794
nonfeasance in office. 60795

Not more than one of the appointees to the commission 60796
shall be a person who, on account of the appointee's previous 60797
vocation, employment, or affiliations, can be classed as a 60798
representative of employers, and not more than one of the 60799
appointees shall be a person who, on account of the appointee's 60800
previous vocation, employment, or affiliations, can be classed 60801
as a representative of employees. Not more than two of the 60802
members of the commission shall belong to the same political 60803
party. No member of the commission shall hold any office of 60804
trust or profit or engage in any occupation or business 60805
interfering or inconsistent with the member's duties as a member 60806
and no member shall serve on any committee of any political 60807
party. The commission shall elect a chairperson and a vice- 60808
chairperson. The vice-chairperson shall exercise the powers of 60809
the chairperson in the chairperson's absence. 60810

No commission member shall participate in the disposition 60811

of any appeal in which the member has an interest in the 60812
controversy. Challenges to the interest of any commission member 60813
may be made by any interested party defined in division (I) of 60814
section 4141.01 of the Revised Code and shall be in writing. All 60815
challenges shall be decided by the chairperson of the advisory 60816
council, who, if the challenge is found to be well taken, shall 60817
advise the governor, who shall appoint a member of the advisory 60818
council representing the same affiliations to act and receive 60819
the same compensation for serving in place of such member. 60820

The commission may appoint a secretary to hold office at 60821
its pleasure. The secretary shall have such powers and shall 60822
perform such duties as the commission prescribes and shall keep 60823
a record of the proceedings of the commission and of its 60824
determinations. The secretary shall receive a salary fixed 60825
pursuant to section 124.14 of the Revised Code. Notwithstanding 60826
division (A)(8) of section 124.11 of the Revised Code, each 60827
member of the commission may appoint a private secretary who 60828
shall be in the classified service of the state and hold office 60829
at the pleasure of such member. 60830

Two members of the commission constitute a quorum and no 60831
action of the commission is valid unless it has the concurrence 60832
of at least two members. A vacancy on the commission does not 60833
impair the right of a quorum to exercise all the rights and 60834
perform all the duties of the commission. 60835

The commission and its hearing officers shall hear appeals 60836
arising from determinations of the director of job and family 60837
services involving claims for compensation and other 60838
unemployment compensation issues. The commission shall ~~adopt,~~ 60839
~~amend, or rescind rules of procedure,~~ and undertake such 60840
investigations, and take such action required for the hearing 60841

and disposition of appeals as it deems necessary and consistent 60842
with this chapter. ~~The rules adopted by the commission shall be~~ 60843
~~effective to the extent that the rules are consistent with this~~ 60844
~~chapter.~~ 60845

The commission, subject to Chapter 124. of the Revised 60846
Code, and with the approval of the governor, shall appoint such 60847
hearing officers as are necessary. The hearing officers shall be 60848
classified by the department of administrative services. Any 60849
promotions or increases in compensation of the hearing officers 60850
may be recommended by the commission subject to classifications 60851
which are made by the department of administrative services. The 60852
members of the commission and hearing officers may conduct 60853
hearings for unemployment compensation appeals coming before the 60854
commission. The members and hearing officers may exercise all 60855
powers provided by section 4141.17 of the Revised Code. 60856

The commission, subject to Chapter 124. of the Revised 60857
Code, may employ such support personnel as are needed to carry 60858
out the duties of the commission. The salaries of such employees 60859
are fixed pursuant to section 124.14 of the Revised Code. The 60860
commission shall further provide itself and its employees with 60861
such offices, equipment, and supplies as are necessary, using 60862
those already provided for the department of job and family 60863
services wherever possible. 60864

The commission shall have access to only the records of 60865
the department of job and family services that are necessary for 60866
the administration of this chapter and needed in the performance 60867
of its official duties. The commission shall have the right to 60868
request of the director necessary information from any work unit 60869
of the department having that information. 60870

The commission shall prepare and submit to the director an 60871

annual budget financing the costs necessary to administer its 60872
duties under this chapter. The fund request shall relate to, but 60873
not be limited to, the United States department of labor's 60874
allocations for the commission's functions. The director shall 60875
approve the commission's request unless funds are insufficient 60876
to finance the request. The director shall notify the commission 60877
of the amount of funds available for its operation, as soon as 60878
possible, but not later than thirty days after receiving the 60879
allocation from the United States department of labor. 60880

In the event that the director determines that sufficient 60881
funds are not available to approve the request as submitted and 60882
a revised budget is not agreed to within thirty days of the 60883
director's notification to the commission, the director of 60884
budget and management shall review and determine the funding 60885
levels for the commission and notify the commission and the 60886
director of the determination by the director of budget and 60887
management. 60888

As used in this section only, "office of trust or profit" 60889
means: 60890

(A) A federal or state elective office or an elected 60891
office of a political subdivision of the state; 60892

(B) A position on a board or commission of the state that 60893
is appointed by the governor; 60894

(C) An office set forth in section 121.03, 121.04, or 60895
121.05 of the Revised Code; 60896

(D) An office of the government of the United States that 60897
is appointed by the president of the United States. 60898

Sec. 4141.13. (A) In addition to all other duties imposed 60899
on the director of job and family services and powers granted by 60900

this chapter, the director may: 60901

(1) Adopt and enforce ~~reasonable rules relative to the~~ 60902
~~exercise of the director's powers and authority, and proper~~ 60903
rules to govern the director's proceedings and to regulate the 60904
mode and manner of all investigations and hearings; 60905

(2) Prescribe the time, place, and manner of making claims 60906
for benefits under such sections, the kind and character of 60907
notices required thereunder, the procedure for investigating, 60908
hearing, and deciding claims, the nature and extent of the 60909
proofs and evidence and the method of furnishing and taking such 60910
proofs and evidence to establish the right to benefits, and the 60911
method and time within which adjudication and awards shall be 60912
made; 60913

(3) Adopt rules with respect to the collection, 60914
maintenance, and disbursement of the unemployment and 60915
administrative funds; 60916

(4) ~~Amend and modify any of the director's rules from time~~ 60917
~~to time in such respects as the director finds necessary or~~ 60918
~~desirable;~~ 60919

~~(5)~~ Authorize a designee to hold or undertake an 60920
investigation, inquiry, or hearing that the director is 60921
authorized to hold or undertake. An order of a designee 60922
authorized pursuant to this section is the order of the 60923
director. 60924

~~(6)~~ (5) Appoint advisors or advisory employment committees, 60925
by local districts or by industries, who shall, without 60926
compensation but with reimbursements for necessary expenses, 60927
assist the director in the execution of the director's duties; 60928

~~(7)~~ (6) Require all employers, including employers not 60929

otherwise subject to this chapter, to furnish to the director 60930
information concerning the amount of wages paid, the number of 60931
employees employed and the regularity of their employment, the 60932
number of employees hired, laid off, and discharged from time to 60933
time and the reasons therefor and the numbers that quit 60934
voluntarily, and other and further information respecting any 60935
other facts required for the proper administration of this 60936
chapter; 60937

~~(8)~~(7) Classify generally industries, businesses, 60938
occupations, and employments, and employers individually, as to 60939
the hazard of unemployment in each business, industry, 60940
occupation, or employment, and as to the particular hazard of 60941
each employer, having special reference to the conditions of 60942
regularity and irregularity of the employment provided by such 60943
employer and of the fluctuations in payrolls of such employer; 60944

~~(9)~~(8) Determine the contribution rates upon employers 60945
subject to this chapter, and provide for the levy and collection 60946
of the contributions from such employers; 60947

~~(10)~~(9) Receive, hear, and decide claims for unemployment 60948
benefits, and provide for the payment of such claims as are 60949
allowed; 60950

~~(11)~~(10) Promote the regularization of employment and the 60951
prevention of unemployment; 60952

~~(12)~~(11) Encourage and assist in the adoption of practical 60953
methods of vocational training, retraining, and vocational 60954
guidance; 60955

~~(13)~~(12) Investigate, recommend, and advise and assist in 60956
the establishment and operation by municipal corporations, 60957
counties, school districts, and the state of prosperity reserves 60958

of public work to be prosecuted in times of business depression 60959
and unemployment; 60960

~~(14)~~(13) Promote the re-employment of unemployed workers 60961
throughout the state in any other way that may be feasible, and 60962
take all appropriate steps within the director's means to reduce 60963
and prevent unemployment; 60964

~~(15)~~(14) Carry on and publish the results of any 60965
investigations and research that the director deems relevant; 60966

~~(16)~~(15) Make such reports to the proper agency of the 60967
United States created by the "Social Security Act" as that 60968
agency requires, and comply with such provisions as the agency 60969
finds necessary to assure the correctness and verification of 60970
such reports; 60971

~~(17)~~(16) Make available upon request to any agency of the 60972
United States charged with the administration of public works or 60973
assistance through public employment the name, address, ordinary 60974
occupation, and employment status of each recipient of 60975
unemployment benefits under this chapter, and a statement of 60976
such recipient's rights to further benefits under this chapter; 60977

~~(18)~~(17) Make such investigations, secure and transmit 60978
such information, make available such services and facilities, 60979
and exercise such of the other powers provided by this section 60980
with respect to the administration of this chapter, as the 60981
director deems necessary or appropriate to facilitate the 60982
administration of the unemployment compensation law or public 60983
employment service laws of this state and of other states and 60984
the United States, and in like manner accept and utilize 60985
information, services, and facilities made available to this 60986
state by the agency charged with the administration of any such 60987

other unemployment compensation or public employment service 60988
laws; 60989

~~(19)~~(18) Enter into or cooperate in arrangements whereby 60990
facilities and services provided under the unemployment 60991
compensation law of Canada may be utilized for the taking of 60992
claims and the payment of benefits under the unemployment 60993
compensation law of this state or under a similar law of Canada; 60994

~~(20)~~(19) Transfer surplus computers and computer equipment 60995
directly to a chartered public school within the state, 60996
notwithstanding sections 125.12 to 125.14 of the Revised Code. 60997
The computers and computer equipment may be repaired or 60998
refurbished prior to the transfer, and the public school may be 60999
charged a service fee not to exceed the direct cost of repair or 61000
refurbishing. 61001

(B) (1) The director shall do all of the following: 61002

(a) Develop a written strategic staffing plan to be 61003
implemented whenever there is a substantial increase or a 61004
substantial decrease in the number of inquiries or claims for 61005
benefits and review the plan in accordance with division (B) (3) 61006
of this section; 61007

(b) Create, in a single place on the web site maintained 61008
by the director, a list of all of the points of contact through 61009
which an applicant for or a recipient of benefits under this 61010
chapter or an employer may submit inquiries related to this 61011
chapter; 61012

(c) Adopt rules creating a uniform process through which 61013
an applicant for or a recipient of benefits under this chapter 61014
or an employer may submit a complaint related to the service the 61015
applicant, recipient, or employer received. 61016

(2) The director shall include all of the following in the plan required under division (B) (1) (a) of this section:

(a) An explanation of how, if at all, the director will utilize employees employed by the director who do not ordinarily perform services related to unemployment compensation;

(b) An explanation of how, if at all, the director will utilize employees employed by other state agencies;

(c) An explanation of how, if at all, the director will utilize employees provided by private entities.

(3) For purposes of division (B) (1) (a) of this section, the director shall develop the initial plan required under that division and, not later than the date that is six months after the first meeting of the unemployment compensation modernization and improvement council, provide it to the council, the president of the senate, the speaker of the house of representatives, and the governor. The director shall review the plan at least once a year. If, after reviewing the plan, the director determines that the plan should be revised, the director shall revise the plan. After each review of the plan required under this division, the director shall provide the most recent version of the plan to the council, the president of the senate, the speaker of the house of representatives, and the governor. The director shall post the most recent version of the plan on a publicly viewable web site maintained by the director.

Sec. 4141.29. Each eligible individual shall receive benefits as compensation for loss of remuneration due to involuntary total or partial unemployment in the amounts and subject to the conditions stipulated in this chapter.

(A) No individual is entitled to a waiting period or

benefits for any week unless the individual: 61046

(1) Has filed a valid application for determination of 61047
benefit rights in accordance with section 4141.28 of the Revised 61048
Code; 61049

(2) Has made a claim for benefits in accordance with 61050
section 4141.28 of the Revised Code; 61051

(3) (a) Has registered for work and thereafter continues to 61052
report to an employment office or other registration place 61053
maintained or designated by the director of job and family 61054
services. Registration shall be made in accordance with the time 61055
limits, frequency, and manner prescribed by the director. 61056

(b) For purposes of division (A) (3) of this section, an 61057
individual has "registered" upon doing any of the following: 61058

(i) Filing an application for benefit rights; 61059

(ii) Making a weekly claim for benefits; 61060

(iii) Reopening an existing claim following a period of 61061
employment or nonreporting. 61062

(c) After an applicant is registered, that registration 61063
continues for a period of three calendar weeks, including the 61064
week during which the applicant registered. However, an 61065
individual is not registered for purposes of division (A) (3) of 61066
this section during any period in which the individual fails to 61067
report, as instructed by the director, or fails to reopen an 61068
existing claim following a period of employment. 61069

(d) The director may, for good cause, extend the period of 61070
registration. 61071

(e) For purposes of this section, "report" means contact 61072

by phone, access electronically, or be present for an in-person 61073
appointment, as designated by the director. 61074

(4) (a) (i) Is able to work and available for suitable work 61075
and, except as provided in division (A) (4) (a) (ii) or (iii) of 61076
this section, is actively seeking suitable work either in a 61077
locality in which the individual has earned wages subject to 61078
this chapter during the individual's base period, or if the 61079
individual leaves that locality, then in a locality where 61080
suitable work normally is performed. 61081

(ii) The director may waive the requirement that a 61082
claimant be actively seeking work when the director finds that 61083
the individual has been laid off and the employer who laid the 61084
individual off has notified the director within ten days after 61085
the layoff, that work is expected to be available for the 61086
individual within a specified number of days not to exceed 61087
forty-five calendar days following the last day the individual 61088
worked. In the event the individual is not recalled within the 61089
specified period, this waiver shall cease to be operative with 61090
respect to that layoff. 61091

(iii) The director may waive the requirement that a 61092
claimant be actively seeking work if the director determines 61093
that the individual has been laid off and the employer who laid 61094
the individual off has notified the director in accordance with 61095
division (C) of section 4141.28 of the Revised Code that the 61096
employer has closed the employer's entire plant or part of the 61097
employer's plant for a purpose other than inventory or vacation 61098
that will cause unemployment for a definite period not exceeding 61099
twenty-six weeks beginning on the date the employer notifies the 61100
director, for the period of the specific shutdown, if all of the 61101
following apply: 61102

(I) The employer and the individuals affected by the
layoff who are claiming benefits under this chapter jointly
request the exemption.

(II) The employer provides that the affected individuals
shall return to work for the employer within twenty-six weeks
after the date the employer notifies the director.

(III) The director determines that the waiver of the
active search for work requirement will promote productivity and
economic stability within the state.

(iv) Division (A) (4) (a) (iii) of this section does not
exempt an individual from meeting the other requirements
specified in division (A) (4) (a) (i) of this section to be able to
work and otherwise fully be available for work. An exemption
granted under division (A) (4) (a) (iii) of this section may be
granted only with respect to a specific plant closing.

(b) (i) The individual shall be instructed as to the
efforts that the individual must make in the search for suitable
work, including that, within six months after October 11, 2013,
the individual shall register with the OhioMeansJobs web site,
except in any of the following circumstances:

(I) The individual is an individual described in division
(A) (4) (b) (iii) of this section;

(II) Where the active search for work requirement has been
waived under division (A) (4) (a) of this section;

(III) Where the active search for work requirement is
considered to be met under division (A) (4) (c), (d), or (e) of
this section.

(ii) An individual who is registered with the

OhioMeansJobs web site shall receive a weekly listing of 61131
available jobs based on information provided by the individual 61132
at the time of registration. For each week that the individual 61133
claims benefits, the individual shall keep a record of the 61134
individual's work search efforts and shall produce that record 61135
in the manner and means prescribed by the director. 61136

(iii) No individual shall be required to register with the 61137
OhioMeansJobs web site if the individual is legally prohibited 61138
from using a computer, has a physical or visual impairment that 61139
makes the individual unable to use a computer, or has a limited 61140
ability to read, write, speak, or understand a language in which 61141
the OhioMeansJobs web site is available. 61142

(iv) As used in division (A) (4) (b) of this section: 61143

(I) "OhioMeansJobs web site" has the same meaning as in 61144
section 6301.01 of the Revised Code. 61145

(II) "Registration" includes the creation, electronic 61146
posting, and maintenance of an active, searchable resume. 61147

(c) An individual who is attending a training course 61148
approved by the director meets the requirement of this division, 61149
if attendance was recommended by the director and the individual 61150
is regularly attending the course and is making satisfactory 61151
progress. An individual also meets the requirements of this 61152
division if the individual is participating and advancing in a 61153
training program, as defined in division (P) of section 5709.61 61154
of the Revised Code, and if an enterprise, defined in division 61155
(B) of section 5709.61 of the Revised Code, is paying all or 61156
part of the cost of the individual's participation in the 61157
training program with the intention of hiring the individual for 61158
employment as a new employee, as defined in division (L) of 61159

section 5709.61 of the Revised Code, for at least ninety days 61160
after the individual's completion of the training program. 61161

(d) An individual who becomes unemployed while attending a 61162
regularly established school and whose base period qualifying 61163
weeks were earned in whole or in part while attending that 61164
school, meets the availability and active search for work 61165
requirements of division (A) (4) (a) of this section if the 61166
individual regularly attends the school during weeks with 61167
respect to which the individual claims unemployment benefits and 61168
makes self available on any shift of hours for suitable 61169
employment with the individual's most recent employer or any 61170
other employer in the individual's base period, or for any other 61171
suitable employment to which the individual is directed, under 61172
this chapter. 61173

(e) An individual who is a member in good standing with a 61174
labor organization that refers individuals to jobs meets the 61175
active search for work requirement specified in division (A) (4) 61176
(a) of this section if the individual provides documentation 61177
that the individual is eligible for a referral or placement upon 61178
request and in a manner prescribed by the director. 61179

(f) Notwithstanding any other provisions of this section, 61180
no otherwise eligible individual shall be denied benefits for 61181
any week because the individual is in training approved under 61182
section 236(a) (1) of the "Trade Act of 1974," 88 Stat. 1978, 19 61183
U.S.C.A. 2296, nor shall that individual be denied benefits by 61184
reason of leaving work to enter such training, provided the work 61185
left is not suitable employment, or because of the application 61186
to any week in training of provisions in this chapter, or any 61187
applicable federal unemployment compensation law, relating to 61188
availability for work, active search for work, or refusal to 61189

accept work. 61190

For the purposes of division (A) (4) (f) of this section, 61191
"suitable employment" means with respect to an individual, work 61192
of a substantially equal or higher skill level than the 61193
individual's past adversely affected employment, as defined for 61194
the purposes of the "Trade Act of 1974," 88 Stat. 1978, 19 61195
U.S.C.A. 2101, and wages for such work at not less than eighty 61196
per cent of the individual's average weekly wage as determined 61197
for the purposes of that federal act. 61198

(5) Is unable to obtain suitable work. 61199

(6) Participates in reemployment services, such as job 61200
search assistance services, if the individual has been 61201
determined to be likely to exhaust benefits under this chapter, 61202
including compensation payable pursuant to 5 U.S.C.A. Chapter 61203
85, other than extended compensation, and needs reemployment 61204
services pursuant to the profiling system established by the 61205
director under division (K) of this section, unless the director 61206
determines that: 61207

(a) The individual has completed such services; or 61208

(b) There is justifiable cause for the claimant's failure 61209
to participate in such services. 61210

Ineligibility for failure to participate in reemployment 61211
services as described in division (A) (6) of this section shall 61212
be for the week or weeks in which the claimant was scheduled and 61213
failed to participate without justifiable cause. 61214

(7) Participates in the reemployment and eligibility 61215
assessment program, or other reemployment services, as required 61216
by the director. As used in division (A) (7) of this section, 61217
"reemployment services" includes job search assistance 61218

activities, skills assessments, and the provision of labor 61219
market statistics or analysis. 61220

(a) For purposes of division (A)(7) of this section, 61221
participation is required unless the director determines that 61222
either of the following circumstances applies to the individual: 61223

(i) The individual has completed similar services. 61224

(ii) Justifiable cause exists for the failure of the 61225
individual to participate in those services. 61226

(b) Within six months after October 11, 2013, 61227
notwithstanding any earlier contact an individual may have had 61228
with a local OhioMeansJobs center, as defined in section 6301.01 61229
of the Revised Code, beginning with the eighth week after the 61230
week during which an individual first files a valid application 61231
for determination of benefit rights in the individual's benefit 61232
year, the individual shall report to a local OhioMeansJobs 61233
center for reemployment services in the manner prescribed by the 61234
director. 61235

(c) An individual whose active search for work requirement 61236
has been waived under division (A)(4)(a) of this section or is 61237
considered to be satisfied under division (A)(4)(c), (d), or (e) 61238
of this section is exempt from the requirements of division (A) 61239
(7) of this section. 61240

(B) An individual suffering total or partial unemployment 61241
is eligible for benefits for unemployment occurring subsequent 61242
to a waiting period of one week and no benefits shall be payable 61243
during this required waiting period. Not more than one week of 61244
waiting period shall be required of any individual in any 61245
benefit year in order to establish the individual's eligibility 61246
for total or partial unemployment benefits. 61247

(C) The waiting period for total or partial unemployment shall commence on the first day of the first week with respect to which the individual first files a claim for benefits at an employment office or other place of registration maintained or designated by the director or on the first day of the first week with respect to which the individual has otherwise filed a claim for benefits in accordance with the rules of the department of job and family services, provided such claim is allowed by the director.

(D) Notwithstanding division (A) of this section, no individual may serve a waiting period or be paid benefits under the following conditions:

(1) For any week with respect to which the director finds that:

(a) The individual's unemployment was due to a labor dispute other than a lockout at any factory, establishment, or other premises located in this or any other state and owned or operated by the employer by which the individual is or was last employed; and for so long as the individual's unemployment is due to such labor dispute. No individual shall be disqualified under this provision if either of the following applies:

(i) The individual's employment was with such employer at any factory, establishment, or premises located in this state, owned or operated by such employer, other than the factory, establishment, or premises at which the labor dispute exists, if it is shown that the individual is not financing, participating in, or directly interested in such labor dispute;

(ii) The individual's employment was with an employer not involved in the labor dispute but whose place of business was

located within the same premises as the employer engaged in the 61277
dispute, unless the individual's employer is a wholly owned 61278
subsidiary of the employer engaged in the dispute, or unless the 61279
individual actively participates in or voluntarily stops work 61280
because of such dispute. If it is established that the claimant 61281
was laid off for an indefinite period and not recalled to work 61282
prior to the dispute, or was separated by the employer prior to 61283
the dispute for reasons other than the labor dispute, or that 61284
the individual obtained a bona fide job with another employer 61285
while the dispute was still in progress, such labor dispute 61286
shall not render the employee ineligible for benefits. 61287

(b) The individual has been given a disciplinary layoff 61288
for misconduct in connection with the individual's work. 61289

(2) For the duration of the individual's unemployment if 61290
the director finds that: 61291

(a) The individual quit work without just cause or has 61292
been discharged for just cause in connection with the 61293
individual's work, provided division (D) (2) of this section does 61294
not apply to the separation of a person under any of the 61295
following circumstances: 61296

(i) Separation from employment for the purpose of entering 61297
the armed forces of the United States if the individual is 61298
inducted into the armed forces within one of the following 61299
periods: 61300

(I) Thirty days after separation; 61301

(II) One hundred eighty days after separation if the 61302
individual's date of induction is delayed solely at the 61303
discretion of the armed forces. 61304

(ii) Separation from employment pursuant to a labor- 61305

management contract or agreement, or pursuant to an established 61306
employer plan, program, or policy, which permits the employee, 61307
because of lack of work, to accept a separation from employment; 61308

(iii) The individual has left employment to accept a 61309
recall from a prior employer or, except as provided in division 61310
(D) (2) (a) (iv) of this section, to accept other employment as 61311
provided under section 4141.291 of the Revised Code, or left or 61312
was separated from employment that was concurrent employment at 61313
the time of the most recent separation or within six weeks prior 61314
to the most recent separation where the remuneration, hours, or 61315
other conditions of such concurrent employment were 61316
substantially less favorable than the individual's most recent 61317
employment and where such employment, if offered as new work, 61318
would be considered not suitable under the provisions of 61319
divisions (E) and (F) of this section. Any benefits that would 61320
otherwise be chargeable to the account of the employer from whom 61321
an individual has left employment or was separated from 61322
employment that was concurrent employment under conditions 61323
described in division (D) (2) (a) (iii) of this section, shall 61324
instead be charged to the mutualized account created by division 61325
(B) of section 4141.25 of the Revised Code, except that any 61326
benefits chargeable to the account of a reimbursing employer 61327
under division (D) (2) (a) (iii) of this section shall be charged 61328
to the account of the reimbursing employer and not to the 61329
mutualized account, except as provided in division (D) (2) of 61330
section 4141.24 of the Revised Code. 61331

(iv) When an individual has been issued a definite layoff 61332
date by the individual's employer and before the layoff date, 61333
the individual quits to accept other employment, the provisions 61334
of division (D) (2) (a) (iii) of this section apply and no 61335
disqualification shall be imposed under division (D) of this 61336

section. However, if the individual fails to meet the employment 61337
and earnings requirements of division (A) (2) of section 4141.291 61338
of the Revised Code, then the individual, pursuant to division 61339
(A) (5) of this section, shall be ineligible for benefits for any 61340
week of unemployment that occurs prior to the layoff date. 61341

(v) The individual's spouse is a member of the armed 61342
forces of the United States who is on active duty or a member of 61343
the commissioned corps of the national oceanic and atmospheric 61344
administration or public health service, the spouse is the 61345
subject of a transfer, the individual left employment to 61346
accompany the individual's spouse to a location from which it is 61347
impractical to commute to the individual's place of employment, 61348
and upon arrival at the new place of residence, the individual 61349
is in all respects able and available for suitable work. For 61350
purposes of division (D) (2) (a) (v) of this section, "active duty" 61351
and "armed forces" have the same meanings as in 10 U.S.C. 101. 61352

(b) The individual has refused without good cause to 61353
accept an offer of suitable work when made by an employer either 61354
in person or to the individual's last known address, or has 61355
refused or failed to investigate a referral to suitable work 61356
when directed to do so by a local employment office of this 61357
state or another state, provided that this division shall not 61358
cause a disqualification for a waiting week or benefits under 61359
the following circumstances: 61360

(i) When work is offered by the individual's employer and 61361
the individual is not required to accept the offer pursuant to 61362
the terms of the labor-management contract or agreement; or 61363

(ii) When the individual is attending a training course 61364
pursuant to division (A) (4) of this section except, in the event 61365
of a refusal to accept an offer of suitable work or a refusal or 61366

failure to investigate a referral, benefits thereafter paid to 61367
such individual shall not be charged to the account of any 61368
employer and, except as provided in division (B) (1) (b) of 61369
section 4141.241 of the Revised Code, shall be charged to the 61370
mutualized account as provided in division (B) of section 61371
4141.25 of the Revised Code. 61372

(c) Such individual quit work to marry or because of 61373
marital, parental, filial, or other domestic obligations. 61374

(d) The individual became unemployed by reason of 61375
commitment to any correctional institution. 61376

(e) The individual became unemployed because of dishonesty 61377
in connection with the individual's most recent or any base 61378
period work. Remuneration earned in such work shall be excluded 61379
from the individual's total base period remuneration and 61380
qualifying weeks that otherwise would be credited to the 61381
individual for such work in the individual's base period shall 61382
not be credited for the purpose of determining the total 61383
benefits to which the individual is eligible and the weekly 61384
benefit amount to be paid under section 4141.30 of the Revised 61385
Code. Such excluded remuneration and noncredited qualifying 61386
weeks shall be excluded from the calculation of the maximum 61387
amount to be charged, under division (D) of section 4141.24 and 61388
section 4141.33 of the Revised Code, against the accounts of the 61389
individual's base period employers. In addition, no benefits 61390
shall thereafter be paid to the individual based upon such 61391
excluded remuneration or noncredited qualifying weeks. 61392

For purposes of division (D) (2) (e) of this section, 61393
"dishonesty" means the commission of substantive theft, fraud, 61394
or deceitful acts. 61395

(3) For purposes of division (D)(2)(a) of this section, an individual shall be considered to have quit work without just cause if all of the following apply:

(a) The individual is provided temporary work assignments by the individual's employer under agreed terms and conditions of employment.

(b) The individual is required pursuant to those terms and conditions to inquire with the individual's employer for available work assignments upon the conclusion of each work assignment.

(c) Suitable work assignments are available with the employer, but the individual fails to contact the employer to inquire about work assignments.

(E) No individual otherwise qualified to receive benefits shall lose the right to benefits by reason of a refusal to accept new work if:

(1) As a condition of being so employed the individual would be required to join a company union, or to resign from or refrain from joining any bona fide labor organization, or would be denied the right to retain membership in and observe the lawful rules of any such organization.

(2) The position offered is vacant due directly to a strike, lockout, or other labor dispute.

(3) The work is at an unreasonable distance from the individual's residence, having regard to the character of the work the individual has been accustomed to do, and travel to the place of work involves expenses substantially greater than that required for the individual's former work, unless the expense is provided for.

(4) The remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(F) Subject to the special exceptions contained in division (A) (4) (f) of this section and section 4141.301 of the Revised Code, in determining whether any work is suitable for a claimant in the administration of this chapter, the director, in addition to the determination required under division (E) of this section, shall consider the degree of risk to the claimant's health, safety, and morals, the individual's physical fitness for the work, the individual's prior training and experience, the length of the individual's unemployment, the distance of the available work from the individual's residence, and the individual's prospects for obtaining local work.

(G) The "duration of unemployment" as used in this section means the full period of unemployment next ensuing after a separation from any base period or subsequent work and until an individual has become reemployed in employment subject to this chapter, or the unemployment compensation act of another state, or of the United States, and until such individual has worked six weeks and for those weeks has earned or been paid remuneration equal to six times an average weekly wage of not less than: eighty-five dollars and ten cents per week beginning on June 26, 1990; and beginning on and after January 1, 1992, twenty-seven and one-half per cent of the statewide average weekly wage as computed each first day of January under division (B) (3) of section 4141.30 of the Revised Code, rounded down to the nearest dollar, except for purposes of division (D) (2) (c) of this section, such term means the full period of unemployment next ensuing after a separation from such work and until such individual has become reemployed subject to the terms set forth

above, and has earned wages equal to one-half of the 61456
individual's average weekly wage or sixty dollars, whichever is 61457
less. 61458

(H) If a claimant is disqualified under division (D) (2) 61459
(a), (c), or (d) of this section or found to be qualified under 61460
the exceptions provided in division (D) (2) (a) (i), (iii), (iv), 61461
or (v) of this section or division (A) (2) of section 4141.291 of 61462
the Revised Code, then benefits that may become payable to such 61463
claimant, which are chargeable to the account of the employer 61464
from whom the individual was separated under such conditions, 61465
shall be charged to the mutualized account provided in section 61466
4141.25 of the Revised Code, provided that no charge shall be 61467
made to the mutualized account for benefits chargeable to a 61468
reimbursing employer, except as provided in division (D) (2) of 61469
section 4141.24 of the Revised Code. In the case of a 61470
reimbursing employer, the director shall refund or credit to the 61471
account of the reimbursing employer any over-paid benefits that 61472
are recovered under division (B) of section 4141.35 of the 61473
Revised Code. Amounts chargeable to other states, the United 61474
States, or Canada that are subject to agreements and 61475
arrangements that are established pursuant to section 4141.43 of 61476
the Revised Code shall be credited or reimbursed according to 61477
the agreements and arrangements to which the chargeable amounts 61478
are subject. 61479

(I) (1) Benefits based on service in employment as provided 61480
in divisions (B) (2) (a) and (b) of section 4141.01 of the Revised 61481
Code shall be payable in the same amount, on the same terms, and 61482
subject to the same conditions as benefits payable on the basis 61483
of other service subject to this chapter; except that after 61484
December 31, 1977: 61485

(a) Benefits based on service in an instructional, 61486
research, or principal administrative capacity in an institution 61487
of higher education, as defined in division (Y) of section 61488
4141.01 of the Revised Code; or for an educational institution 61489
as defined in division (CC) of section 4141.01 of the Revised 61490
Code, shall not be paid to any individual for any week of 61491
unemployment that begins during the period between two 61492
successive academic years or terms, or during a similar period 61493
between two regular but not successive terms or during a period 61494
of paid sabbatical leave provided for in the individual's 61495
contract, if the individual performs such services in the first 61496
of those academic years or terms and has a contract or a 61497
reasonable assurance that the individual will perform services 61498
in any such capacity for any such institution in the second of 61499
those academic years or terms. 61500

(b) Benefits based on service for an educational 61501
institution or an institution of higher education in other than 61502
an instructional, research, or principal administrative 61503
capacity, shall not be paid to any individual for any week of 61504
unemployment which begins during the period between two 61505
successive academic years or terms of the employing educational 61506
institution or institution of higher education, provided the 61507
individual performed those services for the educational 61508
institution or institution of higher education during the first 61509
such academic year or term and, there is a reasonable assurance 61510
that such individual will perform those services for any 61511
educational institution or institution of higher education in 61512
the second of such academic years or terms. 61513

If compensation is denied to any individual for any week 61514
under division (I) (1) (b) of this section and the individual was 61515
not offered an opportunity to perform those services for an 61516

institution of higher education or for an educational 61517
institution for the second of such academic years or terms, the 61518
individual is entitled to a retroactive payment of compensation 61519
for each week for which the individual timely filed a claim for 61520
compensation and for which compensation was denied solely by 61521
reason of division (I)(1)(b) of this section. An application for 61522
retroactive benefits shall be timely filed if received by the 61523
director or the director's deputy within or prior to the end of 61524
the fourth full calendar week after the end of the period for 61525
which benefits were denied because of reasonable assurance of 61526
employment. The provision for the payment of retroactive 61527
benefits under division (I)(1)(b) of this section is applicable 61528
to weeks of unemployment beginning on and after November 18, 61529
1983. The provisions under division (I)(1)(b) of this section 61530
shall be retroactive to September 5, 1982, only if, as a 61531
condition for full tax credit against the tax imposed by the 61532
"Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 61533
3301 to 3311, the United States secretary of labor determines 61534
that retroactivity is required by federal law. 61535

(c) With respect to weeks of unemployment beginning after 61536
December 31, 1977, benefits shall be denied to any individual 61537
for any week which commences during an established and customary 61538
vacation period or holiday recess, if the individual performs 61539
any services described in divisions (I)(1)(a) and (b) of this 61540
section in the period immediately before the vacation period or 61541
holiday recess, and there is a reasonable assurance that the 61542
individual will perform any such services in the period 61543
immediately following the vacation period or holiday recess. 61544

(d) With respect to any services described in division (I) 61545
(1)(a), (b), or (c) of this section, benefits payable on the 61546
basis of services in any such capacity shall be denied as 61547

specified in division (I) (1) (a), (b), or (c) of this section to 61548
any individual who performs such services in an educational 61549
institution or institution of higher education while in the 61550
employ of an educational service agency. For this purpose, the 61551
term "educational service agency" means a governmental agency or 61552
governmental entity that is established and operated exclusively 61553
for the purpose of providing services to one or more educational 61554
institutions or one or more institutions of higher education. 61555

(e) Any individual employed by a county board of 61556
developmental disabilities shall be notified by the thirtieth 61557
day of April each year if the individual is not to be reemployed 61558
the following academic year. 61559

(f) Any individual employed by a school district, other 61560
than a municipal school district as defined in section 3311.71 61561
of the Revised Code, shall be notified by the first day of June 61562
each year if the individual is not to be reemployed the 61563
following academic year. 61564

(2) No disqualification will be imposed, between academic 61565
years or terms or during a vacation period or holiday recess 61566
under this division, unless the director or the director's 61567
deputy has received a statement in writing from the educational 61568
institution or institution of higher education that the claimant 61569
has a contract for, or a reasonable assurance of, reemployment 61570
for the ensuing academic year or term. 61571

(3) If an individual has employment with an educational 61572
institution or an institution of higher education and employment 61573
with a noneducational employer, during the base period of the 61574
individual's benefit year, then the individual may become 61575
eligible for benefits during the between-term, or vacation or 61576
holiday recess, disqualification period, based on employment 61577

performed for the noneducational employer, provided that the 61578
employment is sufficient to qualify the individual for benefit 61579
rights separately from the benefit rights based on school 61580
employment. The weekly benefit amount and maximum benefits 61581
payable during a disqualification period shall be computed based 61582
solely on the nonschool employment. 61583

(J) Benefits shall not be paid on the basis of employment 61584
performed by an alien, unless the alien had been lawfully 61585
admitted to the United States for permanent residence at the 61586
time the services were performed, was lawfully present for 61587
purposes of performing the services, or was otherwise 61588
permanently residing in the United States under color of law at 61589
the time the services were performed, under section 212(d) (5) of 61590
the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 61591
1101: 61592

(1) Any data or information required of individuals 61593
applying for benefits to determine whether benefits are not 61594
payable to them because of their alien status shall be uniformly 61595
required from all applicants for benefits. 61596

(2) In the case of an individual whose application for 61597
benefits would otherwise be approved, no determination that 61598
benefits to the individual are not payable because of the 61599
individual's alien status shall be made except upon a 61600
preponderance of the evidence that the individual had not, in 61601
fact, been lawfully admitted to the United States. 61602

(K) The director shall establish and utilize a system of 61603
profiling all new claimants under this chapter that: 61604

(1) Identifies which claimants will be likely to exhaust 61605
regular compensation and will need job search assistance 61606

services to make a successful transition to new employment; 61607

(2) Refers claimants identified pursuant to division (K) 61608
(1) of this section to reemployment services, such as job search 61609
assistance services, available under any state or federal law; 61610

(3) Collects follow-up information relating to the 61611
services received by such claimants and the employment outcomes 61612
for such claimant's subsequent to receiving such services and 61613
utilizes such information in making identifications pursuant to 61614
division (K) (1) of this section; and 61615

(4) Meets such other requirements as the United States 61616
secretary of labor determines are appropriate. 61617

(L) Except as otherwise provided in division (A) (6) of 61618
this section, ineligibility pursuant to division (A) of this 61619
section shall begin on the first day of the week in which the 61620
claimant becomes ineligible for benefits and shall end on the 61621
last day of the week preceding the week in which the claimant 61622
satisfies the eligibility requirements. 61623

~~(M) The director may adopt rules that the director 61624
considers necessary for the administration of division (A) of 61625
this section. 61626~~

Sec. 4141.43. (A) The director of job and family services 61627
may disclose information as provided in this section in 61628
accordance with federal law governing such disclosure and 61629
sections 4141.162, 4141.21, and 4141.211 of the Revised Code. 61630

(B) The director may make the state's record relating to 61631
the administration of this chapter available to the railroad 61632
retirement board and may furnish the board at the board's 61633
expense such copies thereof as the board deems necessary for its 61634
purposes. 61635

(C) The director may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment compensation law.

(D) The director may enter into arrangements with the appropriate agencies of other states or of the United States or Canada whereby individuals performing services in this and other states for a single employer under circumstances not specifically provided for in division (B) of section 4141.01 of the Revised Code or in similar provisions in the unemployment compensation laws of such other states shall be deemed to be engaged in employment performed entirely within this state or within one of such other states or within Canada, and whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the United States, or both, or of Canada may constitute the basis for the payment of benefits through a single appropriate agency under terms that the director finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the unemployment compensation fund.

(E) The director may enter into agreements with the appropriate agencies of other states or of the United States or Canada:

(1) Whereby services or wages upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the United States or Canada shall be deemed to be employment or wages for employment by employers for the purposes of qualifying claimants for benefits under this chapter, and the director may estimate the number of weeks of employment represented by the wages reported to the director for such claimants by such other

agency, provided such other state agency or agency of the United 61666
States or Canada has agreed to reimburse the unemployment 61667
compensation fund for such portion of benefits paid under this 61668
chapter upon the basis of such services or wages as the director 61669
finds will be fair and reasonable as to all affected interests; 61670

(2) Whereby the director will reimburse other state or 61671
federal or Canadian agencies charged with the administration of 61672
unemployment compensation laws with such reasonable portion of 61673
benefits, paid under the law of such other states or of the 61674
United States or of Canada upon the basis of employment or wages 61675
for employment by employers, as the director finds will be fair 61676
and reasonable as to all affected interests. Reimbursements so 61677
payable shall be deemed to be benefits for the purpose of 61678
section 4141.09 and division (A) of section 4141.30 of the 61679
Revised Code. However, no reimbursement so payable shall be 61680
charged against any employer's account for the purposes of 61681
section 4141.24 of the Revised Code if the employer's account, 61682
under the same or similar circumstances, with respect to 61683
benefits charged under the provisions of this chapter, other 61684
than this section, would not be charged or, if the claimant at 61685
the time the claimant files the combined wage claim cannot 61686
establish benefit rights under this chapter. This noncharging 61687
shall not be applicable to a nonprofit organization that has 61688
elected to make payments in lieu of contributions under section 61689
4141.241 of the Revised Code, except as provided in division (D) 61690
(2) of section 4141.24 of the Revised Code. The director may 61691
make to other state or federal or Canadian agencies and receive 61692
from such other state or federal or Canadian agencies 61693
reimbursements from or to the unemployment compensation fund, in 61694
accordance with arrangements pursuant to this section. 61695

(3) Notwithstanding division (B) (2) (f) of section 4141.01 61696

of the Revised Code, the director may enter into agreements with 61697
other states whereby services performed for a crew leader, as 61698
defined in division (BB) of section 4141.01 of the Revised Code, 61699
may be covered in the state in which the crew leader either: 61700

(a) Has the crew leader's place of business or from which 61701
the crew leader's business is operated or controlled; 61702

(b) Resides if the crew leader has no place of business in 61703
any state. 61704

(F) The director may apply for an advance to the 61705
unemployment compensation fund and do all things necessary or 61706
required to obtain such advance and arrange for the repayment of 61707
such advance in accordance with Title XII of the "Social 61708
Security Act" as amended. 61709

(G) The director may enter into reciprocal agreements or 61710
arrangements with the appropriate agencies of other states in 61711
regard to services on vessels engaged in interstate or foreign 61712
commerce whereby such services for a single employer, wherever 61713
performed, shall be deemed performed within this state or within 61714
such other states. 61715

(H) The director shall participate in any arrangements for 61716
the payment of compensation on the basis of combining an 61717
individual's wages and employment, covered under this chapter, 61718
with the individual's wages and employment covered under the 61719
unemployment compensation laws of other states which are 61720
approved by the United States secretary of labor in consultation 61721
with the state unemployment compensation agencies as reasonably 61722
calculated to assure the prompt and full payment of compensation 61723
in such situations and which include provisions for: 61724

(1) Applying the base period of a single state law to a 61725

claim involving the combining of an individual's wages and 61726
employment covered under two or more state unemployment 61727
compensation laws, and 61728

(2) Avoiding the duplicate use of wages and employment by 61729
reason of such combining. 61730

(I) (1) The director shall cooperate with the United States 61731
department of labor to the fullest extent consistent with this 61732
chapter, and shall take such action, ~~through~~ except the adoption 61733
of ~~appropriate rules, regulations, and administrative methods~~ 61734
~~and standards~~, as may be necessary to secure to this state and 61735
its citizens all advantages available under the provisions of 61736
the "Social Security Act" that relate to unemployment 61737
compensation, the "Federal Unemployment Tax Act," (1970) 84 61738
Stat. 713, 26 U.S.C.A. 3301 to 3311, the "Wagner-Peyser Act," 61739
(1933) 48 Stat. 113, 29 U.S.C.A. 49, the "Federal-State Extended 61740
Unemployment Compensation Act of 1970," 84 Stat. 596, 26 61741
U.S.C.A. 3306, and the "Workforce Innovation and Opportunity 61742
Act," 29 U.S.C.A. 3101 et seq. 61743

(2) Nothing in division (I) (1) of this section requires 61744
the director to participate in, nor precludes the director from 61745
ceasing to participate in, any voluntary, optional, special, or 61746
emergency program offered by the federal government, including 61747
programs offered under any of the federal acts listed in 61748
division (I) (1) of this section, the "Coronavirus Aid, Relief, 61749
and Economic Security Act," 15 U.S.C. 9023, or any other federal 61750
program enacted to address exceptional unemployment conditions. 61751

(J) The director may disclose wage information furnished 61752
to or maintained by the director under Chapter 4141. of the 61753
Revised Code to a consumer reporting agency as defined by the 61754
"Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, 61755

as amended, for the purpose of verifying an individual's income 61756
under a written agreement that requires all of the following: 61757

(1) A written statement of informed consent from the 61758
individual whose information is to be disclosed; 61759

(2) A written statement confirming that the consumer 61760
reporting agency and any other entity to which the information 61761
is disclosed or released will safeguard the information from 61762
illegal or unauthorized disclosure; 61763

(3) A written statement confirming that the consumer 61764
reporting agency will pay to the department all costs associated 61765
with the disclosure. 61766

The director shall prescribe a manner and format in which 61767
this information may be provided. 61768

For purposes of this division, "wage information" means 61769
the name, social security number, quarterly wages paid to, and 61770
weeks worked by an employee, and the name, address, and state 61771
and federal tax identification number of an employer reporting 61772
wages under section 4141.20 of the Revised Code. 61773

(K) The director shall disclose information furnished to 61774
or maintained by the director under this chapter upon request 61775
and on a reimbursable basis as required by section 303 of the 61776
"Social Security Act," 42 U.S.C.A. 503, and section 3304 of the 61777
"Internal Revenue Code," 26 U.S.C.A. 3304. 61778

Sec. 4141.431. (A) Notwithstanding section 4141.20 of the 61779
Revised Code, the director of job and family services shall 61780
attempt to enter into an agreement under section 3510(F) of the 61781
"Internal Revenue Code of 1986" with the secretary of the 61782
treasury to collect, as the agent of this state, the taxes 61783
imposed by this chapter on remuneration paid for domestic 61784

service in a private home of the employer. 61785

(B) Upon the director entering into an agreement under 61786
division (A) of this section, returns with respect to taxes 61787
imposed by this chapter on remuneration paid for domestic 61788
service in a private home of the employer shall be made on a 61789
calendar-year basis. 61790

~~(C) The director shall adopt rules to further implement 61791
the coordination of this chapter and the "Social Security 61792
Domestic Employment Reform Act of 1994," 108 Stat. 4071, 26- 61793
U.S.C.A. 3121. Such rules do not require approval of the 61794
unemployment compensation review commission under section- 61795
4141.14 of the Revised Code. 61796~~

Sec. 4141.50. (A) As used in this section and in sections 61797
4141.51 to 4141.56 of the Revised Code: 61798

(1) "Affected unit" means a department, shift, or other 61799
organizational unit of two or more employees that is designated 61800
by a participating employer in a shared work plan. 61801

(2) "Approved shared work plan" means an employer's shared 61802
work plan, submitted pursuant to section 4141.51 of the Revised 61803
Code, that satisfies all of the requirements for approval under 61804
that section and that the director of job and family services 61805
has approved in writing. 61806

(3) "Intermittent basis" means employment that is not 61807
continuous but may consist of periodic intervals of weekly work 61808
and intervals of no weekly work. 61809

(4) "Normal weekly hours of work" means the normal hours 61810
of work in employment each week for an employee in an affected 61811
unit when that unit is operating on a full-time basis, not to 61812
exceed forty hours and not including any overtime worked. 61813

(5) "Participating employee" means an employee whose normal weekly hours of work are reduced by the reduction percentage under an approved shared work plan.

(6) "Participating employer" means an employer who has an approved shared work plan in effect.

(7) "Reduction percentage" means the percentage by which each participating employee's normal weekly hours of work are reduced under an approved shared work plan.

(8) "Seasonal basis" has the same meaning as "seasonal employment" as defined in division (A) of section 4141.33 of the Revised Code.

(9) "Shared work compensation" means the pro rata share of unemployment compensation benefits payable to a participating employee under an approved shared work plan. "Shared work compensation" does not include unemployment compensation benefits otherwise payable to an eligible claimant who is totally or partially unemployed.

(10) "Temporary basis" means employment where an employee is expected to remain in a position for only a limited period of time or is hired by a temporary agency to fill a gap in the employer's workforce.

(B) There is hereby created the "SharedWork Ohio" program, under which an employer who participates in the program reduces the number of hours worked by the employees of the employer in lieu of layoffs.

~~The director may adopt rules as the director determines necessary to implement any guidance issued by the United States secretary of labor with respect to the SharedWork Ohio program.~~

Sec. 4167.07. (A) ~~The~~ Except as provided in division (B) 61842
of this section, the administrator of workers' compensation, 61843
with the advice and consent of the bureau of workers' 61844
compensation board of directors, ~~shall adopt rules that~~ 61845
~~establish employment risk reduction standards. Except as~~ 61846
~~provided in division (B) of this section, in adopting these~~ 61847
~~rules, the administrator shall do both of the following:~~ 61848

(1) By no later than July 1, 1994, adopt as a rule and an 61849
Ohio employment risk reduction standard every federal 61850
occupational safety and health standard then adopted by the 61851
United States secretary of labor pursuant to the "Occupational 61852
Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, 61853
as amended; 61854

(2) By no later than one hundred twenty days after the 61855
United States secretary of labor adopts, modifies, or revokes 61856
any federal occupational safety and health standard, by rule do 61857
one of the following: 61858

(a) Adopt the federal occupational safety and health 61859
standard as a rule and an Ohio employment risk reduction 61860
standard; 61861

(b) Amend the existing rule and Ohio employment risk 61862
reduction standard to conform to the modification of the federal 61863
occupational safety and health standard; 61864

(c) Rescind the existing rule and Ohio employment risk 61865
reduction standard that corresponds to the federal occupational 61866
safety and health standard the United States secretary of labor 61867
revoked. 61868

(B) The administrator, with the advice and consent of the 61869
bureau of workers' compensation board of directors, may decline 61870

to adopt any federal occupational safety and health standard as 61871
a rule and an Ohio employment risk reduction standard or to 61872
modify or rescind any existing rule and Ohio employment risk 61873
reduction standard to conform to any federal occupational safety 61874
and health standard modified or revoked by the United States 61875
secretary of labor or may adopt as a rule and an Ohio employment 61876
risk reduction standard any occupational safety and health 61877
standard that is not covered under the federal law or that 61878
differs from one adopted or modified by the United States 61879
secretary of labor, if the administrator determines that 61880
existing rules and Ohio employment risk reduction standards 61881
provide protection at least as effective as that which would be 61882
provided by the existing, new, or modified federal occupational 61883
safety and health standard or if the administrator determines 61884
that local conditions warrant a different standard from that of 61885
the existing federal occupational safety and health standard or 61886
from standards the United States secretary of labor adopts, 61887
modifies, or revokes. 61888

(C) In adopting, modifying, or rescinding any rule or Ohio 61889
employment risk reduction standard dealing with toxic materials 61890
or harmful physical agents, the administrator, with the advice 61891
and consent of the bureau of workers' compensation board of 61892
directors, shall do all of the following: 61893

(1) Set the employment risk reduction standard to most 61894
adequately assure, to the extent technologically feasible and on 61895
the basis of the best available evidence, that no public 61896
employee will suffer material impairment of health or functional 61897
capacity as a result of the hazards dealt with by the rule or 61898
Ohio employment risk reduction standard for the period of the 61899
public employee's working life; 61900

(2) Base the development of these rules and Ohio employment risk reduction standards on research, demonstrations, experiments, and other information as is appropriate and upon the technological feasibility of the rule and standard, using the latest available scientific data in the field and the experience gained in the workplace under this chapter and other health and safety laws, to establish the highest degree of safety and health for the public employee;

(3) Whenever practicable, express the rule and Ohio employment risk reduction standard in terms of objective criteria and of the performance desired;

(4) Prescribe the use of labels or other appropriate forms of warning as are necessary to ensure that public employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure where appropriate;

(5) Prescribe suitable protective equipment and control procedures to be used in connection with the hazards;

(6) Provide for measuring or monitoring public employee exposure in a manner necessary for the protection of the public employees;

(7) Where appropriate, prescribe the type and frequency of medical examinations or other tests the public employer shall make available, at the cost of the public employer, to the public employees exposed to the hazards in order to determine any adverse effect from the exposure.

(D) In determining the priority for adopting rules and Ohio employment risk reduction standards under this section, the

administrator shall give due regard to the urgency of need and 61930
recommendations of the department of health regarding that need 61931
for mandatory employment risk reduction standards for particular 61932
trades, crafts, occupations, services, and workplaces. 61933

(E) (1) Except for rules adopted under division (A) of this 61934
section, the administrator, with the advice and consent of the 61935
bureau of workers' compensation board of directors, shall adopt 61936
all rules under this section in accordance with Chapter 119. of 61937
the Revised Code, provided that notwithstanding that chapter, 61938
the administrator may delay the effective date of any rule or 61939
Ohio employment risk reduction standard for the period the 61940
administrator determines necessary to ensure that affected 61941
public employers and public employees will be informed of the 61942
adoption, modification, or rescission of the rule and Ohio 61943
employment risk reduction standard and have the opportunity to 61944
familiarize themselves with the specific requirements of the 61945
rule and standard. In no case, however, shall the administrator 61946
delay the effective date of a rule adopted pursuant to Chapter 61947
119. of the Revised Code in excess of ninety days beyond the 61948
otherwise required effective date. 61949

(2) In regard to the rules for which the administrator 61950
does not have to comply with Chapter 119. of the Revised Code, 61951
the administrator shall file two certified copies of the rules 61952
and Ohio employment risk reduction standards adopted with the 61953
secretary of state and the director of the legislative service 61954
commission. 61955

Sec. 4167.08. (A) In the event of an emergency or unusual 61956
situation, the administrator of workers' compensation shall 61957
issue an emergency temporary Ohio employment risk reduction 61958
standard to take immediate effect upon publication in newspapers 61959

of general circulation in Cleveland, Columbus, Cincinnati, and Toledo if the administrator finds both of the following:

(1) Public employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards;

(2) The emergency temporary Ohio employment risk reduction standard is necessary to protect employees from the danger.

(B) (1) Except as provided in division (B) (2) of this section an emergency temporary Ohio employment risk reduction standard issued by the administrator under division (A) of this section shall be in effect no longer than fifteen days, unless the bureau of workers' compensation board of directors approves the emergency temporary Ohio employment risk reduction standard as issued by the administrator, in which case, the emergency temporary Ohio employment risk reduction standard shall be in effect no longer than one hundred twenty days after the date the administrator issues it.

(2) The administrator may renew an emergency temporary Ohio employment risk reduction standard that has been approved by the board for an additional time period not to exceed one hundred days if the administrator finds that the conditions identified in divisions (A) (1) and (2) of this section continue to exist.

On or before the expiration date of the emergency temporary Ohio employment risk reduction standard or renewal thereof, if the conditions identified in divisions (A) (1) and (2) of this section continue to exist, the administrator, with the advice and consent of the board, shall adopt in accordance with Chapter 119. of the Revised Code a permanent Ohio

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employment risk reduction standard ~~pursuant to section 4167.07~~ 61989
~~of the Revised Code~~ as a rule to replace the emergency temporary 61990
Ohio employment risk reduction standard. 61991

Sec. 4167.11. (A) In order to further the purposes of this 61992
chapter, the administrator of workers' compensation shall 61993
develop and maintain, for public employers and public employees, 61994
an effective program of collection, compilation, and analysis of 61995
employment risk reduction statistics. 61996

(B) To implement and maintain division (A) of this 61997
section, the administrator, with the advice and consent of the 61998
bureau of workers' compensation board of directors, shall adopt 61999
rules in accordance with Chapter 119. of the Revised Code that 62000
~~extend to do~~ all of the following: 62001

(1) ~~Requiring~~ Require each public employer to make, keep, 62002
and preserve, and make available to the administrator, reports 62003
and records regarding the public employer's activities, as 62004
determined by the rule that are necessary or appropriate ~~for the~~ 62005
~~enforcement of this chapter or~~ for developing information 62006
regarding the causes and prevention of occupational accidents 62007
and illnesses. The rule shall prescribe which of these reports 62008
and records shall or may be furnished to public employees and 62009
public employee representatives. 62010

(2) ~~Requiring~~ Require every public employer, through 62011
posting of notices or other appropriate means, to keep their 62012
public employees informed of public employees' rights and 62013
obligations under this chapter, including the provisions of 62014
applicable Ohio employment risk reduction standards. The rule 62015
shall allow any required notice to be posted on the internet in 62016
a manner that is accessible to the public employer's employees. 62017

(3) ~~Requiring~~ Require public employers to maintain 62018
accurate records of public employee exposure to potentially 62019
toxic materials, carcinogenic materials, and harmful physical 62020
agents that are required to be monitored or measured under rules 62021
adopted under the guidelines of division (C) of section 4167.07 62022
of the Revised Code. The rule shall provide public employees or 62023
public employee representatives an opportunity to observe the 62024
monitoring or measuring, and to have access on request to the 62025
records thereof, and may provide public employees or public 62026
employee representatives an opportunity to participate in and to 62027
undertake their own monitoring or measuring. The rules also 62028
shall permit each current or former public employee to have 62029
access to the records that indicate their own exposure to toxic 62030
materials, carcinogenic materials, or harmful agents. 62031

(C) The administrator shall obtain any information under 62032
division (B) of this section with a minimum burden upon the 62033
public employer and shall, to the maximum extent feasible, 62034
reduce unnecessary duplication of efforts in obtaining the 62035
information. 62036

Sec. 4301.03. The liquor control commission may adopt and 62037
promulgate, repeal, rescind, and amend, in the manner required 62038
by this section, rules, standards, requirements, and orders 62039
~~necessary to carry out this chapter and Chapter 4303. of the~~ 62040
~~Revised Code, but all rules of the board of liquor control that~~ 62041
~~were in effect immediately prior to April 17, 1963, shall remain~~ 62042
~~in full force and effect as rules of the liquor control~~ 62043
~~commission until and unless amended or repealed by the liquor~~ 62044
~~control commission. The rules of the commission may that include~~ 62045
the following: 62046

(A) Rules with reference to applications for and the 62047

issuance of permits for the manufacture, distribution, 62048
transportation, and sale of beer and intoxicating liquor, and 62049
the sale of alcohol; and rules governing the procedure of the 62050
division of liquor control in the suspension, revocation, and 62051
cancellation of those permits; 62052

(B) Rules and orders providing in detail for the conduct 62053
of any retail business authorized under permits issued pursuant 62054
to this chapter and Chapter 4303. of the Revised Code, with a 62055
view to ensuring compliance with those chapters and laws 62056
relative to them, and the maintenance of public decency, 62057
sobriety, and good order in any place licensed under the 62058
permits. No rule or order shall prohibit the operation of video 62059
lottery terminal games at a commercial race track where live 62060
horse racing and simulcasting are conducted in accordance with 62061
Chapter 3769. of the Revised Code or the sale of lottery tickets 62062
issued pursuant to Chapter 3770. of the Revised Code by any 62063
retail business authorized under permits issued pursuant to that 62064
chapter. 62065

No rule or order shall prohibit pari-mutuel wagering on 62066
simulcast horse races at a satellite facility that has been 62067
issued a D liquor permit under Chapter 4303. of the Revised 62068
Code. No rule or order shall prohibit a charitable organization 62069
that holds a D-4 permit from selling or serving beer or 62070
intoxicating liquor under its permit in a portion of its 62071
premises merely because that portion of its premises is used for 62072
the conduct of a bingo game, as described in division (O) of 62073
section 2915.01 of the Revised Code. As used in this division, 62074
"charitable organization" has the same meaning as in division 62075
(H) of section 2915.01 of the Revised Code. No rule or order 62076
pertaining to visibility into the premises of a permit holder 62077
after the legal hours of sale shall be adopted or maintained by 62078

the commission. 62079

(C) Standards, not in conflict with those prescribed by 62080
any law of this state or the United States, to secure the use of 62081
proper ingredients and methods in the manufacture of beer, mixed 62082
beverages, and wine to be sold within this state; 62083

(D) Rules determining the nature, form, and capacity of 62084
all packages and bottles to be used for containing beer or 62085
intoxicating liquor, except for spirituous liquor to be kept or 62086
sold, governing the form of all seals and labels to be used on 62087
those packages and bottles; 62088

(E) Rules requiring the label on every package, bottle, 62089
and container to state all of the following, as applicable: 62090

(1) The ingredients in the contents; 62091

(2) Except for beer, the terms of weight, volume, or proof 62092
spirits; 62093

(3) Except for spirituous liquor, whether the product is 62094
beer, wine, alcohol, or any intoxicating liquor; 62095

(4) Regarding beer that contains more than twelve per cent 62096
of alcohol by volume, the percentage of alcohol by volume and 62097
that the beer is a "high alcohol beer." 62098

(F) Uniform rules governing all advertising with reference 62099
to the sale of beer and intoxicating liquor throughout the state 62100
and advertising upon and in the premises licensed for the sale 62101
of beer or intoxicating liquor; 62102

(G) Rules restricting and placing conditions upon the 62103
transfer of permits; 62104

(H) Rules and orders limiting the number of permits of any 62105

class within the state or within any political subdivision of 62106
the state; and, for that purpose, adopting reasonable 62107
classifications of persons or establishments to which any 62108
authorized class of permits may be issued within any political 62109
subdivision; 62110

(I) Rules and orders with reference to the hours of the 62111
day during which and the persons to whom intoxicating liquor of 62112
any class may be sold, and rules with reference to the manner of 62113
sale; 62114

(J) Rules requiring permit holders buying beer to pay and 62115
permit holders selling beer to collect minimum cash deposits for 62116
kegs, cases, bottles, or other returnable containers of the 62117
beer; requiring the repayment, or credit, of the minimum cash 62118
deposit charges upon the return of the empty containers; and 62119
requiring the posting of such form of indemnity or such other 62120
conditions with respect to the charging, collection, and 62121
repayment of minimum cash deposit charges for returnable 62122
containers of beer as are necessary to ensure the return of the 62123
empty containers or the repayment upon that return of the 62124
minimum cash deposits paid; 62125

(K) Rules establishing the method by which alcohol 62126
products may be imported for sale by wholesale distributors and 62127
the method by which manufacturers and suppliers may sell alcohol 62128
products to wholesale distributors. 62129

Every rule, standard, requirement, or order of the 62130
commission and every repeal, amendment, or rescission of them 62131
shall be posted for public inspection in the principal office of 62132
the commission and the principal office of the division of 62133
liquor control, and a certified copy of them shall be filed in 62134
the office of the secretary of state. An order applying only to 62135

persons named in it shall be served on the persons affected by 62136
personal delivery of a certified copy, or by mailing a certified 62137
copy to each person affected by it or, in the case of a 62138
corporation, to any officer or agent of the corporation upon 62139
whom a service of summons may be served in a civil action. The 62140
posting and filing required by this section constitutes 62141
sufficient notice to all persons affected by such rule or order 62142
which is not required to be served. General rules of the 62143
commission promulgated pursuant to this section shall be 62144
published in the manner the commission determines. 62145

Sec. 4301.102. (A) The superintendent of liquor control 62146
shall collect the tax levied under section 307.697 or 4301.424 62147
of the Revised Code on sales of spirituous liquor sold to liquor 62148
permit holders for resale, and sold at retail by the division of 62149
liquor control, in the county in which the tax is levied, and 62150
shall deposit the tax into the state treasury to the credit of 62151
the liquor control fund created by section 4301.12 of the 62152
Revised Code. The superintendent shall provide for payment of 62153
the full amount of the tax collected to the county in which the 62154
tax is levied as follows: 62155

(1) For each county in which a tax is levied under section 62156
307.697 or 4301.424 of the Revised Code, the superintendent of 62157
liquor control shall, on or before the sixteenth day of each 62158
month: 62159

(a) From the best information available to the 62160
superintendent, determine and certify to the director of budget 62161
and management and to the tax commissioner the full amount of 62162
the tax levied in the county and collected during the first 62163
fifteen days of the preceding month; 62164

(b) On or before the last working day of each month, from 62165

the best information available to the superintendent, determine 62166
and certify to the director of budget and management and to the 62167
tax commissioner the full amount of the tax levied in the county 62168
and collected during the remainder of the preceding month. 62169

(2) Upon receipt of such certification, the director of 62170
budget and management shall transfer from the liquor control 62171
fund to the permissive tax distribution fund created by division 62172
(B) (1) of section 4301.423 of the Revised Code the full amount 62173
certified to the director under division (A) (1) of this section. 62174

(3) Within five working days after receiving the 62175
certification provided for in division (A) (1) of this section, 62176
the tax commissioner shall provide for payment to the county 62177
treasurer of each county that imposes a tax under section 62178
307.697 or 4301.424 of the Revised Code the full amount 62179
certified to be paid to the county. 62180

~~(B) The superintendent of liquor control may adopt any 62181
rules necessary for the administration, collection, and 62182
enforcement of taxes levied under section 307.697 or 4301.424 of 62183
the Revised Code. 62184~~

~~(C) Notwithstanding any other provision of law to the 62185
contrary, no permit holder shall purchase liquor from the 62186
division of liquor control at wholesale from a store that is 62187
located outside of a county in which a tax is levied under 62188
section 307.697 or 4301.424 of the Revised Code if the liquor is 62189
to be resold in the county in which the tax is levied. 62190~~

Sec. 4303.202. (A) The division of liquor control may 62191
issue an F-2 permit to an association or corporation, or to a 62192
recognized subordinate lodge, chapter, or other local unit of an 62193
association or corporation, to sell beer or intoxicating liquor 62194

by the individual drink at an event to be held on premises 62195
located in a political subdivision or part thereof where the 62196
sale of beer or intoxicating liquor, but not spirituous liquor, 62197
on that day is otherwise permitted by law. However, the division 62198
may issue the F-2 permit only if the association, corporation, 62199
or recognized subordinate lodge, chapter, or other local unit of 62200
an association or corporation meets all of the following: 62201

(1) It is organized not for profit; 62202

(2) It is operated for a charitable, cultural, 62203
educational, fraternal, or political purpose; 62204

(3) It is not affiliated with the holder of any class of 62205
liquor permit, other than a D-4 permit. 62206

(B) Sales under an F-2 permit on Sundays are not affected 62207
by whether Sunday sales of beer or intoxicating liquor for 62208
consumption on the premises where sold are allowed to be made by 62209
persons holding another type of permit in the precinct or at the 62210
particular location where the event is to be held, provided that 62211
the F-2 permit is issued for other days of the week in addition 62212
to Sunday. 62213

(C) The premises on which the permit is to be used shall 62214
be clearly defined and sufficiently restricted to allow proper 62215
supervision of the permit use by state and local law enforcement 62216
personnel. An F-2 permit may be issued for the same premises for 62217
which another class of permit is issued. 62218

(D) (1) No F-2 permit shall be effective for more than four 62219
consecutive days, and sales shall be confined to the same hours 62220
permitted to the holder of a D-3 permit. The division shall not 62221
issue more than one F-2 permit in a thirty-day period to the 62222
same association, corporation, or local unit of an association 62223

or corporation. The fee for an F-2 permit is one hundred fifty dollars. 62224
62225

(2) No association, corporation, local unit of an 62226
association or corporation, or D-permit holder who holds an F-2 62227
permit shall sell beer or intoxicating liquor beyond the hours 62228
of sale allowed by the permit. Division (D) (2) of this section 62229
imposes strict liability on the holder of such permit and on any 62230
officer, agent, or employee of such permit holder. 62231

(E) If an applicant wishes the holder of a D permit issued 62232
under sections 4303.13 to 4303.181 of the Revised Code to 62233
conduct the sale of beer and intoxicating liquor at the event, 62234
the applicant may request that the F-2 permit be issued jointly 62235
to the association, corporation, or local unit and the D-permit 62236
holder. If a permit is issued jointly, the association, 62237
corporation, or local unit and the D-permit holder shall both be 62238
held responsible for any conduct that violates laws pertaining 62239
to the sale of alcoholic beverages, including sales by the D- 62240
permit holder; otherwise, the association, corporation, or local 62241
unit shall be held responsible. In addition to the permit fee 62242
paid by the association, corporation, or local unit, the D- 62243
permit holder shall pay a fee of ten dollars. A D-permit holder 62244
may receive an unlimited number of joint F-2 permits. 62245

(F) (1) Any association, corporation, or local unit 62246
applying for an F-2 permit shall file with the application a 62247
statement of the organizational purpose of the association, 62248
corporation, or local unit, the location and purpose of the 62249
event, and a list of its officers. The application form shall 62250
contain a notice that a person who knowingly makes a false 62251
statement on the application or statement is guilty of the crime 62252
of falsification, a misdemeanor of the first degree. In ruling 62253

on an application, the division shall consider, among other things, the past activities of the association, corporation, or local unit and any D-permit holder while operating under other F-2 permits, the location of the event for which the current application is made, and any objections of local residents or law enforcement authorities. If the division approves the application, it shall send copies of the approved application to the proper law enforcement authorities prior to the scheduled event.

(2) Notwithstanding section 1711.09 of the Revised Code, this section applies to any association or corporation or a recognized subordinate lodge, chapter, or other local unit of an association or corporation.

~~(C) Using the procedures of Chapter 119. of the Revised Code, the liquor control commission may adopt such rules as are necessary to administer this section.~~

Sec. 4303.208. (A) (1) The division of liquor control may issue an F-8 permit to a not-for-profit organization that manages, for the benefit of the public and by contract with a political subdivision of this state, publicly owned property to sell beer or intoxicating liquor by the individual drink at specific events conducted on the publicly owned property and appurtenant streets, but only if, and then only at times at which, the sale of beer and intoxicating liquor on the premises is otherwise permitted by law. Additionally, an F-8 permit may be issued only if the publicly owned property is located in a county that has a population of more than seven hundred fifty thousand on and after ~~the effective date of this amendment~~April 30, 2015.

(2) The premises on which an F-8 permit will be used shall

be clearly defined and sufficiently restricted to allow proper supervision of the permit's use by state and local law enforcement officers. Sales under an F-8 permit shall be confined to the same hours permitted to the holder of a D-3 permit.

(3) The fee for an F-8 permit is one thousand seven hundred dollars. An F-8 permit is effective for a period not to exceed nine months as specified in the permit. An F-8 permit is not transferable or renewable. However, the holder of an F-8 permit may apply for a new F-8 permit at any time. An F-8 permit is not effective until any F-8 permit currently held expires. The holder of an F-8 permit shall make sales only at those specific events about which the permit holder has notified in advance the division of liquor control, the department of public safety, and the chief, sheriff, or other principal peace officer of the local law enforcement agencies having jurisdiction over the premises.

(B)~~(1)~~ An application for the issuance of an F-8 permit is subject to the notice and hearing requirements established in division (A) of section 4303.26 of the Revised Code.

~~(2) The liquor control commission shall adopt under Chapter 119. of the Revised Code rules necessary to administer this section.~~

(C) No F-8 permit holder shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of an F-8 permit and on any officer, agent, or employee of that permit holder.

(D) Nothing in this section prohibits the division from issuing an F, F-2, or F-6 permit for a specific event not

conducted by the holder of an F-8 permit provided that the 62313
holder of the F-8 permit certifies to the division that it will 62314
not exercise its permit privileges during that specific event. 62315

Sec. 4303.209. (A) (1) The division of liquor control may 62316
issue an F-9 permit to any of the following: 62317

(a) A nonprofit corporation that operates a park on 62318
property leased from a municipal corporation; 62319

(b) A nonprofit corporation that provides or manages 62320
entertainment programming pursuant to an agreement with a 62321
nonprofit corporation that operates a park on property leased 62322
from a municipal corporation; 62323

(c) A nonprofit corporation that provides or manages 62324
entertainment programming at a municipal park pursuant to an 62325
agreement with the municipal corporation. 62326

An F-9 permit holder may sell beer or intoxicating liquor 62327
by the individual drink at specific events conducted within the 62328
park property and appurtenant streets, but only if, and only at 62329
times at which, the sale of beer and intoxicating liquor on the 62330
premises is otherwise permitted by law. 62331

(2) The division may issue separate F-9 permits under 62332
division (A) (1) (a), (b), or (c) of this section for the same 62333
location to be effective during the same time period. However, 62334
the permit privileges may be exercised by only one of the 62335
holders of an F-9 permit at specific events. The other holder of 62336
an F-9 permit shall certify to the division that it will not 62337
exercise its permit privileges during that specific event. 62338

(3) The premises on which an F-9 permit will be used shall 62339
be clearly defined and sufficiently restricted to allow proper 62340
supervision of the permit's use by state and local law 62341

enforcement officers. Sales under an F-9 permit shall be 62342
confined to the same hours permitted to the holder of a D-3 62343
permit. 62344

(4) The fee for an F-9 permit is one thousand seven 62345
hundred dollars. An F-9 permit is effective for a period not to 62346
exceed nine months as specified in the permit. An F-9 permit is 62347
not transferable or renewable. However, the holder of an F-9 62348
permit may apply for a new F-9 permit at any time. The holder of 62349
an F-9 permit shall make sales only at those specific events 62350
about which the permit holder has notified in advance the 62351
division of liquor control, the department of public safety, and 62352
the chief, sheriff, or other principal peace officer of the 62353
local law enforcement agencies having jurisdiction over the 62354
premises. 62355

(B)~~(1)~~ An application for the issuance of an F-9 permit is 62356
subject to the notice and hearing requirements established in 62357
division (A) of section 4303.26 of the Revised Code. 62358

~~(2) The liquor control commission shall adopt rules under 62359
Chapter 119. of the Revised Code necessary to administer this 62360
section. 62361~~

(C) No F-9 permit holder shall sell beer or intoxicating 62362
liquor beyond the hours of sale allowed by the permit. This 62363
division imposes strict liability on the holder of an F-9 permit 62364
and on any officer, agent, or employee of that permit holder. 62365

(D) Nothing in this section prohibits the division from 62366
issuing an F-2 permit for a specific event not conducted by the 62367
holder of an F-9 permit provided that the holder of the F-9 62368
permit certifies to the division that it will not exercise its 62369
permit privileges during that specific event. 62370

Sec. 4303.234. (A) As used in this section:	62371
(1) "Fulfillment warehouse" means a person that operates a warehouse that is located outside this state and has entered into a written agreement with an S-2 permit holder to fulfill orders of the S-2 permit holder's wine to personal consumers via delivery by an H permit holder.	62372 62373 62374 62375 62376
(2) "Personal consumer" has the same meaning as in section 4303.233 of the Revised Code.	62377 62378
(B) A fulfillment warehouse may send a shipment of wine sold by an S-2 permit holder to a personal consumer via an H permit holder. A fulfillment warehouse shall provide annually in electronic format by electronic means a report to the division not later than March first. The annual report shall include all of the following:	62379 62380 62381 62382 62383 62384
(1) The name and address of the fulfillment warehouse. The fulfillment warehouse shall include the address of each location owned or operated by the fulfillment warehouse that is used to ship wine to personal consumers in this state.	62385 62386 62387 62388
(2) The name and address of each S-2 liquor permit holder with which the fulfillment warehouse has entered into an agreement;	62389 62390 62391
(3) The name and address of each personal consumer that the fulfillment warehouse sends wine to and the quantity of wine purchased by the personal consumer;	62392 62393 62394
(4) The shipping tracking number provided by the H permit holder for each shipment of wine delivered to a personal consumer. The division shall prescribe and provide an electronic form for the report and shall determine the specific electronic means that the fulfillment warehouse must use to submit the	62395 62396 62397 62398 62399

report. 62400

~~(E) The division may adopt rules in accordance with 62401
Chapter 119. of the Revised Code necessary to administer and 62402
enforce this section. 62403~~

Sec. 4303.251. (A) A manufacturer, supplier, broker, or 62404
wholesale distributor of beer or intoxicating liquor, or an 62405
agent, solicitor, or salesperson who is registered under section 62406
4303.25 of the Revised Code and who represents the manufacturer, 62407
supplier, broker, or wholesale distributor of beer or 62408
intoxicating liquor, may conduct consumer product instruction, 62409
or provide sample servings of the manufacturer's, supplier's, 62410
broker's, or wholesale distributor's products, on the premises 62411
of a retail permit holder who is authorized to sell the products 62412
for on-premises consumption, without the manufacturer, supplier, 62413
broker, wholesale distributor, agent, solicitor, or salesperson 62414
having to be issued a retail permit under this chapter. The 62415
person providing a sample serving shall purchase the beer or 62416
intoxicating liquor at the ordinary retail price from the retail 62417
permit holder whose premises are involved. ~~The liquor control- 62418
commission shall adopt rules in accordance with Chapter 119. of- 62419
the Revised Code to implement this section. 62420~~

(B) A manufacturer, supplier, or broker of beer, wine, or 62421
mixed beverages, or an agent, solicitor, or salesperson who is 62422
registered under section 4303.25 of the Revised Code and who 62423
represents the manufacturer, supplier, or broker of beer, wine, 62424
or mixed beverages, may conduct consumer product instruction, or 62425
provide sample servings of the manufacturer's, supplier's, or 62426
broker's products on the premises of a retail permit holder who 62427
holds a D-8 permit and who is authorized to sell the products 62428
for off-premises consumption, without the manufacturer, 62429

supplier, broker, agent, solicitor, or salesperson having to be 62430
issued a retail permit under this chapter. The person providing 62431
a sample serving shall purchase the beer, wine, or mixed 62432
beverages at the ordinary retail price from the D-8 permit 62433
holder and shall limit the amount and frequency of the sample 62434
servings to those authorized pursuant to the D-8 permit. ~~The~~ 62435
~~liquor control commission shall adopt rules in accordance with~~ 62436
~~Chapter 119. of the Revised Code to implement this section.~~ 62437

Division (B) of this section does not apply to a wholesale 62438
distributor. 62439

Sec. 4303.271. (A) Except as provided in divisions (B) and 62440
(D) of this section, the holder of a permit issued under 62441
sections 4303.02 to 4303.232 of the Revised Code, who files an 62442
application for the renewal of the same class of permit for the 62443
same premises, shall be entitled to the renewal of the permit. 62444
The division of liquor control shall renew the permit unless the 62445
division rejects for good cause any renewal application, subject 62446
to the right of the applicant to appeal the rejection to the 62447
liquor control commission. 62448

(B) The legislative authority of the municipal 62449
corporation, the board of township trustees, or the board of 62450
county commissioners of the county in which a permit premises is 62451
located may object to the renewal of a permit issued under 62452
sections 4303.11 to 4303.183 of the Revised Code for any of the 62453
reasons contained in division (A) of section 4303.292 of the 62454
Revised Code. Any objection shall be made no later than thirty 62455
days prior to the expiration of the permit, and the division 62456
shall accept the objection if it is postmarked no later than 62457
thirty days prior to the expiration of the permit. The objection 62458
shall be made by a resolution specifying the reasons for 62459

objecting to the renewal and requesting a hearing, but no 62460
objection shall be based upon noncompliance of the permit 62461
premises with local zoning regulations that prohibit the sale of 62462
beer or intoxicating liquor in an area zoned for commercial or 62463
industrial uses, for a permit premises that would otherwise 62464
qualify for a proper permit issued by the division. The 62465
resolution shall be accompanied by a statement by the chief 62466
legal officer of the political subdivision that, in the chief 62467
legal officer's opinion, the objection is based upon substantial 62468
legal grounds within the meaning and intent of division (A) of 62469
section 4303.292 of the Revised Code. 62470

Upon receipt of a resolution of a legislative authority or 62471
board objecting to the renewal of a permit and a statement from 62472
the chief legal officer, the division shall set a time for the 62473
hearing and send by certified mail to the permit holder, at the 62474
permit holder's usual place of business, a copy of the 62475
resolution and notice of the hearing. The division shall then 62476
hold a hearing in the central office of the division, except 62477
that, upon written request of the legislative authority or 62478
board, the hearing shall be held in the county seat of the 62479
county in which the permit premises is located, to determine 62480
whether the renewal shall be denied for any of the reasons 62481
contained in division (A) of section 4303.292 of the Revised 62482
Code. Only the reasons for refusal contained in division (A) of 62483
section 4303.292 of the Revised Code and specified in the 62484
resolution of objection shall be considered at the hearing. 62485

The permit holder and the objecting legislative authority 62486
or board shall be parties to the proceedings under this section 62487
and shall have the right to be present, to be represented by 62488
counsel, to offer evidence, to require the attendance of 62489
witnesses, and to cross-examine witnesses at the hearing. 62490

(C) An application for renewal of a permit shall be filed 62491
with the division at least fifteen days prior to the expiration 62492
of an existing permit, and the existing permit shall continue in 62493
effect as provided in section 119.06 of the Revised Code until 62494
the application is approved or rejected by the division. Any 62495
holder of a permit, which has expired through failure to be 62496
renewed as provided in this section, shall obtain a renewal of 62497
the permit, upon filing an application for renewal with the 62498
division, at any time within thirty days from the date of the 62499
expired permit. A penalty of ten per cent of the permit fee 62500
shall be paid by the permit holder if the application for 62501
renewal is not filed at least fifteen days prior to the 62502
expiration of the permit. 62503

(D) (1) Annually, the tax commissioner shall examine the 62504
department of taxation's records for the horse-racing, alcoholic 62505
beverage, motor fuel, petroleum activity, sales or use, 62506
cigarette, other tobacco products, employer withholding, 62507
commercial activity, and gross casino revenue tax and gross 62508
receipts taxes levied pursuant to section 5739.101 of the 62509
Revised Code for each holder of a permit issued under sections 62510
4303.02 to 4303.232 of the Revised Code to determine if the 62511
permit holder is delinquent in filing any returns, submitting 62512
any information required by the commissioner, or remitting any 62513
payments with respect to those taxes or any fees, charges, 62514
penalties, or interest related to those taxes. 62515

If any delinquency or liability exists, the commissioner 62516
shall send a notice of that fact to the permit holder in the 62517
manner provided in section 5703.37 of the Revised Code. The 62518
notice shall specify, in as much detail as is possible, the 62519
periods for which returns have not been filed and the nature and 62520
amount of unpaid assessments and other liabilities and shall be 62521

sent on or before the first day of the third month preceding the 62522
month in which the permit expires. The commissioner also shall 62523
notify the division of liquor control of the delinquency or 62524
liability, identifying the permit holder by name and permit 62525
number. 62526

(2) (a) Except as provided in division (D) (4) of this 62527
section, the division of liquor control shall not renew the 62528
permit of any permit holder the tax commissioner has identified 62529
as being delinquent in filing any returns, providing any 62530
information, or remitting any payments with respect to the taxes 62531
listed in division (D) (1) of this section as of the first day of 62532
the sixth month preceding the month in which the permit expires, 62533
or of any permit holder the commissioner has identified as 62534
having been assessed by the department on or before the first 62535
day of the third month preceding the month in which the permit 62536
expires, until the division is notified by the commissioner that 62537
the delinquency, liability, or assessment has been resolved. 62538

(b) (i) Within ninety days after the date on which the 62539
permit expires, any permit holder whose permit is not renewed 62540
under this division may file an appeal with the liquor control 62541
commission. The commission shall notify the tax commissioner 62542
regarding the filing of any such appeal. During the period in 62543
which the appeal is pending, the permit shall not be renewed by 62544
the division. The permit shall be reinstated if the permit 62545
holder and the commissioner or the attorney general demonstrate 62546
to the liquor control commission that the commissioner's 62547
notification of a delinquency or assessment was in error or that 62548
the issue of the delinquency or assessment has been resolved. 62549

(ii) A permit holder who has filed an appeal under 62550
division (D) (2) (b) (i) of this section may file a motion to 62551

withdraw the appeal. The division of liquor control may renew a 62552
permit holder's permit if the permit holder has withdrawn such 62553
an appeal and the division receives written certification from 62554
the tax commissioner that the permit holder's delinquency or 62555
assessment has been resolved. 62556

(3) A permit holder notified of delinquency or liability 62557
under this section may protest the notification to the tax 62558
commissioner on the basis that no return or information is 62559
delinquent and no tax, fee, charge, penalty, or interest is 62560
outstanding. The commissioner shall expeditiously consider any 62561
evidence submitted by the permit holder and, if it is determined 62562
that the notification was in error, immediately shall inform the 62563
division of liquor control that the renewal application may be 62564
granted. The renewal shall not be denied if the delinquency or 62565
unreported liability is the subject of a bona fide dispute as to 62566
the validity of the delinquency or unreported liability and is 62567
the subject of an assessment and of an appeal properly filed by 62568
the permit holder. 62569

(4) If the commissioner concludes that under the 62570
circumstances the permit holder's delinquency or liability has 62571
been conditionally resolved, the commissioner shall allow the 62572
permit to be renewed, conditioned upon the permit holder's 62573
continuing performance in satisfying the delinquency and 62574
liability. The conditional nature of the renewal shall be 62575
specified in the notification given to the division of liquor 62576
control under division (D) (1) of this section. Upon receipt of 62577
notice of the resolution, the division shall issue a conditional 62578
renewal. If the taxpayer defaults on any agreement to pay the 62579
delinquency or liability or fails to keep subsequent tax or fee 62580
payments current, the liquor control commission, upon request 62581
and proof of the default or failure to keep subsequent tax or 62582

fee payments current, shall indefinitely suspend the permit 62583
holder's permit until all taxes or fees and interest due are 62584
paid. 62585

~~(5) The commissioner may adopt rules to assist in 62586
administering the duties imposed by this section. 62587~~

Sec. 4307.04. The tax commissioner shall enforce and 62588
administer sections 4301.42, 4301.421, 4301.422, 4301.423, 62589
4301.424, 4303.33, 4303.331, 4305.01, and 4307.01 to 4307.12 of 62590
the Revised Code. The commissioner may adopt ~~such rules as are~~ 62591
~~necessary to carry out such sections and may adopt~~ different 62592
detail rules applicable to diverse methods and conditions of 62593
sale of bottled beverages in this state. All books, papers, 62594
invoices, and records of any manufacturer, bottler, or wholesale 62595
or retail dealer in this state, whether or not required under 62596
sections 4307.01 to 4307.12 of the Revised Code to be kept by 62597
that person, showing that person's sales receipts and purchases 62598
of bottled beverages, shall at all times, during the usual 62599
business hours of the day, be open for the inspection of the 62600
commissioner. The commissioner may investigate and examine the 62601
stock of bottled beverages in and upon any premises where the 62602
same is placed, stored, or sold. 62603

Sec. 4501.02. (A) There is hereby created in the 62604
department of public safety a bureau of motor vehicles, which 62605
shall be administered by a registrar of motor vehicles. The 62606
registrar shall be appointed by the director of public safety 62607
and shall serve at the director's pleasure. 62608

The registrar shall administer the laws of the state 62609
relative to the registration of and certificates of title for 62610
motor vehicles, and the licensing of motor vehicle dealers, 62611
motor vehicle leasing dealers, distributors, and salespersons, 62612

and of motor vehicle salvage dealers, salvage motor vehicle 62613
auctions, and salvage motor vehicle pools. The registrar also 62614
shall, in accordance with section 4503.61 of the Revised Code, 62615
take those steps necessary to enter this state into membership 62616
in the international registration plan and carry out the 62617
registrar's other duties under that section. The registrar, with 62618
the approval of the director of public safety, may do all of the 62619
following: 62620

(1) Adopt such forms ~~and rules~~ as are necessary to carry 62621
out all laws the registrar is required to administer; 62622

(2) Appoint such number of assistants, deputies, clerks, 62623
stenographers, and other employees as are necessary to carry out 62624
such laws; 62625

(3) Acquire or lease such facilities as are necessary to 62626
carry out the duties of the registrar's office; 62627

(4) Apply for, allocate, disburse, and account for grants 62628
made available under federal law or from other federal, state, 62629
or private sources; 62630

(5) Establish accounts in a bank or depository and deposit 62631
any funds collected by the registrar in those accounts to the 62632
credit of "state of Ohio, bureau of motor vehicles." Within 62633
three days after the deposit of funds in such an account, the 62634
registrar shall draw on that account in favor of the treasurer 62635
of state. The registrar may reserve funds against the draw to 62636
the treasurer of state to the extent reasonably necessary to 62637
ensure that the deposited items are not dishonored. The 62638
registrar may pay any service charge usually collected by the 62639
bank or depository; 62640

(6) Develop rules that establish disqualifying offenses 62641

for licensure as a motor vehicle salvage dealer pursuant to 62642
sections 4738.04, 4738.07, and 4776.10 of the Revised Code. 62643

The registrar shall give a bond for the faithful 62644
performance of the registrar's duties in such amount and with 62645
such security as the director approves. When in the opinion of 62646
the director it is advisable, any deputy or other employee may 62647
be required to give bond in such amount and with such security 62648
as the director approves. In the discretion of the director, the 62649
bonds authorized to be taken on deputies or other employees may 62650
be individual, schedule, or blanket bonds. 62651

The director of public safety may investigate the 62652
activities of the bureau and have access to its records at any 62653
time, and the registrar shall make a report to the director at 62654
any time upon request. 62655

All laws relating to the licensing of motor vehicle 62656
dealers, motor vehicle leasing dealers, distributors, and 62657
salespersons, and of motor vehicle salvage dealers, salvage 62658
motor vehicle auctions, and salvage motor vehicle pools, 62659
designating and granting power to the registrar shall be 62660
liberally construed to the end that the practice or commission 62661
of fraud in the business of selling motor vehicles and of 62662
disposing of salvage motor vehicles may be prohibited and 62663
prevented. 62664

(B) There is hereby created in the department of public 62665
safety a division of emergency medical services, which shall be 62666
administered by an executive director of emergency medical 62667
services appointed under section 4765.03 of the Revised Code. 62668

Sec. 4501.022. (A) The registrar of motor vehicles shall 62669
determine the necessary or appropriate method by which written 62670

notice of an order suspending a motor vehicle driver's or 62671
commercial driver's license or requiring the surrender of a 62672
certificate of registration and registration plates may be 62673
provided to the person holding the license or the certificate of 62674
registration and registration plates. Division (A) of this 62675
section does not apply if the registrar is required to provide 62676
notification by use of a method specified by law. 62677

(B) Pursuant to rules adopted by the registrar in 62678
accordance with Chapter 119. of the Revised Code, the bureau of 62679
motor vehicles shall implement proof of mailing procedures to 62680
provide verification that written notice of an order suspending 62681
a motor vehicle driver's or commercial driver's license or 62682
requiring the surrender of a certificate of registration and 62683
registration plates was sent to the person holding the license 62684
or the certificate of registration and registration plates. 62685

Sec. 4501.271. (A) (1) A peace officer, correctional 62686
employee, or youth services employee may file a written request 62687
with the bureau of motor vehicles to do either or both of the 62688
following: 62689

(a) Prohibit disclosure of the officer's or employee's 62690
residence address as contained in motor vehicle records of the 62691
bureau; 62692

(b) Provide a business address to be displayed on the 62693
officer's or employee's driver's license or certificate of 62694
registration, or both. 62695

(2) The officer or employee shall file the request 62696
described in division (A) (1) of this section on a form provided 62697
by the registrar of motor vehicles and shall provide any 62698
documentary evidence verifying the person's status as a peace 62699

officer, correctional employee, or youth services employee and 62700
the officer's or employee's business address that the registrar 62701
requires pursuant to division (G) of this section. 62702

(B) (1) Except as provided in division (C) of this section, 62703
if a peace officer, correctional employee, or youth services 62704
employee has filed a request under division (A) of this section, 62705
neither the registrar nor an employee or contractor of the 62706
bureau of motor vehicles shall knowingly disclose the residence 62707
address of the officer or employee that the bureau obtained in 62708
connection with a motor vehicle record. 62709

(2) In accordance with section 149.43 of the Revised Code, 62710
the registrar or an employee or contractor of the bureau shall 62711
make available for inspection or copying a motor vehicle record 62712
of a peace officer, correctional employee, or youth services 62713
employee who has filed a request under division (A) of this 62714
section if the record is a public record under that section, but 62715
shall obliterate the residence address of the officer or 62716
employee from the record before making the record available for 62717
inspection or copying. The business address of the officer or 62718
employee may be made available in response to a valid request 62719
under section 149.43 of the Revised Code. 62720

(C) Notwithstanding division (B) (2) of section 4501.27 of 62721
the Revised Code, the registrar or an employee or contractor of 62722
the bureau may disclose the residence address of a peace 62723
officer, correctional employee, or youth services employee who 62724
files a request under division (A) of this section only in 62725
accordance with division (B) (1) of section 4501.27 of the 62726
Revised Code or pursuant to a court order. 62727

(D) If a peace officer, correctional employee, or youth 62728
services employee files a request under division (A) (1) (b) of 62729

this section, the officer shall still provide a residence 62730
address in any application for a driver's license or license 62731
renewal and in any application for a motor vehicle registration 62732
or registration renewal. In accordance with sections 4503.101 62733
and 4507.09 of the Revised Code, an officer or employee shall 62734
notify the registrar of any change in the officer's or 62735
employee's residence within ten days after the change occurs. 62736

(E) A certificate of registration issued to a peace 62737
officer, correctional employee, or youth services employee who 62738
files a request under division (A) (1) (b) of this section shall 62739
display the business address of the officer. Notwithstanding 62740
section 4507.13 of the Revised Code, a driver's license issued 62741
to an officer or employee who files a request under division (A) 62742
(1) (b) of this section shall display the business address of the 62743
officer or employee. 62744

(F) The registrar may utilize the residence address of a 62745
peace officer, correctional employee, or youth services employee 62746
who files a request under division (A) (1) (b) of this section in 62747
carrying out the functions of the bureau of motor vehicles, 62748
including determining the district of registration for any 62749
applicable motor vehicle tax levied under Chapter 4504. of the 62750
Revised Code, determining whether tailpipe emissions inspections 62751
are required, and financial responsibility verification. 62752

(G) The registrar shall adopt rules governing a request 62753
for confidentiality of a peace officer's, correctional 62754
employee's, or youth services employee's residence address or 62755
use of a business address, including the documentary evidence 62756
required to verify the person's status as a peace officer, 62757
correctional employee, or youth services employee, the length of 62758
time that the request will be valid, and procedures for ensuring 62759

that the bureau of motor vehicles receives notice of any change 62760
in a person's status as a peace officer, correctional employee, 62761
or youth services employee, ~~and any other procedures the~~ 62762
~~registrar considers necessary.~~ The rules of the registrar may 62763
require an officer or employee to surrender any certificate of 62764
registration and any driver's license bearing the business 62765
address of the officer or employee and, upon payment of any 62766
applicable fees, to receive a certificate of registration and 62767
license bearing the officer's or employee's residence address, 62768
whenever the officer or employee no longer is associated with 62769
that business address. 62770

(H) As used in this section: 62771

(1) "Motor vehicle record" has the same meaning as in 62772
section 4501.27 of the Revised Code. 62773

(2) "Peace officer" means those persons described in 62774
division (A)(1), (2), (4), (5), (6), (9), (10), (12), (13), or 62775
(15) of section 109.71 of the Revised Code, an officer, agent, 62776
or employee of the state or any of its agencies, 62777
instrumentalities, or political subdivisions, upon whom, by 62778
statute, a duty to conserve the peace or to enforce all or 62779
certain laws is imposed and the authority to arrest violators is 62780
conferred, within the limits of that statutory duty and 62781
authority, an investigator of the bureau of criminal 62782
identification and investigation as defined in section 2903.11 62783
of the Revised Code, the house sergeant at arms appointed under 62784
division (B)(1) of section 101.311 of the Revised Code, any 62785
assistant sergeant at arms appointed under division (C)(1) of 62786
section 101.311 of the Revised Code, the senate sergeant at 62787
arms, and an assistant senate sergeant at arms. "Peace officer" 62788
includes state highway patrol troopers but does not include the 62789

sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

(3) "Correctional employee" and "youth services employee" have the same meanings as in section 149.43 of the Revised Code.

Sec. 4501.81. (A) The bureau of motor vehicles shall establish a database of the next of kin of persons who are issued driver's licenses, commercial driver's licenses, temporary instruction permits, motorcycle operator's licenses and endorsements, and identification cards. Information in the database shall be accessible only to employees of the bureau and to criminal justice agencies and is not a public record for purposes of section 149.43 of the Revised Code.

(B) When an individual submits an application to the registrar of motor vehicles or a deputy registrar for a driver's license, commercial driver's license, temporary instruction permit, motorcycle operator's license or endorsement, or identification card, or renewal of any of them, the individual shall be furnished with a next of kin information form on which the individual may list the name, address, telephone number, and relationship to the individual of at least one contact person whom the individual wishes to be contacted if the individual is involved in a motor vehicle accident or emergency situation and the individual dies or is seriously injured or rendered unconscious and is unable to communicate with the contact person. The contact person may or may not be the next of kin of the applicant, except that if the applicant is under eighteen years of age and is not emancipated, the contact person shall include the parent, guardian, or custodian of the applicant.

The form described in this division shall inform the

individual that, after completing the form, the individual may 62820
return the form to the registrar or any deputy registrar, each 62821
of whom shall accept the form from the individual without 62822
payment of any fee. The form also shall contain the mailing 62823
address of the bureau, to which the individual may mail the 62824
completed form, and also instructions whereby the individual may 62825
furnish the information described in this division to the 62826
registrar through use of the internet. 62827

(C) The bureau, in accordance with Chapter 119. of the 62828
Revised Code, shall adopt rules to ~~implement this section. The~~ 62829
~~rules shall address all~~ both of the following: 62830

(1) The methods whereby a person who has submitted the 62831
name of a contact person for inclusion in the database may make 62832
changes to that entry; 62833

(2) The contents of the next of kin information form; 62834

~~(3) Any other aspect of the database or its operation that 62835
the registrar determines is necessary in order to implement this 62836
section. 62837~~

(D) In the event of a motor vehicle accident or emergency 62838
situation in which a person dies or is seriously injured or 62839
rendered unconscious and is unable to communicate with the 62840
contact person specified in the database, an employee of a 62841
criminal justice agency shall make a good faith effort to notify 62842
the contact person of the situation, but neither the bureau nor 62843
the employee nor the criminal justice agency that employs that 62844
employee incurs any liability if the employee is not able to 62845
make contact with the contact person. 62846

Sec. 4503.03. (A) (1) (a) Except as provided in division (B) 62847
of this section, the registrar of motor vehicles may designate 62848

one or more of the following persons to act as a deputy registrar in each county: 62849
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- (i) The county auditor in any county; 62851
- (ii) The clerk of a court of common pleas in any county; 62852
- (iii) An individual; 62853
- (iv) A nonprofit corporation as defined in division (C) of section 1702.01 of the Revised Code. 62854
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All fees collected and retained by a clerk for conducting deputy registrar services shall be paid into the county treasury to the credit of the certificate of title administration fund created under section 325.33 of the Revised Code. 62856
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(b) As part of the selection process in awarding a deputy registrar contract, the registrar shall consider the customer service performance record of any person previously awarded a deputy registrar contract pursuant to division (A)(1) of this section. 62860
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(2) Deputy registrars shall accept applications for the annual license tax for any vehicle not taxed under section 4503.63 of the Revised Code and shall assign distinctive numbers in the same manner as the registrar. Such deputies shall be located in such locations as the registrar sees fit. Except as provided in division (A)(3) of this section, there shall be at least one deputy registrar in each county. 62865
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(3) The registrar need not appoint a deputy registrar in a county to which all of the following apply: 62872
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- (a) No individual, nonprofit corporation, or, where applicable, clerk of court of common pleas participates in the competitive selection process to be designated as a deputy 62874
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registrar; 62877

(b) Neither the county auditor nor the clerk of court of common pleas agrees to be designated as a deputy registrar; 62878
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(c) No individual or nonprofit corporation agrees to be designated as a deputy registrar; 62880
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(d) No deputy registrar operating an existing deputy registrar agency in another county agrees to be designated as the deputy registrar for that county. 62882
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(4) The registrar may reestablish a deputy registrar in any county without a deputy registrar if any of the following apply: 62885
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(a) The county auditor requests to be designated as a deputy registrar; 62888
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(b) The clerk of court of common pleas requests to be designated as a deputy registrar; 62890
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(c) A deputy registrar operating an existing deputy registrar agency in another county requests to be designated as a deputy registrar for that county; 62892
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(d) A qualified individual or nonprofit corporation requests to be designated as a deputy registrar. In the event that two or more qualified individuals, nonprofit corporations, or a combination thereof, request to be designated as a deputy registrar, the registrar may make the designation through the competitive selection process. 62895
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Deputy registrar contracts are subject to the provisions of division (B) of section 125.081 of the Revised Code. 62901
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(B) (1) The registrar shall not designate any person to act 62903

as a deputy registrar under division (A) (1) of this section if 62904
the person or, where applicable, the person's spouse or a member 62905
of the person's immediate family has made, within the current 62906
calendar year or any one of the previous three calendar years, 62907
one or more contributions totaling in excess of one hundred 62908
dollars to any person or entity included in division (A) (2) of 62909
section 4503.033 of the Revised Code. As used in this division, 62910
"immediate family" has the same meaning as in division (D) of 62911
section 102.01 of the Revised Code, and "entity" includes any 62912
political party and any "continuing association" as defined in 62913
division (C) (4) of section 3517.01 of the Revised Code or 62914
"political action committee" as defined in division (C) (8) of 62915
that section that is primarily associated with that political 62916
party. For purposes of this division, contributions to any 62917
continuing association or any political action committee that is 62918
primarily associated with a political party shall be aggregated 62919
with contributions to that political party. 62920

The contribution limitations contained in this division do 62921
not apply to any county auditor or clerk of a court of common 62922
pleas. A county auditor or clerk of a court of common pleas is 62923
not required to file the disclosure statement or pay the filing 62924
fee required under section 4503.033 of the Revised Code. The 62925
limitations of this division also do not apply to a deputy 62926
registrar who, subsequent to being awarded a deputy registrar 62927
contract, is elected to an office of a political subdivision. 62928

(2) The registrar shall not designate either of the 62929
following to act as a deputy registrar: 62930

(a) Any elected public official other than a county 62931
auditor or, as authorized by division (A) (1) of this section, a 62932
clerk of a court of common pleas, acting in an official 62933

capacity, except that, the registrar shall continue and may 62934
renew a contract with any deputy registrar who, subsequent to 62935
being awarded a deputy registrar contract, is elected to an 62936
office of a political subdivision; 62937

(b) Any person holding a current, valid contract to 62938
conduct motor vehicle inspections under section 3704.14 of the 62939
Revised Code. 62940

(3) As used in division (B) of this section, "political 62941
subdivision" has the same meaning as in section 3501.01 of the 62942
Revised Code. 62943

(C) (1) Except as provided in division (C) (2) of this 62944
section, deputy registrars are independent contractors and 62945
neither they nor their employees are employees of this state, 62946
except that nothing in this section shall affect the status of 62947
county auditors or clerks of courts of common pleas as public 62948
officials, nor the status of their employees as employees of any 62949
of the counties of this state, which are political subdivisions 62950
of this state. Each deputy registrar shall be responsible for 62951
the payment of all unemployment compensation premiums, all 62952
workers' compensation premiums, social security contributions, 62953
and any and all taxes for which the deputy registrar is legally 62954
responsible. Each deputy registrar shall comply with all 62955
applicable federal, state, and local laws requiring the 62956
withholding of income taxes or other taxes from the compensation 62957
of the deputy registrar's employees. Each deputy registrar shall 62958
maintain during the entire term of the deputy registrar's 62959
contract a policy of business liability insurance satisfactory 62960
to the registrar and shall hold the department of public safety, 62961
the director of public safety, the bureau of motor vehicles, and 62962
the registrar harmless upon any and all claims for damages 62963

arising out of the operation of the deputy registrar agency. 62964

(2) For purposes of Chapter 4141. of the Revised Code, 62965
determinations concerning the employment of deputy registrars 62966
and their employees shall be made under Chapter 4141. of the 62967
Revised Code. 62968

(D) (1) With the approval of the director, the registrar 62969
shall adopt rules governing deputy registrars. The rules shall 62970
do all of the following: 62971

(a) Establish requirements governing the terms of the 62972
contract between the registrar and each deputy registrar and the 62973
services to be performed; 62974

(b) Establish requirements governing the amount of bond to 62975
be given as provided in this section; 62976

(c) Establish requirements governing the size and location 62977
of the deputy's office; 62978

(d) Establish requirements governing the leasing of 62979
equipment necessary to conduct the vision screenings required 62980
under section 4507.12 of the Revised Code and training in the 62981
use of the equipment; 62982

(e) Encourage every deputy registrar to inform the public 62983
of the location of the deputy registrar's office and hours of 62984
operation by means of public service announcements; 62985

(f) Allow any deputy registrar to advertise in regard to 62986
the operation of the deputy registrar's office, including 62987
allowing nonprofit corporations operating as a deputy registrar 62988
to advertise that a specified amount of proceeds collected by 62989
the nonprofit corporation are directed to a specified charitable 62990
organization or philanthropic cause; 62991

- (g) Specify the hours the deputy's office is to be open to the public and require as a minimum that one deputy's office in each county be open to the public for at least four hours each weekend, provided that if only one deputy's office is located within the boundary of the county seat, that office is the office that shall be open for the four-hour period each weekend;
- (h) Specify that every deputy registrar, upon request, provide any person with information about the location and office hours of all deputy registrars in the county;
- (i) Allow a deputy registrar contract to be awarded to a nonprofit corporation formed under the laws of this state;
- (j) Establish procedures for a deputy registrar to request the authority to collect reinstatement fees under sections 4507.1612, 4507.45, 4509.101, 4509.81, 4510.10, 4510.22, 4510.72, and 4511.191 of the Revised Code and to transmit the reinstatement fees and two dollars of the service fee collected under those sections. The registrar shall ensure that at least one deputy registrar in each county has the necessary equipment and is able to accept reinstatement fees. The registrar shall deposit the service fees received from a deputy registrar under those sections into the public safety - highway purposes fund created in section 4501.06 of the Revised Code and shall use the money for deputy registrar equipment necessary in connection with accepting reinstatement fees.
- (k) Establish standards for a deputy registrar, when the deputy registrar is not a county auditor or a clerk of a court of common pleas, to sell advertising rights to third party businesses to be placed in the deputy registrar's office;
- (l) Allow any deputy registrar that is not a county

auditor or a clerk of a court of common pleas to operate a vending machine;—

~~(m) Establish such other requirements as the registrar and director consider necessary to provide a high level of service.~~

(2) The rules may allow both of the following:

(a) The registrar to award a contract to a deputy registrar to operate more than one deputy registrar's office if determined by the registrar to be practical;

(b) A nonprofit corporation formed for the purposes of providing automobile-related services to its members or the public and that provides such services from more than one location in this state to operate a deputy registrar office at any location.

(3) As a daily adjustment, the bureau of motor vehicles shall credit to a deputy registrar the amount established under section 4503.038 of the Revised Code for each damaged license plate or validation sticker the deputy registrar replaces as a service to a member of the public.

(4) (a) With the prior approval of the registrar, each deputy registrar may conduct at the location of the deputy registrar's office any business that is consistent with the functions of a deputy registrar and that is not specifically mandated or authorized by this or another chapter of the Revised Code or by implementing rules of the registrar.

(b) In accordance with guidelines the director of public safety shall establish, a deputy registrar may operate or contract for the operation of a vending machine at a deputy registrar location if products of the vending machine are consistent with the functions of a deputy registrar.

(c) A deputy registrar may enter into an agreement with the Ohio turnpike and infrastructure commission pursuant to division (A)(11) of section 5537.04 of the Revised Code for the purpose of allowing the general public to acquire from the deputy registrar the electronic toll collection devices that are used under the multi-jurisdiction electronic toll collection agreement between the Ohio turnpike and infrastructure commission and any other entities or agencies that participate in such an agreement. The approval of the registrar is not necessary if a deputy registrar engages in this activity.

(5) As used in this section and in section 4507.01 of the Revised Code, "nonprofit corporation" has the same meaning as in section 1702.01 of the Revised Code.

(E)(1) Unless otherwise terminated and except for interim contracts lasting not longer than one year, contracts with deputy registrars shall be entered into through a competitive selection process and shall be limited in duration as follows:

(a) For contracts entered into between July 1, 1996 and June 29, 2014, for a period of not less than two years, but not more than three years;

(b) For contracts entered into on or after June 29, 2014, for a period of five years, unless the registrar determines that a shorter contract term is appropriate for a particular deputy registrar.

(2) All contracts with deputy registrars shall expire on the last Saturday of June in the year of their expiration. Prior to the expiration of any deputy registrar contract, the registrar, with the approval of the director, may award a one-year contract extension to any deputy registrar who has provided

exemplary service based upon objective performance evaluations. 63079

(3) (a) The auditor of state may examine the accounts, 63080
reports, systems, and other data of each deputy registrar at 63081
least every two years. The registrar, with the approval of the 63082
director, shall immediately remove a deputy who violates any 63083
provision of the Revised Code related to the duties as a deputy, 63084
any rule adopted by the registrar, or a term of the deputy's 63085
contract with the registrar. The registrar also may remove a 63086
deputy who, in the opinion of the registrar, has engaged in any 63087
conduct that is either unbecoming to one representing this state 63088
or is inconsistent with the efficient operation of the deputy's 63089
office. 63090

(b) If the registrar, with the approval of the director, 63091
determines that there is good cause to believe that a deputy 63092
registrar or a person proposing for a deputy registrar contract 63093
has engaged in any conduct that would require the denial or 63094
termination of the deputy registrar contract, the registrar may 63095
require the production of books, records, and papers as the 63096
registrar determines are necessary, and may take the depositions 63097
of witnesses residing within or outside the state in the same 63098
manner as is prescribed by law for the taking of depositions in 63099
civil actions in the court of common pleas, and for that purpose 63100
the registrar may issue a subpoena for any witness or a subpoena 63101
duces tecum to compel the production of any books, records, or 63102
papers, directed to the sheriff of the county where the witness 63103
resides or is found. Such a subpoena shall be served and 63104
returned in the same manner as a subpoena in a criminal case is 63105
served and returned. The fees of the sheriff shall be the same 63106
as that allowed in the court of common pleas in criminal cases. 63107
Witnesses shall be paid the fees and mileage provided for under 63108
section 119.094 of the Revised Code. The fees and mileage shall 63109

be paid from the fund in the state treasury for the use of the 63110
agency in the same manner as other expenses of the agency are 63111
paid. 63112

In any case of disobedience or neglect of any subpoena 63113
served on any person or the refusal of any witness to testify to 63114
any matter regarding which the witness lawfully may be 63115
interrogated, the court of common pleas of any county where the 63116
disobedience, neglect, or refusal occurs or any judge of that 63117
court, on application by the registrar, shall compel obedience 63118
by attachment proceedings for contempt, as in the case of 63119
disobedience of the requirements of a subpoena issued from that 63120
court, or a refusal to testify in that court. 63121

(4) Nothing in division (E) of this section shall be 63122
construed to require a hearing of any nature prior to the 63123
termination of any deputy registrar contract by the registrar, 63124
with the approval of the director, for cause. 63125

(F) Except as provided in section 2743.03 of the Revised 63126
Code, no court, other than the court of common pleas of Franklin 63127
county, has jurisdiction of any action against the department of 63128
public safety, the director, the bureau, or the registrar to 63129
restrain the exercise of any power or authority, or to entertain 63130
any action for declaratory judgment, in the selection and 63131
appointment of, or contracting with, deputy registrars. Neither 63132
the department, the director, the bureau, nor the registrar is 63133
liable in any action at law for damages sustained by any person 63134
because of any acts of the department, the director, the bureau, 63135
or the registrar, or of any employee of the department or 63136
bureau, in the performance of official duties in the selection 63137
and appointment of, and contracting with, deputy registrars. 63138

(G) The registrar shall assign to each deputy registrar a 63139

series of numbers sufficient to supply the demand at all times 63140
in the area the deputy registrar serves, and the registrar shall 63141
keep a record in the registrar's office of the numbers within 63142
the series assigned. Except as otherwise provided in section 63143
3.061 of the Revised Code, each deputy shall be required to give 63144
bond in the amount of at least twenty-five thousand dollars, or 63145
in such higher amount as the registrar determines necessary, 63146
based on a uniform schedule of bond amounts established by the 63147
registrar and determined by the volume of registrations handled 63148
by the deputy. The form of the bond shall be prescribed by the 63149
registrar. The bonds required of deputy registrars, in the 63150
discretion of the registrar, may be individual or schedule bonds 63151
or may be included in any blanket bond coverage carried by the 63152
department. 63153

(H) Each deputy registrar shall keep a file of each 63154
application received by the deputy and shall register that motor 63155
vehicle with the name and address of its owner. 63156

(I) Upon request, a deputy registrar shall make the 63157
physical inspection of a motor vehicle and issue the physical 63158
inspection certificate required in section 4505.061 of the 63159
Revised Code. 63160

(J) Each deputy registrar shall file a report semiannually 63161
with the registrar of motor vehicles listing the number of 63162
applicants for licenses the deputy has served, the number of 63163
voter registration applications the deputy has completed and 63164
transmitted to the board of elections, and the number of voter 63165
registration applications declined. 63166

Sec. 4503.036. (A) The registrar of motor vehicles shall 63167
adopt rules for the appointment of limited authority deputy 63168
registrars in accordance with division (D) of this section. 63169

Notwithstanding section 4503.03 of the Revised Code, the registrar may appoint the clerk of a court of common pleas or an electronic motor vehicle dealer qualified under section 4503.035 of the Revised Code as a limited authority deputy registrar.

(B) A limited authority deputy registrar may conduct only initial and transfer motor vehicle transactions using electronic means, vehicle identification number inspections, and other associated transactions in a manner approved in the rules that the registrar adopts in accordance with division (D) of this section.

(C) A limited authority deputy registrar may collect and retain a fee equal to the amount established under section 4503.038 of the Revised Code for each transaction or physical inspection that the limited authority deputy registrar conducts, and shall collect all fees and taxes that are required by law and related to the transaction or inspection in a manner approved by the registrar. A clerk of a court of common pleas shall pay all fees collected and retained under this section into the county treasury to the credit of the certificate of title administration fund created under section 325.33 of the Revised Code.

(D) The rules adopted by the registrar may establish reasonable eligibility standards for clerks and electronic motor vehicle dealers. The rules shall prescribe the terms and conditions of limited authority deputy registrar contracts and shall require each limited authority deputy registrar to sign a contract before assuming any duties as a limited authority deputy registrar. The rules may establish different eligibility standards and contract terms and conditions depending on whether the limited authority deputy registrar is a clerk or an

electronic motor vehicle dealer. No contract shall be for a 63200
period of more than three years. The contract may contain any 63201
other provisions the registrar reasonably prescribes. Each 63202
contract shall terminate on a date specified by the registrar. 63203

(E) Any eligible clerk or qualified electronic motor 63204
vehicle dealer may make an application to the registrar for 63205
appointment as a limited authority deputy registrar. With the 63206
approval of the director of public safety, the registrar shall 63207
make the appointments from the applications submitted, based 63208
upon the discretion of the registrar and director and not upon a 63209
competitive basis. 63210

(F) A limited authority deputy registrar is not subject to 63211
the contribution limits of division (B) of section 4503.03 of 63212
the Revised Code or the filing requirement of division (A) of 63213
section 4503.033 of the Revised Code. 63214

Sec. 4503.10. (A) The owner of every snowmobile, off- 63215
highway motorcycle, and all-purpose vehicle required to be 63216
registered under section 4519.02 of the Revised Code shall file 63217
an application for registration under section 4519.03 of the 63218
Revised Code. The owner of a motor vehicle, other than a 63219
snowmobile, off-highway motorcycle, or all-purpose vehicle, that 63220
is not designed and constructed by the manufacturer for 63221
operation on a street or highway may not register it under this 63222
chapter except upon certification of inspection pursuant to 63223
section 4513.02 of the Revised Code by the sheriff, or the chief 63224
of police of the municipal corporation or township, with 63225
jurisdiction over the political subdivision in which the owner 63226
of the motor vehicle resides. Except as provided in sections 63227
4503.103 and 4503.107 of the Revised Code, every owner of every 63228
other motor vehicle not previously described in this section and 63229

every person mentioned as owner in the last certificate of title 63230
of a motor vehicle that is operated or driven upon the public 63231
roads or highways shall cause to be filed each year, by mail or 63232
otherwise, in the office of the registrar of motor vehicles or a 63233
deputy registrar, a written or electronic application or a 63234
preprinted registration renewal notice issued under section 63235
4503.102 of the Revised Code, the form of which shall be 63236
prescribed by the registrar, for registration for the following 63237
registration year, which shall begin on the first day of January 63238
of every calendar year and end on the thirty-first day of 63239
December in the same year. Applications for registration and 63240
registration renewal notices shall be filed at the times 63241
established by the registrar pursuant to section 4503.101 of the 63242
Revised Code. A motor vehicle owner also may elect to apply for 63243
or renew a motor vehicle registration by electronic means using 63244
electronic signature in accordance with rules adopted by the 63245
registrar. Except as provided in division (J) of this section, 63246
applications for registration shall be made on blanks furnished 63247
by the registrar for that purpose, containing the following 63248
information: 63249

(1) A brief description of the motor vehicle to be 63250
registered, including the year, make, model, and vehicle 63251
identification number, and, in the case of commercial cars, the 63252
gross weight of the vehicle fully equipped computed in the 63253
manner prescribed in section 4503.08 of the Revised Code; 63254

(2) The name and residence address of the owner, and the 63255
township and municipal corporation in which the owner resides; 63256

(3) The district of registration, which shall be 63257
determined as follows: 63258

(a) In case the motor vehicle to be registered is used for 63259

hire or principally in connection with any established business 63260
or branch business, conducted at a particular place, the 63261
district of registration is the municipal corporation in which 63262
that place is located or, if not located in any municipal 63263
corporation, the county and township in which that place is 63264
located. 63265

(b) In case the vehicle is not so used, the district of 63266
registration is the municipal corporation or county in which the 63267
owner resides at the time of making the application. 63268

(4) Whether the motor vehicle is a new or used motor 63269
vehicle; 63270

(5) The date of purchase of the motor vehicle; 63271

(6) Whether the fees required to be paid for the 63272
registration or transfer of the motor vehicle, during the 63273
preceding registration year and during the preceding period of 63274
the current registration year, have been paid. Each application 63275
for registration shall be signed by the owner, either manually 63276
or by electronic signature, or pursuant to obtaining a limited 63277
power of attorney authorized by the registrar for registration, 63278
or other document authorizing such signature. If the owner 63279
elects to apply for or renew the motor vehicle registration with 63280
the registrar by electronic means, the owner's manual signature 63281
is not required. 63282

(7) The owner's social security number, driver's license 63283
number, or state identification number, or, where a motor 63284
vehicle to be registered is used for hire or principally in 63285
connection with any established business, the owner's federal 63286
taxpayer identification number. The bureau of motor vehicles 63287
shall retain in its records all social security numbers provided 63288

under this section, but the bureau shall not place social 63289
security numbers on motor vehicle certificates of registration. 63290

(8) Whether the applicant wishes to certify willingness to 63291
make an anatomical gift if an applicant has not so certified 63292
under section 2108.05 of the Revised Code. The applicant's 63293
response shall not be considered in the decision of whether to 63294
approve the application for registration. 63295

(B)(1) When an applicant first registers a motor vehicle 63296
in the applicant's name, the applicant shall provide proof of 63297
ownership of that motor vehicle. Proof of ownership may include 63298
any of the following: 63299

(a) The applicant may present for inspection a physical 63300
certificate of title or memorandum certificate showing title to 63301
the motor vehicle to be registered in the name of the applicant. 63302

(b) The applicant may present for inspection an electronic 63303
certificate of title for the applicant's motor vehicle in a 63304
manner prescribed by rules adopted by the registrar. 63305

(c) The registrar or deputy registrar may electronically 63306
confirm the applicant's ownership of the motor vehicle. 63307

An applicant is not required to present a certificate of 63308
title to an electronic motor vehicle dealer acting as a limited 63309
authority deputy registrar in accordance with rules adopted by 63310
the registrar. 63311

(2) When a motor vehicle inspection and maintenance 63312
program is in effect under section 3704.14 of the Revised Code 63313
and rules adopted under it, each application for registration 63314
for a vehicle required to be inspected under that section and 63315
those rules shall be accompanied by an inspection certificate or 63316
alternative emissions certificate for the motor vehicle issued 63317

in accordance with that section. 63318

(3) An application for registration shall be refused if 63319
any of the following applies: 63320

(a) The application is not in proper form. 63321

(b) The application is prohibited from being accepted by 63322
division (D) of section 2935.27, division (A) of section 63323
4503.13, division (B) of section 4510.22, division (D) of 63324
section 4503.234, division (B) (1) of section 4521.10, or 63325
division (B) of section 5537.041 of the Revised Code. 63326

(c) Proof of ownership is required but is not presented or 63327
confirmed in accordance with division (B) (1) of this section. 63328

(d) All registration and transfer fees for the motor 63329
vehicle, for the preceding year or the preceding period of the 63330
current registration year, have not been paid. 63331

(e) The owner or lessee does not have an inspection 63332
certificate or alternative emissions certificate for the motor 63333
vehicle as provided in section 3704.14 of the Revised Code, and 63334
rules adopted under it, if that section is applicable. 63335

(4) This section does not require the payment of license 63336
or registration taxes on a motor vehicle for any preceding year, 63337
or for any preceding period of a year, if the motor vehicle was 63338
not taxable for that preceding year or period under sections 63339
4503.02, 4503.04, 4503.11, 4503.12, and 4503.16 or Chapter 4504. 63340
of the Revised Code. 63341

(5) When a certificate of registration is issued upon the 63342
first registration of a motor vehicle by or on behalf of the 63343
owner, the official issuing the certificate shall indicate the 63344
issuance with a stamp on the certificate of title or memorandum 63345

certificate or, in the case of an electronic certificate of 63346
title or electronic verification of ownership, an electronic 63347
stamp or other notation as specified in rules adopted by the 63348
registrar, and with a stamp on the inspection certificate for 63349
the motor vehicle, if any. 63350

(6) The official also shall indicate, by a stamp or by 63351
other means the registrar prescribes, on the registration 63352
certificate issued upon the first registration of a motor 63353
vehicle by or on behalf of the owner the odometer reading of the 63354
motor vehicle as shown in the odometer statement included in or 63355
attached to the certificate of title. Upon each subsequent 63356
registration of the motor vehicle by or on behalf of the same 63357
owner, the official also shall so indicate the odometer reading 63358
of the motor vehicle as shown on the immediately preceding 63359
certificate of registration. 63360

(7) The registrar shall include in the permanent 63361
registration record of any vehicle required to be inspected 63362
under section 3704.14 of the Revised Code the inspection 63363
certificate number from the inspection certificate or the 63364
alternative emissions certificate number from the alternative 63365
emissions certificate that is presented at the time of 63366
registration of the vehicle as required under this division. 63367

(C) (1) The registrar and each deputy registrar shall 63368
collect the following additional fees for each application for 63369
registration and registration renewal received: 63370

(a) Except as provided in division (C) (1) (b) of this 63371
section, a fee of eleven dollars on or before December 31, 2025, 63372
and a fee of sixteen dollars on and after January 1, 2026; 63373

(b) For vehicles specified in divisions (A) (1) to (21) of 63374

section 4503.042 of the Revised Code, a fee of thirty dollars on 63375
or before December 31, 2025, and a fee of thirty-five dollars on 63376
and after January 1, 2026. 63377

No additional fee shall be charged for vehicles registered 63378
under section 4503.65 of the Revised Code. Each additional fee 63379
is for the purpose of defraying the department of public 63380
safety's costs associated with the administration and 63381
enforcement of the motor vehicle and traffic laws of Ohio. Each 63382
deputy registrar shall transmit the fees collected under 63383
divisions (C) (1) and (3) of this section in the time and manner 63384
provided in this section. The registrar shall deposit all moneys 63385
received under division (C) (1) of this section into the public 63386
safety - highway purposes fund established in section 4501.06 of 63387
the Revised Code. 63388

(2) In addition, a charge of twenty-five cents shall be 63389
made for each reflectorized safety license plate issued, and a 63390
single charge of twenty-five cents shall be made for each county 63391
identification sticker or each set of county identification 63392
stickers issued, as the case may be, to cover the cost of 63393
producing the license plates and stickers, including material, 63394
manufacturing, and administrative costs. Those fees shall be in 63395
addition to the license tax. If the total cost of producing the 63396
plates is less than twenty-five cents per plate, or if the total 63397
cost of producing the stickers is less than twenty-five cents 63398
per sticker or per set issued, any excess moneys accruing from 63399
the fees shall be distributed in the same manner as provided by 63400
section 4501.04 of the Revised Code for the distribution of 63401
license tax moneys. If the total cost of producing the plates 63402
exceeds twenty-five cents per plate, or if the total cost of 63403
producing the stickers exceeds twenty-five cents per sticker or 63404
per set issued, the difference shall be paid from the license 63405

tax moneys collected pursuant to section 4503.02 of the Revised Code. 63406
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(3) The registrar and each deputy registrar shall collect 63408
the following additional fee, as applicable, for each 63409
application for registration or registration renewal received 63410
for any hybrid motor vehicle, plug-in hybrid electric motor 63411
vehicle, or battery electric motor vehicle: 63412

(a) One hundred dollars for a hybrid motor vehicle; 63413

(b) One hundred fifty dollars for a plug-in hybrid 63414
electric motor vehicle; 63415

(c) Two hundred dollars for a battery electric motor 63416
vehicle. 63417

Each fee imposed under this division shall be prorated 63418
based on the number of months for which the vehicle is 63419
registered. The registrar shall transmit all money arising from 63420
each fee to the treasurer of state for distribution in 63421
accordance with division (E) of section 5735.051 of the Revised 63422
Code, subject to division (D) of section 5735.05 of the Revised 63423
Code. 63424

(D) Each deputy registrar shall be allowed a fee equal to 63425
the amount established under section 4503.038 of the Revised 63426
Code for each application for registration and registration 63427
renewal notice the deputy registrar receives, which shall be for 63428
the purpose of compensating the deputy registrar for the deputy 63429
registrar's services, and such office and rental expenses, as 63430
may be necessary for the proper discharge of the deputy 63431
registrar's duties in the receiving of applications and renewal 63432
notices and the issuing of registrations. 63433

(E) Upon the certification of the registrar, the county 63434

sheriff or local police officials shall recover license plates 63435
erroneously or fraudulently issued. 63436

(F) Each deputy registrar, upon receipt of any application 63437
for registration or registration renewal notice, together with 63438
the license fee and any local motor vehicle license tax levied 63439
pursuant to Chapter 4504. of the Revised Code, shall transmit 63440
that fee and tax, if any, in the manner provided in this 63441
section, together with the original and duplicate copy of the 63442
application, to the registrar. The registrar, subject to the 63443
approval of the director of public safety, may deposit the funds 63444
collected by those deputies in a local bank or depository to the 63445
credit of the "state of Ohio, bureau of motor vehicles." Where a 63446
local bank or depository has been designated by the registrar, 63447
each deputy registrar shall deposit all moneys collected by the 63448
deputy registrar into that bank or depository not more than one 63449
business day after their collection and shall make reports to 63450
the registrar of the amounts so deposited, together with any 63451
other information, some of which may be prescribed by the 63452
treasurer of state, as the registrar may require and as 63453
prescribed by the registrar by rule. The registrar, within three 63454
days after receipt of notification of the deposit of funds by a 63455
deputy registrar in a local bank or depository, shall draw on 63456
that account in favor of the treasurer of state. The registrar, 63457
subject to the approval of the director and the treasurer of 63458
state, may make reasonable rules necessary for the prompt 63459
transmittal of fees ~~and for safeguarding the interests of the~~ 63460
~~state and of counties, townships, municipal corporations, and~~ 63461
~~transportation improvement districts levying local motor vehicle~~ 63462
~~license taxes.~~ The registrar may pay service charges usually 63463
collected by banks and depositories for such service. If deputy 63464
registrars are located in communities where banking facilities 63465

are not available, they shall transmit the fees forthwith, by 63466
money order or otherwise, as the registrar, by rule approved by 63467
the director and the treasurer of state, may prescribe. The 63468
registrar may pay the usual and customary fees for such service. 63469

(G) This section does not prevent any person from making 63470
an application for a motor vehicle license directly to the 63471
registrar by mail, by electronic means, or in person at any of 63472
the registrar's offices, upon payment of a service fee equal to 63473
the amount established under section 4503.038 of the Revised 63474
Code for each application. 63475

(H) No person shall make a false statement as to the 63476
district of registration in an application required by division 63477
(A) of this section. Violation of this division is falsification 63478
under section 2921.13 of the Revised Code and punishable as 63479
specified in that section. 63480

(I) (1) Where applicable, the requirements of division (B) 63481
of this section relating to the presentation of an inspection 63482
certificate issued under section 3704.14 of the Revised Code and 63483
rules adopted under it for a motor vehicle, the refusal of a 63484
license for failure to present an inspection certificate or 63485
alternative emissions certificate, and the stamping of the 63486
inspection certificate or alternative emissions certificate by 63487
the official issuing the certificate of registration apply to 63488
the registration of and issuance of license plates for a motor 63489
vehicle under sections 4503.102, 4503.12, 4503.14, 4503.15, 63490
4503.16, 4503.171, 4503.172, 4503.19, 4503.40, 4503.41, 4503.42, 63491
4503.43, 4503.44, 4503.46, 4503.47, and 4503.51 of the Revised 63492
Code. 63493

(2) (a) The registrar shall adopt rules ensuring that each 63494
owner registering a motor vehicle in a county where a motor 63495

vehicle inspection and maintenance program is in effect under 63496
section 3704.14 of the Revised Code and rules adopted under it 63497
receives information about the requirements established in that 63498
section and those rules and about the need in those counties to 63499
present an inspection certificate or an alternative emissions 63500
certificate with an application for registration or 63501
preregistration. 63502

(b) Upon request, the registrar shall provide the director 63503
of environmental protection, or any person that has been awarded 63504
a contract under section 3704.14 of the Revised Code, an on-line 63505
computer data link to registration information for all passenger 63506
cars, noncommercial motor vehicles, and commercial cars that are 63507
subject to that section. The registrar also shall provide to the 63508
director of environmental protection a magnetic data tape 63509
containing registration information regarding passenger cars, 63510
noncommercial motor vehicles, and commercial cars for which a 63511
multi-year registration is in effect under section 4503.103 of 63512
the Revised Code or rules adopted under it, including, without 63513
limitation, the date of issuance of the multi-year registration, 63514
the registration deadline established under rules adopted under 63515
section 4503.101 of the Revised Code that was applicable in the 63516
year in which the multi-year registration was issued, and the 63517
registration deadline for renewal of the multi-year 63518
registration. 63519

(J) Subject to division (K) of this section, application 63520
for registration under the international registration plan, as 63521
set forth in sections 4503.60 to 4503.66 of the Revised Code, 63522
shall be made to the registrar on forms furnished by the 63523
registrar. In accordance with international registration plan 63524
guidelines and pursuant to rules adopted by the registrar, the 63525
forms shall include the following: 63526

(1) A uniform mileage schedule; 63527

(2) The gross vehicle weight of the vehicle or combined gross vehicle weight of the combination vehicle as declared by the registrant;— 63528
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~~(3) Any other information the registrar requires by rule.~~ 63531

(K) The registrar shall determine the feasibility of implementing an electronic commercial fleet licensing and management program that will enable the owners of commercial tractors, commercial trailers, and commercial semitrailers to conduct electronic transactions by July 1, 2010, or sooner. If the registrar determines that implementing such a program is feasible, the registrar shall adopt new rules under this division or amend existing rules adopted under this division as necessary in order to respond to advances in technology. 63532
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If international registration plan guidelines and provisions allow member jurisdictions to permit applications for registrations under the international registration plan to be made via the internet, the rules the registrar adopts under this division shall permit such action. 63541
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Sec. 4503.101. (A) The registrar of motor vehicles shall adopt rules to establish a system of motor vehicle registration based upon the type of vehicle to be registered, the type of ownership of the vehicle, and the class of license plate to be issued, ~~and any other factor the registrar determines to be relevant.~~ Except for commercial cars, buses, trailers, and semitrailers that are registered in this state and that are taxed under sections 4503.042 and 4503.65 of the Revised Code; and except for rental vehicles owned by motor vehicle renting dealers; ~~and except as otherwise provided by rule,~~ motor 63546
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vehicles owned by an individual shall be registered based upon 63556
the motor vehicle owner's date of birth. Beginning with the 2004 63557
registration year, the registrar shall assign motor vehicles to 63558
the registration periods established by rules adopted under this 63559
section. 63560

(B) The registrar shall adopt rules to permit motor 63561
vehicle owners residing together at one address to select the 63562
date of birth of any one of the owners as the date to register 63563
any or all of the vehicles at that residence address, as shown 63564
in the records of the bureau of motor vehicles. 63565

(C) The registrar shall adopt rules to assign and reassign 63566
all commercial cars, trailers, and semitrailers that are 63567
registered in this state and that are taxed under sections 63568
4503.042 and 4503.65 of the Revised Code and all rental vehicles 63569
owned by motor vehicle renting dealers to a system of 63570
registration so that the registrations of approximately one- 63571
twelfth of all such vehicles expire on the last day of each 63572
month of a calendar year. ~~To effect a reassignment from the~~ 63573
~~registration period in effect on June 30, 2003, to the new~~ 63574
~~registration periods established by the rules adopted under this~~ 63575
~~section as amended, the rules may require the motor vehicle to~~ 63576
~~be registered for more or less than a twelve-month period at the~~ 63577
~~time the motor vehicle's registration is subject to its initial~~ 63578
~~renewal following the effective date of such rules. If necessary~~ 63579
~~to effect an efficient transition, the rules may provide that~~ 63580
~~the registration reassignments take place over two consecutive~~ 63581
~~registration periods. The registration taxes to be charged shall~~ 63582
~~be determined by the registrar on the basis of the annual tax~~ 63583
~~otherwise due on the motor vehicle, prorated in accordance with~~ 63584
~~the number of months for which the motor vehicle is registered,~~ 63585
~~except that the fee established by division (C) (1) of section~~ 63586

~~4503.10 of the Revised Code shall be collected in full for each
renewal that occurs during the transition period and shall not
be prorated.~~ 63587
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(D) The registrar shall adopt rules to permit any 63590
commercial motor vehicle owner or motor vehicle renting dealer 63591
who owns two or more motor vehicles to request the registrar to 63592
permit the owner to separate the owner's fleet into up to four 63593
divisions for assignment to separate dates upon which to 63594
register the vehicles, provided that the registrar may 63595
disapprove any such request whenever the registrar has reason to 63596
believe that an uneven distribution of registrations throughout 63597
the calendar year has developed or is likely to develop. 63598

(E) Every owner or lessee of a motor vehicle holding a 63599
certificate of registration shall notify the registrar of any 63600
change of the owner's or lessee's correct address within ten 63601
days after the change occurs. The notification shall be in 63602
writing on a form provided by the registrar or by electronic 63603
means approved by the registrar and shall include the full name, 63604
date of birth if applicable, license number, county of residence 63605
or place of business, social security account number of an 63606
individual or federal tax identification number of a business, 63607
and new address. 63608

(F) As used in this section, "motor vehicle renting 63609
dealer" has the same meaning as in section 4549.65 of the 63610
Revised Code. 63611

Sec. 4503.102. (A) (1) The registrar of motor vehicles may 63612
~~adopt rules to~~ establish a centralized system of motor vehicle 63613
registration for initial registration, registration renewal, and 63614
transfer of registration, by mail or by electronic means. 63615

(2) Any person applying electronically for initial registration or for transfer of registration may submit all associated documents electronically through the centralized system of motor vehicle registration established under this section. The registrar or a deputy registrar shall verify and authenticate such documents.

(3) Any person owning a motor vehicle that was registered in the person's name during the preceding registration year shall renew the registration of the motor vehicle not more than ninety days prior to the expiration date of the registration through one of the following:

(a) By mail or by electronic means through the centralized system of registration established under this section;

(b) In person at any office of the registrar or at a deputy registrar's office.

(B) (1) Except as provided in division (B) (2) of this section, no less than forty-five days prior to the expiration date of any motor vehicle registration, the registrar shall mail a renewal notice to the person in whose name the motor vehicle is registered. The renewal notice shall clearly state that the registration of the motor vehicle may be renewed by mail or electronic means through the centralized system of registration or in person at any office of the registrar or at a deputy registrar's office and shall be preprinted with information including, but not limited to, the owner's name and residence address as shown in the records of the bureau of motor vehicles, a brief description of the motor vehicle to be registered, notice of the license taxes and fees due on the motor vehicle, and the toll-free telephone number of the registrar as required under division (D) (1) of section 4503.031 of the Revised Code,

~~and any additional information the registrar may require by~~ 63646
~~rule.~~ The renewal notice shall not include the social security 63647
number of either the owner of the motor vehicle or the person in 63648
whose name the motor vehicle is registered. The renewal notice 63649
shall be sent by regular mail to the owner's last known address 63650
as shown in the records of the bureau of motor vehicles. 63651

(2) The registrar is not required to mail a renewal notice 63652
if either of the following applies: 63653

(a) The owner of the vehicle has consented to receiving 63654
the renewal notice by electronic means only. 63655

(b) The application for renewal of the registration of a 63656
motor vehicle is prohibited from being accepted by the registrar 63657
or a deputy registrar by division (D) of section 2935.27, 63658
division (A) of section 4503.13, division (B) of section 63659
4510.22, division (D) of section 4503.234, division (B) (1) of 63660
section 4521.10, or division (B) of section 5537.041 of the 63661
Revised Code. 63662

(3) If the owner of a motor vehicle has consented to 63663
receiving a renewal notice by electronic means only, the 63664
registrar shall send an electronic renewal notice to the owner 63665
that contains the information specified in division (B) (1) of 63666
this section at the time specified under that division. 63667

(C) The owner of the motor vehicle shall verify the 63668
information contained in the notice, sign it either manually or 63669
by electronic means, and return it, either by mail or electronic 63670
means, or the owner may take it in person to any office of the 63671
registrar or of a deputy registrar. The owner shall include with 63672
the notice a financial transaction device number when renewing 63673
in person or by electronic means but not by mail, check, or 63674

money order in the amount of the registration taxes and fees 63675
payable on the motor vehicle and a service fee equal to the 63676
amount established under section 4503.038 of the Revised Code, 63677
plus postage as indicated on the notice if the registration is 63678
renewed or fulfilled by mail, and an inspection certificate or 63679
alternative emissions certificate for the motor vehicle as 63680
provided in section 3704.14 of the Revised Code. If the motor 63681
vehicle owner chooses to renew the motor vehicle registration by 63682
electronic means, the owner shall proceed in accordance with ~~the~~ 63683
~~rules the registrar adopts~~ this section. 63684

(D) If all registration and transfer fees for the motor 63685
vehicle for the preceding year or the preceding period of the 63686
current registration year have not been paid, if division (D) of 63687
section 2935.27, division (A) of section 4503.13, division (B) 63688
of section 4510.22, division (D) of section 4503.234, division 63689
(B) (1) of section 4521.10, or division (B) of section 5537.041 63690
of the Revised Code prohibits acceptance of the renewal notice, 63691
or if the owner or lessee does not have an inspection 63692
certificate or alternative emissions certificate for the motor 63693
vehicle as provided in section 3704.14 of the Revised Code, if 63694
that section is applicable, the license shall be refused, and 63695
the registrar or deputy registrar shall so notify the owner. 63696
This section does not require the payment of license or 63697
registration taxes on a motor vehicle for any preceding year, or 63698
for any preceding period of a year, if the motor vehicle was not 63699
taxable for that preceding year or period under section 4503.02, 63700
4503.04, 4503.11, 4503.12, or 4503.16 or Chapter 4504. of the 63701
Revised Code. 63702

(E) (1) Failure to receive a renewal notice does not 63703
relieve a motor vehicle owner from the responsibility to renew 63704
the registration for the motor vehicle. Any person who has a 63705

motor vehicle registered in this state and who does not receive 63706
a renewal notice as provided in division (B) of this section 63707
prior to the expiration date of the registration shall request 63708
an application for registration from the registrar or a deputy 63709
registrar and sign the application manually or by electronic 63710
means and submit the application and pay any applicable license 63711
taxes and fees to the registrar or deputy registrar. 63712

(2) If the owner of a motor vehicle submits an application 63713
for registration and the registrar is prohibited by division (D) 63714
of section 2935.27, division (A) of section 4503.13, division 63715
(B) of section 4510.22, division (D) of section 4503.234, 63716
division (B) (1) of section 4521.10, or division (B) of section 63717
5537.041 of the Revised Code from accepting the application, the 63718
registrar shall return the application and the payment to the 63719
owner. If the owner of a motor vehicle submits a registration 63720
renewal application to the registrar by electronic means and the 63721
registrar is prohibited from accepting the application as 63722
provided in this division, the registrar shall notify the owner 63723
of this fact and deny the application and return the payment or 63724
give a credit on the financial transaction device account of the 63725
owner in the manner the registrar prescribes by rule adopted 63726
~~pursuant to division (A) of this section~~ by the registrar. 63727

(F) Every deputy registrar shall post in a prominent place 63728
at the deputy's office a notice informing the public of the mail 63729
registration system required by this section and also shall post 63730
a notice that every owner of a motor vehicle and every chauffeur 63731
holding a certificate of registration is required to notify the 63732
registrar in writing of any change of residence within ten days 63733
after the change occurs. The notice shall be in such form as the 63734
registrar prescribes by rule. 63735

(G) (1) The service fee equal to the amount established 63736
under section 4503.038 of the Revised Code that is collected 63737
from a person who renews a motor vehicle registration by 63738
electronic means or by mail, plus postage collected by the 63739
registrar and any financial transaction device surcharge 63740
collected by the registrar, shall be paid to the credit of the 63741
public safety - highway purposes fund established by section 63742
4501.06 of the Revised Code. 63743

(2) A person who submits an initial registration or a 63744
transfer of registration by electronic means under this section 63745
shall pay a service fee equal to the amount established under 63746
section 4503.038 of the Revised Code, any necessary postage 63747
costs, and any financial transaction device surcharge, as 63748
applicable. The service fee collected shall be paid either to 63749
the registrar or to the deputy registrar that verifies and 63750
authenticates the submitted documents in accordance with 63751
division (A) (2) of this section. If the registrar authorizes a 63752
deputy registrar to mail the certificate of registration and any 63753
associated license plate to the applicant, the postage costs 63754
shall be paid to that deputy registrar. 63755

(H) (1) Pursuant to section 113.40 of the Revised Code, the 63756
registrar shall implement a program permitting payment of motor 63757
vehicle registration taxes and fees, driver's license and 63758
commercial driver's license fees, and any other taxes, fees, 63759
penalties, or charges imposed or levied by the state by means of 63760
a financial transaction device for transactions occurring 63761
online, at any office of the registrar, and at all deputy 63762
registrar locations. The program shall take effect not later 63763
than July 1, 2016. ~~The registrar shall adopt rules as necessary~~ 63764
~~for this purpose, but all such rules are subject to any action,~~ 63765
~~policy, or procedure of the board of deposit or treasurer of~~ 63766

~~state taken or adopted under section 113.40 of the Revised Code.~~ 63767

(2) ~~The rules adopted under division (H) (1) of this~~ 63768
~~section shall require a~~ A deputy registrar ~~to~~ shall accept 63769
payments by means of a financial transaction device ~~beginning on~~ 63770
~~the effective date of the rules unless the deputy registrar~~ 63771
contract entered into by the deputy registrar prohibits the 63772
acceptance of such payments by financial transaction device. 63773
However, commencing with deputy registrar contract awards that 63774
have a start date of July 1, 2016, and for all contract awards 63775
thereafter, the registrar shall require that the proposer accept 63776
payment by means of a financial transaction device, including 63777
credit cards and debit cards, for all department of public 63778
safety transactions conducted at that deputy registrar location. 63779

The bureau and deputy registrars are not required to pay 63780
any costs that result from accepting payment by means of a 63781
financial transaction device. A deputy registrar may charge a 63782
person who tenders payment for a department transaction by means 63783
of a financial transaction device any cost the deputy registrar 63784
incurs from accepting payment by the financial transaction 63785
device, but the deputy registrar shall not require the person to 63786
pay any additional fee of any kind in connection with the use by 63787
the person of the financial transaction device. 63788

(3) In accordance with division (H) (1) of this section ~~and~~ 63789
~~rules adopted by the registrar under that division,~~ a county 63790
auditor or clerk of a court of common pleas that is designated a 63791
deputy registrar shall accept payment by means of a financial 63792
transaction device, including credit cards and debit cards, for 63793
all department transactions conducted at the office of the 63794
county auditor or clerk in the county auditor's or clerk's 63795
capacity as deputy registrar. The bureau is not required to pay 63796

any costs incurred by a county auditor or clerk that result from 63797
accepting payment by means of a financial transaction device for 63798
any department transaction. 63799

(I) For persons who reside in counties where tailpipe 63800
emissions inspections are required under the motor vehicle 63801
inspection and maintenance program, the notice required by 63802
division (B) of this section shall also include the toll-free 63803
telephone number maintained by the Ohio environmental protection 63804
agency to provide information concerning the locations of 63805
emissions testing centers. The registrar also shall include a 63806
statement in the notice that a battery electric motor vehicle is 63807
not required to undergo emissions inspection under the motor 63808
vehicle inspection and maintenance program established under 63809
section 3704.14 of the Revised Code. 63810

Sec. 4503.111. (A) Within thirty days of becoming a 63811
resident of this state, any person who owns a motor vehicle 63812
operated or driven upon the public roads or highways shall 63813
register the vehicle in this state. If such a person fails to 63814
register a vehicle owned by the person, the person shall not 63815
operate any motor vehicle in this state under a license issued 63816
by another state. 63817

(B) (1) Whoever violates division (A) of this section is 63818
guilty of a minor misdemeanor. 63819

(2) The offense established under division (B) (1) of this 63820
section is a strict liability offense and strict liability is a 63821
culpable mental state for purposes of section 2901.20 of the 63822
Revised Code. The designation of this offense as a strict 63823
liability offense shall not be construed to imply that any other 63824
offense, for which there is no specified degree of culpability, 63825
is not a strict liability offense. 63826

(C) For purposes of division (A) of this section, 63827
"resident" means any person to whom any of the following 63828
applies: 63829

~~(3)~~(1) The person maintains their principal residence in 63830
this state and does not reside in this state as a result of the 63831
person's active service in the United States armed forces. 63832

~~(4)~~(2) The person is ~~determined by the registrar of motor~~ 63833
~~vehicles to be a resident in accordance with standards adopted~~ 63834
~~by the registrar under section 4507.01 of the Revised Code.~~ 63835

Sec. 4503.29. (A) The director of veterans services in 63836
conjunction with the registrar of motor vehicles shall develop 63837
and maintain a program to establish and issue specialty license 63838
plates recognizing military service and military honors 63839
pertaining to valor and service. 63840

(B) The director and the registrar shall jointly adopt 63841
rules in accordance with Chapter 119. of the Revised Code ~~for~~ 63842
~~purposes of establishing the program under this section. The~~ 63843
~~director and registrar shall adopt the rules as soon as possible~~ 63844
~~after June 29, 2018, but not later than nine months after June~~ 63845
~~29, 2018. The rules shall to do all of the following:~~ 63846

(1) Establish specialty license plates recognizing 63847
military service; 63848

(2) Establish specialty license plates recognizing 63849
military honors pertaining to valor and service; 63850

(3) Establish eligibility criteria that apply to each 63851
specialty license plate issued under this section; 63852

(4) Establish requirements governing any necessary 63853
documentary evidence required to be presented by an applicant 63854

for a specialty license plate issued under this section. The 63855
rules shall allow an applicant to present a veterans 63856
identification card issued in accordance with section 317.241 of 63857
the Revised Code in lieu of a copy of the applicant's DD-214 or 63858
an equivalent document. An applicant may be required to present 63859
additional evidence if the veterans identification card does not 63860
show all of the information needed for issuance of the specific 63861
nonstandard license plate requested by the applicant. 63862

(5) Establish guidelines for the designs, markings, and 63863
inscriptions on a specialty license plate established under this 63864
section; 63865

(6) Establish procedures for altering the designs, 63866
markings, or inscriptions on a specialty license plate 63867
established under this section; 63868

(7) Prohibit specialty license plates established under 63869
this section from recognizing achievement awards or unit awards; 63870

~~(8) Establish any other procedures or requirements that 63871
are necessary for the implementation and administration of this 63872
section. 63873~~

(C) The rules adopted under division (B) of this section 63874
shall provide for the establishment of the military specialty 63875
license plates created prior to June 29, 2018, that are no 63876
longer codified in the Revised Code. 63877

(D) (1) Any person who meets the applicable qualifications 63878
for the issuance of a specialty license plate established by 63879
rule adopted under division (B) of this section may apply to the 63880
registrar of motor vehicles for the registration of any 63881
passenger car, noncommercial motor vehicle, recreational 63882
vehicle, or other vehicle the person owns or leases of a class 63883

approved by the registrar. The application may be combined with 63884
a request for a special reserved license plate under section 63885
4503.40 or 4503.42 of the Revised Code. 63886

(2) (a) Except as provided in division (D) (2) (b) of this 63887
section, upon receipt of an application for registration of a 63888
motor vehicle under this section and the required taxes and 63889
fees, compliance with all applicable laws relating to the 63890
registration of a motor vehicle, and, if necessary, upon 63891
presentation of the required documentary evidence, the registrar 63892
shall issue to the applicant the appropriate motor vehicle 63893
registration and a set of license plates and a validation 63894
sticker, or a validation sticker alone when required by section 63895
4503.191 of the Revised Code. 63896

(b) Any disabled veteran who qualifies to apply to the 63897
registrar for the registration of a motor vehicle under section 63898
4503.41 of the Revised Code without the payment of any 63899
registration taxes or fees, may apply instead for registration 63900
of the motor vehicle under this section. The disabled veteran 63901
applying for registration under this section is not required to 63902
pay any registration taxes or fees as required by sections 63903
4503.038, 4503.04, 4503.10, 4503.102, and 4503.103 of the 63904
Revised Code, any local motor vehicle tax levied under Chapter 63905
4504. of the Revised Code, any fee charged under section 4503.19 63906
of the Revised Code for up to two motor vehicles, including any 63907
motor vehicle registered under section 4503.41 of the Revised 63908
Code, or any fees associated with transferring a registration 63909
under section 4503.12 of the Revised Code. Upon receipt of an 63910
application for registration of the motor vehicle and 63911
presentation of any documentation the registrar may require by 63912
rule, the registrar shall issue to the applicant the appropriate 63913
motor vehicle registration and a set of license plates 63914

authorized under this section and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

(3) The license plates shall display county identification stickers that identify the county of registration as required under section 4503.19 of the Revised Code.

Sec. 4503.51. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for registration of the vehicle and for issuance of collegiate license plates. The application may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code.

Upon receipt of the completed application for registration of a vehicle ~~in accordance with any rules adopted under this section~~ and upon compliance with divisions (B) and (C) of this section, the registrar shall issue to the applicant appropriate vehicle registration and a set of collegiate license plates with a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, collegiate license plates shall display the name of a university or college that is participating with the registrar in the issuance of collegiate license plates, or any other identifying marking or design selected by such a university or college and approved by the registrar. Collegiate license plates shall display county identification stickers that identify the county of registration as required under section 4503.19 of the Revised Code.

(B) The collegiate license plates and validation sticker, 63944
or validation sticker alone, shall be issued upon receipt of an 63945
application for registration of a motor vehicle under this 63946
section; payment of the regular license tax as prescribed under 63947
section 4503.04 of the Revised Code, any applicable motor 63948
vehicle tax levied under Chapter 4504. of the Revised Code, any 63949
applicable additional fee prescribed by section 4503.40 or 63950
4503.42 of the Revised Code, an additional administrative fee of 63951
ten dollars, and a contribution as provided in division (C) (1) 63952
of this section; and compliance with all other applicable laws 63953
relating to the registration of motor vehicles. 63954

(C) (1) For each application for registration and 63955
registration renewal notice the registrar receives under this 63956
section, the registrar shall collect a contribution of twenty- 63957
five dollars. 63958

The registrar shall deposit this contribution into the 63959
state treasury to the credit of the license plate contribution 63960
fund created in section 4501.21 of the Revised Code. 63961

(2) The registrar shall deposit the administrative fee of 63962
ten dollars, which is to compensate the bureau of motor vehicles 63963
for the additional services required in the issuing of the 63964
collegiate license plates, into the state treasury to the credit 63965
of the public safety - highway purposes fund created in section 63966
4501.06 of the Revised Code. 63967

~~(D) The registrar, in accordance with Chapter 119. of the~~ 63968
~~Revised Code, shall adopt rules necessary for the efficient~~ 63969
~~administration of the collegiate license plate program.~~ 63970

~~(E)~~ As used in this section, "university or college" means 63971
a state university or college or a private university or college 63972

located in this state that possesses a certificate of 63973
authorization issued by the Ohio board of regents pursuant to 63974
Chapter 1713. of the Revised Code. "University or college" also 63975
includes community colleges created pursuant to Chapter 3354. of 63976
the Revised Code, university branches created pursuant to 63977
Chapter 3355. of the Revised Code, technical colleges created 63978
pursuant to Chapter 3357. of the Revised Code, and state 63979
community colleges created pursuant to Chapter 3358. of the 63980
Revised Code. 63981

Sec. 4503.64. Upon receipt of an application pursuant to 63982
division (J) of section 4503.10 of the Revised Code for 63983
apportioned registration under the international registration 63984
plan and payment of all taxes or fees due on the vehicle, the 63985
registrar of motor vehicles shall issue a license plate as 63986
provided in section 4503.19 of the Revised Code and a 63987
registration card for each vehicle registered under the 63988
international registration plan. The registration card shall 63989
identify the vehicle for which it is issued, list the 63990
jurisdictions in which the vehicle has been apportioned, and the 63991
weight and classification for which the vehicle has been 63992
~~registered, and any other information the registrar may require~~ 63993
~~by rule.~~ The registration card shall, at all times, be carried 63994
in or upon the vehicle for which it has been issued. 63995

Sec. 4503.642. (A) There is hereby created in the bureau 63996
of motor vehicles a performance registration and information 63997
systems management program for coordinating motor carrier safety 63998
information with federal and state agencies. The registrar of 63999
motor vehicles shall collect and maintain necessary motor 64000
carrier, commercial motor vehicle, and driver data in a manner 64001
that complies with the information systems established by the 64002
United States secretary of transportation under 49 U.S.C. 31106. 64003

(B) The registrar shall refuse to issue a registration, license plate, permit, or certificate of title for any commercial motor vehicle that is assigned to a motor carrier that has been prohibited from operating by a federal agency. The registrar may allow a prohibited motor vehicle carrier to transfer title on a commercial motor vehicle if the prohibited carrier does not retain a direct or indirect interest in the vehicle.

(C) The registrar shall suspend, revoke, deny, or remove the registration, license plates, or any permit issued to any commercial motor vehicle that is assigned to a motor carrier who has been prohibited from operating by a federal agency. The suspension, revocation, denial, or removal shall remain in effect until the carrier is no longer prohibited from operating by the federal agency. The suspension, revocation, denial, or removal shall apply to all commercial motor vehicles under the carrier's control.

(D) A carrier or registrant whose privilege to operate a commercial motor vehicle has been suspended, revoked, denied, or removed under division (C) of this section may request a hearing in accordance with Chapter 119. of the Revised Code. The hearing shall be limited to whether the carrier or registrant has been correctly identified, whether the carrier or registrant has been prohibited from operating by the federal agency, and whether the federal agency subsequently has rescinded the prohibition.

(E) The registrar shall restore a motor carrier's or registrant's privilege to register, transfer a title, or operate a commercial motor vehicle only upon acceptable notification from the federal agency that the prohibition has been removed and upon payment of all applicable taxes and fees.

(F) The registrar shall take those steps necessary to 64034
implement this section, including the adoption of ~~rules,~~ 64035
procedures, and forms. 64036

Sec. 4505.01. (A) As used in this chapter: 64037

"Buyer" and "transferee" mean the applicant for a 64038
certificate of title. 64039

"Certificate of title" and "title" include an electronic 64040
certificate of title, unless otherwise specified. 64041

"Electronic certificate of title" means an electronic 64042
record stored in the automated title processing system that 64043
establishes ownership of a motor vehicle and any security 64044
interests that exist on that motor vehicle. 64045

"Lien" includes, unless the context requires a different 64046
meaning, a security interest in a motor vehicle. 64047

"Manufactured home" has the same meaning as section 64048
3781.06 of the Revised Code. 64049

"Manufactured housing dealer," "manufactured housing 64050
broker," and "manufactured housing salesperson" have the same 64051
meanings as in section 4781.01 of the Revised Code. 64052

"Mobile home" has the same meaning as in section 4501.01 64053
of the Revised Code. 64054

"Motor vehicle" includes manufactured homes, mobile homes, 64055
recreational vehicles, and trailers and semitrailers whose 64056
weight exceeds four thousand pounds. 64057

"Motor vehicle dealer" and "dealer" have the same meaning 64058
as in section 4517.01 of the Revised Code and includes 64059
manufactured housing dealers. 64060

"Motor vehicle salesperson" includes manufactured housing salespersons. 64061
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"Resident" means any person who either maintains their principal residence in this state or is ~~determined by the registrar of motor vehicles to be a~~ permanent or temporary resident in accordance with ~~the standards adopted by the registrar under~~ section 4507.01 of the Revised Code. 64063
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"Signature" includes an electronic signature as defined by section 1306.01 of the Revised Code. 64068
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(B) The various certificates, applications, and assignments necessary to provide certificates of title for manufactured homes, mobile homes, recreational vehicles, and trailers and semitrailers whose weight exceeds four thousand pounds, shall be made upon forms prescribed by the registrar of motor vehicles. 64070
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Sec. 4505.02. The registrar of motor vehicles shall ~~issue rules as the registrar determines necessary to~~ ensure uniform and orderly operation of this chapter and adopt rules in accordance with Chapter 119. of the Revised Code to ensure that the identification of each applicant for a certificate of title is reasonably accurate. The clerks of the courts of common pleas shall conform thereto. The clerks shall provide the forms as prescribed by the registrar, except the manufacturers' or importers' certificates. The clerks shall provide, from moneys in the automated title processing fund, certificates of title and ribbons, cartridges, or other devices necessary for the operation of the certificate of title processing equipment as determined by the automated title processing board pursuant to division (C) of section 4505.09 of the Revised Code. All other automated title processing system supplies shall be provided by 64076
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the clerks. 64091

If it appears that any certificate of title has been 64092
improperly issued, the registrar shall cancel the certificate 64093
unless the title is deemed valid pursuant to section 4505.191 of 64094
the Revised Code. Upon the cancellation of any certificate of 64095
title, the registrar shall notify the clerk who issued it, and 64096
the clerk thereupon shall enter the cancellation upon the 64097
clerk's records. The registrar also shall notify the person to 64098
whom such certificate of title was issued, as well as any 64099
lienholders appearing thereon, of the cancellation and shall 64100
demand the surrender of the certificate of title immediately, 64101
but the cancellation shall not affect the validity of any lien 64102
noted thereon. The holder of such certificate of title 64103
immediately shall return it to the registrar. If a certificate 64104
of registration has been issued to the holder of a certificate 64105
of title so canceled the registrar immediately shall cancel it 64106
and demand the return of such certificate of registration and 64107
license plates, and the holder of such certificate of 64108
registration and license plates shall return the same to the 64109
registrar forthwith. The clerks shall keep on hand a sufficient 64110
supply of blank forms, which, except for certificate of title 64111
and memorandum certificate forms, shall be furnished and 64112
distributed without charge to registered manufacturers or 64113
dealers, or other persons residing within the county. 64114

Sec. 4505.20. (A) Notwithstanding division (A) (2) of 64115
section 4505.18 of the Revised Code or any other provision of 64116
this chapter or Chapter 4517. of the Revised Code, a secured 64117
party may designate a manufactured housing dealer to display, 64118
display for sale, or sell a manufactured or mobile home if the 64119
home has come into the possession of that secured party by a 64120
default in the terms of a security instrument and the 64121

certificate of title remains in the name and possession of the 64122
secured party. 64123

(B) Notwithstanding division (A) (2) of section 4505.18 of 64124
the Revised Code or any other provision of this chapter or 64125
Chapter 4517. of the Revised Code, the owner of a recreational 64126
vehicle or a secured party of a recreational vehicle who has 64127
come into possession of the vehicle by a default in the terms of 64128
a security instrument, may designate a new motor vehicle dealer 64129
to display, display for sale, or sell the vehicle while the 64130
certificate of title remains in the possession of the owner or 64131
secured party. No new motor vehicle dealer may display or offer 64132
for sale more than five recreational vehicles at any time under 64133
this division. No new motor vehicle dealer may display or offer 64134
for sale a recreational vehicle under this division unless the 64135
new motor vehicle dealer maintains insurance or the bond of a 64136
surety company authorized to transact business within this state 64137
in an amount sufficient to satisfy the fair market value of the 64138
vehicle. 64139

~~(C) The registrar may adopt reasonable rules regarding the 64140
resale of recreational vehicles that the registrar considers 64141
necessary. 64142~~

~~(D) The manufactured housing dealer or new motor vehicle 64143
secured party or owner shall provide the dealer with written 64144
authorization to display, display for sale, or sell the 64145
manufactured home, mobile home, or recreational vehicle. The 64146
manufactured housing dealer or new motor vehicle dealer shall 64147
show and explain the written authorization to any prospective 64148
purchaser. The written authorization shall contain the vehicle 64149
identification number, make, model, year of manufacture, and 64150
physical description of the manufactured home, mobile home, or 64151~~

recreational vehicle that is provided to the manufactured 64152
housing dealer or new motor vehicle dealer. 64153

~~(E)~~(D) Whoever violates this section shall be fined not 64154
more than two hundred dollars, imprisoned not more than ninety 64155
days, or both. 64156

Sec. 4506.11. (A) Every commercial driver's license shall 64157
be marked "commercial driver's license" or "CDL" and shall be of 64158
such material and so designed as to prevent its reproduction or 64159
alteration without ready detection. The commercial driver's 64160
license for licensees under twenty-one years of age shall have 64161
characteristics prescribed by the registrar of motor vehicles 64162
distinguishing it from that issued to a licensee who is twenty- 64163
one years of age or older. Every commercial driver's license 64164
shall display all of the following information: 64165

(1) The name and residence address of the licensee; 64166

(2) A photograph of the licensee showing the licensee's 64167
uncovered face; 64168

(3) A physical description of the licensee, including sex, 64169
height, weight, and color of eyes and hair; 64170

(4) The licensee's date of birth; 64171

(5) The licensee's social security number if the person 64172
has requested that the number be displayed in accordance with 64173
section 4501.31 of the Revised Code or if federal law requires 64174
the social security number to be displayed and any number or 64175
other identifier the director of public safety considers 64176
appropriate and establishes by rules adopted under Chapter 119. 64177
of the Revised Code and in compliance with federal law; 64178

(6) The licensee's signature; 64179

- (7) The classes of commercial motor vehicles the licensee is authorized to drive and any endorsements or restrictions relating to the licensee's driving of those vehicles; 64180
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- (8) The name of this state; 64183
- (9) The dates of issuance and of expiration of the license; 64184
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- (10) If the licensee has certified willingness to make an anatomical gift under section 2108.05 of the Revised Code, any symbol chosen by the registrar of motor vehicles to indicate that the licensee has certified that willingness; 64186
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- (11) If the licensee has executed a durable power of attorney for health care or a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment and has specified that the licensee wishes the license to indicate that the licensee has executed either type of instrument, any symbol chosen by the registrar to indicate that the licensee has executed either type of instrument; 64190
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- (12) If the licensee has specified that the licensee wishes the license to indicate that the licensee is a veteran, active duty, or reservist of the armed forces of the United States and has presented a copy of the licensee's DD-214 form or an equivalent document, any symbol chosen by the registrar to indicate that the licensee is a veteran, active duty, or reservist of the armed forces of the United States; 64198
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- (13) If the licensee is a noncitizen of the United States, a notation designating that the licensee is a noncitizen; 64205
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- ~~(14) Any other information the registrar considers advisable and requires by rule.~~ 64207
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(B) The registrar may establish and maintain a file of negatives of photographs taken for the purposes of this section.

(C) Neither the registrar nor any deputy registrar shall issue a commercial driver's license to anyone under twenty-one years of age that does not have the characteristics prescribed by the registrar distinguishing it from the commercial driver's license issued to persons who are twenty-one years of age or older.

(D) Whoever violates division (C) of this section is guilty of a minor misdemeanor.

Sec. 4506.17. (A) Both of the following are deemed to have given consent to a test or tests of the person's whole blood, blood serum or plasma, breath, oral fluid, or urine for the purpose of determining the person's alcohol concentration or the presence of any controlled substance or a metabolite of a controlled substance:

(1) A person while operating a commercial motor vehicle that requires a commercial driver's license or commercial driver's license temporary instruction permit;

(2) A person who holds a commercial driver's license or commercial driver's license temporary instruction permit while operating a motor vehicle, including a commercial motor vehicle.

(B) A test or tests as provided in division (A) of this section may be administered at the direction of a peace officer having reasonable ground to stop or detain the person and, after investigating the circumstances surrounding the operation of the motor vehicle, also having reasonable ground to believe the person was driving the motor vehicle while having a measurable or detectable amount of alcohol or of a controlled substance or

a metabolite of a controlled substance in the person's whole 64238
blood, blood serum or plasma, breath, oral fluid, or urine. Any 64239
such test shall be given within two hours of the time of the 64240
alleged violation. 64241

(C) A person requested by a peace officer to submit to a 64242
test under division (A) of this section shall be advised by the 64243
peace officer that a refusal to submit to the test will result 64244
in the person immediately being placed out-of-service for a 64245
period of twenty-four hours and being disqualified from 64246
operating a commercial motor vehicle for a period of not less 64247
than one year, and that the person is required to surrender the 64248
person's commercial driver's license or permit to the peace 64249
officer. 64250

(D) If a person refuses to submit to a test after being 64251
warned as provided in division (C) of this section or submits to 64252
a test that discloses the presence of an amount of alcohol or a 64253
controlled substance prohibited by divisions (A)(1) to (6) of 64254
section 4506.15 of the Revised Code or a metabolite of a 64255
controlled substance, the person immediately shall surrender the 64256
person's commercial driver's license or permit to the peace 64257
officer. The peace officer shall forward the license or permit, 64258
together with a sworn report, to the registrar of motor vehicles 64259
certifying that the test was requested pursuant to division (A) 64260
of this section and that the person either refused to submit to 64261
testing or submitted to a test that disclosed the presence of 64262
one of the prohibited concentrations of a substance listed in 64263
divisions (A)(1) to (6) of section 4506.15 of the Revised Code 64264
or a metabolite of a controlled substance. The form and contents 64265
of the report required by this section shall be established by 64266
the registrar by rule, but shall contain the advice to be read 64267
to the driver and a statement to be signed by the driver 64268

acknowledging that the driver has been read the advice and that 64269
the form was shown to the driver. 64270

(E) Upon receipt of a sworn report from a peace officer as 64271
provided in division (D) of this section, or upon receipt of 64272
notification that a person has been disqualified under a similar 64273
law of another state or foreign jurisdiction, the registrar 64274
shall disqualify the person named in the report from driving a 64275
commercial motor vehicle for the period described below: 64276

(1) Upon a first incident, one year; 64277

(2) Upon an incident of refusal or of a prohibited 64278
concentration of alcohol, a controlled substance, or a 64279
metabolite of a controlled substance after one or more previous 64280
incidents of either refusal or of a prohibited concentration of 64281
alcohol, a controlled substance, or a metabolite of a controlled 64282
substance, the person shall be disqualified for life or such 64283
lesser period as prescribed by rule by the registrar. 64284

(F) A test of a person's whole blood or a person's blood 64285
serum or plasma given under this section shall comply with the 64286
applicable provisions of division (D) of section 4511.19 of the 64287
Revised Code and any physician, registered nurse, emergency 64288
medical technician-intermediate, emergency medical technician- 64289
paramedic, or qualified technician, chemist, or phlebotomist who 64290
withdraws whole blood or blood serum or plasma from a person 64291
under this section, and any hospital, first-aid station, clinic, 64292
or other facility at which whole blood or blood serum or plasma 64293
is withdrawn from a person pursuant to this section, is immune 64294
from criminal liability, and from civil liability that is based 64295
upon a claim of assault and battery or based upon any other 64296
claim of malpractice, for any act performed in withdrawing whole 64297
blood or blood serum or plasma from the person. The immunity 64298

provided in this division also extends to an emergency medical 64299
service organization that employs an emergency medical 64300
technician-intermediate or emergency medical technician- 64301
paramedic who withdraws blood under this section. 64302

(G) When a person submits to a test under this section, 64303
the results of the test, at the person's request, shall be made 64304
available to the person, the person's attorney, or the person's 64305
agent, immediately upon completion of the chemical test 64306
analysis. The person also may have an additional test 64307
administered by a physician, a registered nurse, or a qualified 64308
technician, chemist, or phlebotomist of the person's own 64309
choosing as provided in division (D) of section 4511.19 of the 64310
Revised Code for tests administered under that section, and the 64311
failure to obtain such a test has the same effect as in that 64312
division. 64313

(H) No person shall refuse to immediately surrender the 64314
person's commercial driver's license or permit to a peace 64315
officer when required to do so by this section. 64316

(I) A peace officer issuing an out-of-service order or 64317
receiving a commercial driver's license or permit surrendered 64318
under this section may remove or arrange for the removal of any 64319
commercial motor vehicle affected by the issuance of that order 64320
or the surrender of that license. 64321

(J) (1) Except for civil actions arising out of the 64322
operation of a motor vehicle and civil actions in which the 64323
state is a plaintiff, no peace officer of any law enforcement 64324
agency within this state is liable in compensatory damages in 64325
any civil action that arises under the Revised Code or common 64326
law of this state for an injury, death, or loss to person or 64327
property caused in the performance of official duties under this 64328

~~section and rules adopted under this section~~, unless the 64329
officer's actions were manifestly outside the scope of the 64330
officer's employment or official responsibilities, or unless the 64331
officer acted with malicious purpose, in bad faith, or in a 64332
wanton or reckless manner. 64333

(2) Except for civil actions that arise out of the 64334
operation of a motor vehicle and civil actions in which the 64335
state is a plaintiff, no peace officer of any law enforcement 64336
agency within this state is liable in punitive or exemplary 64337
damages in any civil action that arises under the Revised Code 64338
or common law of this state for any injury, death, or loss to 64339
person or property caused in the performance of official duties 64340
under this section of the Revised Code ~~and rules adopted under~~ 64341
~~this section~~, unless the officer's actions were manifestly 64342
outside the scope of the officer's employment or official 64343
responsibilities, or unless the officer acted with malicious 64344
purpose, in bad faith, or in a wanton or reckless manner. 64345

(K) When disqualifying a driver, the registrar shall cause 64346
the records of the bureau of motor vehicles to be updated to 64347
reflect the disqualification within ten days after it occurs. 64348

(L) The registrar immediately shall notify a driver who is 64349
subject to disqualification of the disqualification, of the 64350
length of the disqualification, and that the driver may request 64351
a hearing within thirty days of the mailing of the notice to 64352
show cause why the driver should not be disqualified from 64353
operating a commercial motor vehicle. If a request for such a 64354
hearing is not made within thirty days of the mailing of the 64355
notice, the order of disqualification is final. The registrar 64356
may designate hearing examiners who, after affording all parties 64357
reasonable notice, shall conduct a hearing to determine whether 64358

the disqualification order is supported by reliable evidence. 64359

~~The registrar shall adopt rules to implement this division.~~ 64360

(M) Any person who is disqualified from operating a 64361
commercial motor vehicle under this section may apply to the 64362
registrar for a driver's license to operate a motor vehicle 64363
other than a commercial motor vehicle, provided the person's 64364
commercial driver's license or permit is not otherwise 64365
suspended. A person whose commercial driver's license or permit 64366
is suspended shall not apply to the registrar for or receive a 64367
driver's license under Chapter 4507. of the Revised Code during 64368
the period of suspension. 64369

(N) Whoever violates division (H) of this section is 64370
guilty of a misdemeanor of the first degree. 64371

(O) As used in this section, "emergency medical 64372
technician-intermediate" and "emergency medical technician- 64373
paramedic" have the same meanings as in section 4765.01 of the 64374
Revised Code. 64375

Sec. 4507.061. (A) The registrar of motor vehicles may 64376
authorize the online renewal of a driver's license, commercial 64377
driver's license, or identification card issued by the bureau of 64378
motor vehicles for eligible applicants. An applicant is eligible 64379
for online renewal if all of the following apply: 64380

(1) The applicant's current driver's license, commercial 64381
driver's license, or identification card was processed in person 64382
at a deputy registrar office. 64383

(2) The applicant has a photo on file with the bureau of 64384
motor vehicles from the applicant's current driver's license, 64385
commercial driver's license, or identification card. 64386

(3) The applicant's current driver's license, commercial 64387

driver's license, or identification card expires on the birthday 64388
of the applicant in the fourth year after the date it was 64389
issued. 64390

(4) The applicant is applying for a driver's license, 64391
commercial driver's license, or identification card that expires 64392
on the birthday of the applicant in the fourth year after the 64393
date it is issued. 64394

(5) The applicant's current driver's license, commercial 64395
driver's license, or identification card is unexpired or expired 64396
not more than six months prior to the date of the application. 64397

(6) The applicant is a citizen or a permanent resident of 64398
the United States and a permanent resident of this state. 64399

(7) The applicant's current driver's license, commercial 64400
driver's license, or identification card was issued when the 64401
applicant was twenty-one years of age or older. 64402

(8) If the applicant is renewing a driver's license or 64403
commercial driver's license, the applicant is less than sixty- 64404
five years of age. 64405

(9) The applicant's current driver's license, commercial 64406
driver's license, or driving privileges are not suspended, 64407
canceled, revoked, or restricted, and the applicant is not 64408
otherwise prohibited by law from obtaining a driver's license, 64409
commercial driver's license, or identification card. 64410

(10) The applicant has no changes to the applicant's name 64411
or personal information, other than a change of address. 64412

(11) The applicant has no medical restrictions that would 64413
require the applicant to apply for a driver's license, 64414
commercial driver's license, or identification card in person at 64415

a deputy registrar office. The registrar shall determine the 64416
medical restrictions that require in person applications. 64417

(12) For a commercial driver's license, the applicant 64418
complies with all the requirements of Chapter 4506. of the 64419
Revised Code, including self-certification and medical 64420
certificate requirements. 64421

(13) For a commercial driver's license, the applicant is 64422
not under any restriction specified by any federal regulation. 64423

(B) An applicant may not submit an application online for 64424
any of the following: 64425

(1) A temporary instruction permit; 64426

(2) A commercial driver's license temporary instruction 64427
permit; 64428

(3) An initial issuance of an Ohio driver's license, 64429
commercial driver's license, or identification card; 64430

(4) An initial issuance of a federally compliant driver's 64431
license, commercial driver's license, or identification card; 64432

(5) An ignition interlock license; 64433

(6) A limited term driver's license or limited term 64434
commercial driver's license issued to a temporary resident. 64435

(C) The registrar may require an applicant to provide a 64436
digital copy of any identification documents and supporting 64437
documents as required by statute or administrative rule to 64438
comply with current state and federal requirements. 64439

(D) Except as otherwise provided, an applicant shall 64440
comply with all other applicable laws related to the issuance of 64441
a driver's license, commercial driver's license, or 64442

identification card in order to renew a driver's license, 64443
commercial driver's license, or identification card under this 64444
section. 64445

~~(E) The registrar may adopt rules in accordance with 64446
Chapter 119. of the Revised Code to implement and administer 64447
this section. 64448~~

Sec. 4507.18. (A) The registrar of motor vehicles shall 64449
permit all of the following to renew a driver's license or 64450
motorcycle operator's endorsement issued by this state by 64451
electronic means: 64452

(1) Any person who is on active duty in the armed forces 64453
of the United States who is stationed outside of this state; 64454

(2) The spouse of a person described in division (A)(1) of 64455
this section who is also outside of this state; 64456

(3) The dependents of a person described in division (A) 64457
(1) of this section who are also outside of this state. 64458

(B) The registrar shall require all of the following: 64459

(1) That the applicant provide a digital copy of the 64460
applicant's military identification card or military dependent 64461
identification card; 64462

(2) That any spouse or dependent applicant provide a 64463
digital copy of a form provided by the registrar demonstrating 64464
that the applicant received and passed a vision examination in 64465
accordance with the vision requirements under section 4507.12 of 64466
the Revised Code; 64467

(3) That the applicant provide a digital copy of a current 64468
two inch by two inch passport quality photograph with a white 64469
background to be used as the applicant's new driver's license or 64470

motorcycle operator's endorsement photograph; 64471

(4) That the applicant provide a digital copy of any 64472
identification documents and supporting documents as required by 64473
statute or administrative rule to comply with current state and 64474
federal requirements. 64475

(C) The registrar shall make it possible for applicants to 64476
upload and send by electronic means all required copies of 64477
supporting documents and photographs for a driver's license or 64478
motorcycle operator's endorsement renewal under this section. 64479

(D) (1) This section does not impact a person's ability to 64480
use the exemption from the license requirements available under 64481
division (B) of section 4507.03 of the Revised Code. 64482

(2) This section does not prevent a person who is 64483
permitted to renew a driver's license or motorcycle operator's 64484
endorsement by electronic means under this section from making 64485
an application, as provided in section 4507.10 of the Revised 64486
Code, in person at a deputy registrar's office. 64487

~~(E) The registrar shall adopt rules under Chapter 119. of~~ 64488
~~the Revised Code to implement and administer this section.~~ 64489

Sec. 4507.21. (A) Except as provided in section 4507.061 64490
of the Revised Code, each applicant for a driver's license shall 64491
file an application in the office of the registrar of motor 64492
vehicles or of a deputy registrar. 64493

(B) (1) Except as provided in division (B) (4) of this 64494
section, each person under twenty-one years of age applying for 64495
a driver's license issued in this state and each person twenty- 64496
one years of age or older applying for an initial limited term 64497
license in this state shall present satisfactory evidence of 64498
having successfully completed one of the following: 64499

(a) A driver training course approved by the director of public safety. 64500
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(b) A driver training course comparable to a driver training course described in division (B)(1)(a) of this section and administered by a branch of the armed forces of the United States and completed by the applicant while residing outside this state for the purpose of being with or near any person serving in the armed forces of the United States. 64502
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(2) Each person under twenty-one years of age applying for a driver's license also shall present, on a form prescribed by the registrar, an affidavit signed by an eligible adult attesting that the person has acquired at least fifty hours of actual driving experience, with at least ten of those hours being at night. 64508
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(3) Except as provided in division (B)(4) of this section, each person twenty-one years of age or older applying for an initial limited term license in this state also shall present, on a form prescribed by the registrar, an affidavit signed by an adult who holds a current valid driver's or commercial driver's license issued by this state that the applicant has acquired at least fifty hours of actual driving experience, with at least ten of those hours being at night, accompanied by the signing adult. 64514
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(4) Both of the following individuals are exempt from the requirements specified in divisions (B)(1) and (3) of this section: 64523
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(a) A person who receives a waiver of the examination by the registrar in accordance with section 4507.10 of the Revised Code; 64526
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(b) An initial limited term license applicant twenty-one years of age or older who is from a country with which the registrar has a reciprocal arrangement in accordance with section 4507.101 of the Revised Code.

(C) (1) An applicant for an initial driver's license shall present satisfactory evidence of successful completion of the abbreviated driver training course for adults, ~~approved by the director of public safety under section 4508.02 of the Revised Code,~~ if all of the following apply:

(a) The applicant is twenty-one years of age or older.

(b) The applicant failed the road or maneuverability test required under division (A) (2) of section 4507.11 of the Revised Code.

(c) In the twelve months immediately preceding the date of application, the applicant has not successfully completed a driver training course.

(2) An applicant shall present satisfactory evidence as required under division (C) (1) of this section prior to attempting the test a second or subsequent time.

(D) If the registrar or deputy registrar determines that the applicant is entitled to the driver's license, it shall be issued. If the application shows that the applicant's license has been previously canceled or suspended, the deputy registrar shall forward the application to the registrar, who shall determine whether the license shall be granted.

(E) An applicant shall file an application under this section in duplicate, and the deputy registrar issuing the license shall immediately forward to the office of the registrar the original copy of the application, together with the

duplicate copy of any certificate of completion if issued for 64558
purposes of division (B) of this section. The registrar shall 64559
prescribe rules as to the manner in which the deputy registrar 64560
files and maintains the applications and other records. The 64561
registrar shall file every application for a driver's or 64562
commercial driver's license and index them by name and number, 64563
and shall maintain a suitable record of all licenses issued, all 64564
convictions and bond forfeitures, all applications for licenses 64565
denied, and all licenses that have been suspended or canceled. 64566

(F) For purposes of section 2313.06 of the Revised Code, 64567
the registrar shall maintain accurate and current lists of the 64568
residents of each county who are eighteen years of age or older, 64569
have been issued, on and after January 1, 1984, driver's or 64570
commercial driver's licenses that are valid and current, and 64571
would be electors if they were registered to vote, regardless of 64572
whether they actually are registered to vote. The lists shall 64573
contain the names, addresses, dates of birth, duration of 64574
residence in this state, citizenship status, and social security 64575
numbers, if the numbers are available, of the licensees, and may 64576
contain any other information that the registrar considers 64577
suitable. 64578

(G) Each person under eighteen years of age applying for a 64579
motorcycle operator's endorsement or a restricted license 64580
enabling the applicant to operate a motorcycle shall present 64581
satisfactory evidence of having completed the courses of 64582
instruction in the motorcycle safety and education program 64583
described in section 4508.08 of the Revised Code or a comparable 64584
course of instruction administered by a branch of the armed 64585
forces of the United States and completed by the applicant while 64586
residing outside this state for the purpose of being with or 64587
near any person serving in the armed forces of the United 64588

States. If the registrar or deputy registrar then determines 64589
that the applicant is entitled to the endorsement or restricted 64590
license, it shall be issued. 64591

(H) No person shall knowingly make a false statement in an 64592
affidavit presented in accordance with division (B) (2) of this 64593
section. 64594

(I) As used in this section, "eligible adult" means any of 64595
the following persons: 64596

(1) A parent, guardian, or custodian of the applicant; 64597

(2) A person over the age of twenty-one who acts in loco 64598
parentis of the applicant and who maintains proof of financial 64599
responsibility with respect to the operation of a motor vehicle 64600
owned by the applicant or with respect to the applicant's 64601
operation of any motor vehicle. 64602

(J) Whoever violates division (H) of this section is 64603
guilty of a minor misdemeanor and shall be fined one hundred 64604
dollars. 64605

Sec. 4507.233. (A) Notwithstanding sections 4506.08, 64606
4507.23, 4507.24, 4507.50, and 4507.52 of the Revised Code, a 64607
person may apply for and obtain a replacement commercial 64608
driver's license, driver's license, or identification card 64609
without paying any fee, if all of the following apply: 64610

(1) The license or card is valid and its expiration date 64611
is not within ninety days of the date for renewal. 64612

(2) The license or card indicates the licensee or 64613
cardholder was a noncitizen. 64614

(3) At the time of application, the applicant is a United 64615
States citizen. 64616

(B) The applicant shall include any documentary evidence 64617
of United States citizenship with an application made under 64618
division (A) of this section as the registrar of motor vehicles 64619
may require by rule. 64620

(C) A replacement commercial driver's license, driver's 64621
license, or identification card issued under this section shall 64622
be identical to the license or card replaced, except that it 64623
shall no longer indicate that the licensee or cardholder is a 64624
noncitizen. 64625

~~(D) The registrar shall adopt rules in accordance with 64626
Chapter 119. of the Revised Code for purposes of implementing 64627
and administering this section. Notwithstanding any provision of 64628
section 121.95 of the Revised Code to the contrary, a regulatory 64629
restriction contained in a rule adopted under this section is 64630
not subject to sections 121.95 to 121.953 of the Revised Code. 64631~~

Sec. 4507.49. (A) (1) On the last business day of every 64632
month or on a more frequent schedule as determined by the 64633
registrar of motor vehicles, each deputy registrar shall submit 64634
a verification form to the registrar that contains the following 64635
information: 64636

(a) The number of identification cards and temporary 64637
identification cards issued or renewed under section 4507.50 of 64638
the Revised Code during the established schedule without payment 64639
of any fees; 64640

(b) The number of replacement identification cards issued 64641
under section 4507.52 of the Revised Code during the established 64642
schedule without payment of any fees. 64643

(2) The registrar shall establish the necessary 64644
verification form and the manner and frequency in which the form 64645

shall be submitted. 64646

(B) The registrar shall reimburse each deputy registrar 64647
for the deputy registrar's services in issuing identification 64648
cards, based on the information submitted in accordance with 64649
division (A) of this section, in the following amounts: 64650

(1) The amount established under section 4503.038 of the 64651
Revised Code for each card issued under section 4507.50 of the 64652
Revised Code that will expire on the applicant's birthday four 64653
years after the date of issuance; 64654

(2) Two times the amount established under section 64655
4503.038 of the Revised Code for each card issued under section 64656
4507.50 of the Revised Code that will expire on the applicant's 64657
birthday eight years after the date of issuance; 64658

(3) One dollar and fifty cents for the authentication of 64659
documents for each card issued under section 4507.50 of the 64660
Revised Code that will expire on the applicant's birthday four 64661
years after the date of issuance; 64662

(4) Three dollars for the authentication of documents for 64663
each card issued under section 4507.50 of the Revised Code that 64664
will expire on the applicant's birthday eight years after the 64665
date of issuance; 64666

(5) The amount established under section 4503.038 of the 64667
Revised Code for each replacement card issued under section 64668
4507.52 of the Revised Code. 64669

~~(C) The registrar may adopt any rules necessary to 64670
implement and administer this section. Notwithstanding any 64671
provision of section 121.95 of the Revised Code to the contrary, 64672
a regulatory restriction contained in a rule adopted under this 64673
section is not subject to sections 121.95 to 121.953 of the 64674~~

~~Revised Code.~~

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Sec. 4508.01. As used in this chapter:

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(A) "Beginning driver" means any person being trained to drive a particular motor vehicle who has not been previously licensed to drive that motor vehicle by any state or country.

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(B) "Person with a disability" means a person who, in the opinion of the registrar of motor vehicles, has a physical or mental disability or disease that prevents the person, in the absence of special training or equipment, from exercising reasonable and ordinary control over a motor vehicle while operating the vehicle upon the highways. "Person with a disability" does not mean any person who is or has been subject to any condition resulting in episodic impairment of consciousness or loss of muscular control and whose condition, in the opinion of the registrar, is dormant or is sufficiently under medical control that the person is capable of exercising reasonable and ordinary control over a motor vehicle.

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(C) "Driver training school" or "school" means any of the following:

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(1) A private business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons to operate or drive motor vehicles, that does any of the following:

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(a) Uses public streets or highways to provide training and charges a consideration or tuition for such services;

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(b) Provides an online driver education course approved by the director of public safety pursuant to division (A) (2) of section 4508.02 of the Revised Code and charges a consideration or tuition for the course;

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(c) Provides an abbreviated driver training course for 64704
adults ~~that is approved by the director pursuant to division (F)~~ 64705
~~of section 4508.02 of the Revised Code~~ and charges a 64706
consideration or tuition for the course. 64707

(2) A lead school district as provided in section 4508.09 64708
of the Revised Code; 64709

(3) A board of education of a city, exempted village, 64710
local, or joint vocational school district or the governing 64711
board of an educational service center that offers a driver 64712
education course for high school students enrolled in the 64713
district or in a district served by the educational service 64714
center. 64715

(D) "Instructor" means any person, whether acting for self 64716
as operator of a driver training school or for such a school for 64717
compensation, who teaches, conducts classes of, gives 64718
demonstrations to, or supervises practice of, persons learning 64719
to operate or drive motor vehicles. 64720

(E) "Lead school district" means a school district, 64721
including a joint vocational school district, designated by the 64722
department of education and workforce as either a vocational 64723
education planning district itself or as responsible for 64724
providing primary vocational education leadership within a 64725
vocational education planning district that is composed of a 64726
group of districts. A "vocational education planning district" 64727
is a school district or group of school districts designated by 64728
the department as responsible for planning and providing 64729
vocational education services to students within the district or 64730
group of districts. 64731

Sec. 4508.02. (A) (1) The director of public safety, 64732

subject to Chapter 119. of the Revised Code, shall adopt ~~and~~ 64733
~~prescribe such rules concerning the administration and~~ 64734
~~enforcement of this chapter as are necessary to protect the~~ 64735
~~public. The rules shall require~~ requiring an assessment of the 64736
holder of a probationary instructor license. The director shall 64737
inspect the school facilities and equipment of applicants and 64738
licensees and examine applicants for instructor's licenses. 64739

(2) The director shall adopt rules governing online driver 64740
education courses that may be completed via the internet to 64741
satisfy the classroom instruction under division (C) of this 64742
section. The rules shall do all of the following: 64743

(a) Establish standards that an online driver training 64744
enterprise must satisfy to be licensed to offer an online driver 64745
education course via the internet, including, at a minimum, 64746
proven expertise in providing driver education and an acceptable 64747
infrastructure capable of providing secure online driver 64748
education in accord with advances in internet technology. The 64749
rules shall allow an online driver training enterprise to be 64750
affiliated with a licensed driver training school offering in- 64751
person classroom instruction, but shall not require such an 64752
affiliation. 64753

(b) Establish content requirements that an online driver 64754
education course must satisfy to be approved as equivalent to 64755
twenty-four hours of in-person classroom instruction; 64756

(c) Establish attendance standards, including a maximum 64757
number of course hours that may be completed in a twenty-four- 64758
hour period; 64759

(d) Allow an enrolled applicant to begin the required 64760
eight hours of actual behind-the-wheel instruction upon 64761

completing all twenty-four hours of course instruction† 64762

~~(c) Establish any other requirements necessary to regulate 64763
online driver education. 64764~~

(B) The director shall administer and enforce this 64765
chapter. 64766

(C) The rules shall require twenty-four hours of completed 64767
in-person classroom instruction or the completion of an 64768
approved, equivalent online driver education course offered via 64769
the internet by a licensed online driver training enterprise, 64770
followed by eight hours of actual behind-the-wheel instruction 64771
conducted on public streets and highways of this state for all 64772
beginning drivers of noncommercial motor vehicles who are 64773
required to complete the training under section 4507.21 of the 64774
Revised Code. The rules shall allow beginning drivers of 64775
noncommercial motor vehicles to complete the driver education 64776
course at any point while holding a valid temporary instruction 64777
permit. The rules also shall require the classroom instruction 64778
or online driver education course for such drivers to include 64779
instruction on both of the following: 64780

(1) The dangers of driving a motor vehicle while 64781
distracted, including while using an electronic wireless 64782
communications device, or engaging in any other activity that 64783
distracts a driver from the safe and effective operation of a 64784
motor vehicle; 64785

(2) The dangers of driving a motor vehicle while under the 64786
influence of a controlled substance, prescription medication, or 64787
alcohol. 64788

(D) The rules shall state the minimum hours for classroom 64789
and behind-the-wheel instruction required for beginning drivers 64790

of commercial trucks, commercial cars, buses, and commercial 64791
tractors, trailers, and semitrailers. 64792

(E) (1) The department of public safety may charge a fee to 64793
each online driver training enterprise in an amount sufficient 64794
to pay the actual expenses the department incurs in the 64795
regulation of online driver education courses. 64796

(2) The department shall supply to each licensed online 64797
driver training enterprise certificates to be used for 64798
certifying an applicant's enrollment in an approved online 64799
driver education course and a separate certificate to be issued 64800
upon successful completion of an approved online driver 64801
education course. The certificates shall be numbered serially. 64802
The department may charge a fee to each online driver training 64803
enterprise per certificate supplied to pay the actual expenses 64804
the department incurs in supplying the certificates. 64805

~~(F) The director shall adopt rules in accordance with 64806
Chapter 119. of the Revised Code governing an abbreviated driver 64807
training course for adults. 64808~~

Sec. 4509.03. (A) The registrar of motor vehicles shall 64809
administer and enforce sections 4509.01 to 4509.78 of the 64810
Revised Code. ~~He may make rules necessary for such 64811
administration and~~ The registrar shall provide for hearings upon 64812
request of persons aggrieved by ~~his~~ the registrar's orders or 64813
acts in accordance with sections 119.01 to 119.13 of the Revised 64814
Code except as otherwise provided under section 4509.101 or any 64815
other section of the Revised Code. 64816

(B) The registrar, with the approval of the director of 64817
public safety, shall provide suitable forms for the purposes of 64818
sections 4509.01 to 4509.78 of ~~of~~ the Revised Code. 64819

Sec. 4509.101. (A) (1) No person shall operate, or permit 64820
the operation of, a motor vehicle in this state, unless proof of 64821
financial responsibility is maintained continuously throughout 64822
the registration period with respect to that vehicle, or, in the 64823
case of a driver who is not the owner, with respect to that 64824
driver's operation of that vehicle. 64825

(2) Whoever violates division (A) (1) of this section shall 64826
be subject to the following civil penalties: 64827

(a) Subject to divisions (A) (2) (b) and (c) of this 64828
section, a class (F) suspension of the person's driver's 64829
license, commercial driver's license, temporary instruction 64830
permit, probationary license, or nonresident operating privilege 64831
for the period of time specified in division (B) (6) of section 64832
4510.02 of the Revised Code and impoundment of the person's 64833
license. The court may grant limited driving privileges to the 64834
person, but only if the person presents proof of financial 64835
responsibility and is enrolled in a reinstatement fee payment 64836
plan pursuant to section 4510.10 of the Revised Code. 64837

(b) If, within one year of the violation, the person's 64838
operating privileges are again suspended and the person's 64839
license again is impounded for a violation of division (A) (1) of 64840
this section, a class C suspension of the person's driver's 64841
license, commercial driver's license, temporary instruction 64842
permit, probationary license, or nonresident operating privilege 64843
for the period of time specified in division (B) (3) of section 64844
4510.02 of the Revised Code. The court may grant limited driving 64845
privileges to the person only if the person presents proof of 64846
financial responsibility and has complied with division (A) (5) 64847
of this section, and no court may grant limited driving 64848
privileges for the first fifteen days of the suspension. 64849

(c) If, within one year of the violation, the person's operating privileges are suspended and the person's license is impounded two or more times for a violation of division (A) (1) of this section, a class B suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B) (2) of section 4510.02 of the Revised Code. The court may grant limited driving privileges to the person only if the person presents proof of financial responsibility and has complied with division (A) (5) of this section, except that no court may grant limited driving privileges for the first thirty days of the suspension.

The clerk of court shall waive the cost of filing a petition for limited driving privileges if, pursuant to section 2323.311 of the Revised Code, the petitioner applies to be qualified as an indigent litigant and the court approves the application.

(3) A person to whom this state has issued a certificate of registration for a motor vehicle or a license to operate a motor vehicle or who is determined to have operated any motor vehicle or permitted the operation in this state of a motor vehicle owned by the person shall be required to verify the existence of proof of financial responsibility covering the operation of the motor vehicle or the person's operation of the motor vehicle under either of the following circumstances:

(a) The person or a motor vehicle owned by the person is involved in a traffic accident that requires the filing of an accident report under section 4509.06 of the Revised Code.

(b) The person receives a traffic ticket indicating that proof of the maintenance of financial responsibility was not

produced upon the request of a peace officer or state highway patrol trooper made in accordance with division (D)(2) of this section. 64880
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(4) An order of the registrar that suspends a license shall state the date on or before which the person is required to surrender the person's license. The person is deemed to have surrendered the license, in compliance with the order, if the person does either of the following: 64883
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(a) On or before the date specified in the order, delivers the license to the registrar; 64888
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(b) Mails the license to the registrar in an envelope or container bearing a postmark showing a date no later than the date specified in the order. 64890
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(5) Except as provided in division (L) of this section, the registrar shall not restore any operating privileges suspended under this section, return any license surrendered under this section, or reissue a license under section 4510.52 of the Revised Code, if the registrar destroyed the suspended license under that section, unless the rights are not subject to suspension or revocation under any other law and unless the person, in addition to complying with all other conditions required by law for reinstatement of the operating privileges, complies with all of the following: 64893
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(a) Pays to the registrar or an eligible deputy registrar a financial responsibility reinstatement fee of forty dollars for the first violation of division (A)(1) of this section, three hundred dollars for a second violation of that division, and six hundred dollars for a third or subsequent violation of that division; 64903
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(b) Files and continuously maintains proof of financial responsibility in accordance with sections 4509.44 to 4509.65 of the Revised Code; 64909
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(c) Pays a deputy registrar a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee and two dollars of the service fee to the registrar in the manner the registrar shall determine. 64912
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(B) (1) Every party required to file an accident report under section 4509.06 of the Revised Code also shall include with the report a document described in division (G) (1) (a) of this section or shall present proof of financial responsibility through use of an electronic wireless communications device as permitted by division (G) (1) (b) of this section. 64918
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If the registrar determines, within forty-five days after the report is filed, that an operator or owner has violated division (A) (1) of this section, the registrar shall do all of the following: 64924
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(a) Order the suspension required under division (A) (2) (a), (b), or (c) of this section of the license of any operator or owner who has violated division (A) (1) of this section; 64928
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(b) Record the name and address of the person whose license has been suspended or is under an order of suspension, the serial number of the person's license, and the person's social security account number, if assigned, or, where the motor vehicle that is the subject of the violation is used for hire or principally in connection with any established business, the person's federal taxpayer identification number. The information 64931
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shall be recorded in such a manner that it becomes a part of the 64938
person's permanent record, and assists the registrar in 64939
monitoring compliance with the orders of suspension. 64940

(c) Send written notification to every person to whom the 64941
order pertains, at the person's last known address as shown on 64942
the records of the bureau. The person, within ten days after the 64943
date of the mailing of the notification, shall surrender to the 64944
registrar, in a manner set forth in division (A)(4) of this 64945
section, any license under an order of suspension. 64946

(2) The registrar shall issue any order under division (B) 64947
(1) of this section without a hearing. Any person adversely 64948
affected by the order, within fifteen days after the issuance of 64949
the order, may request an administrative hearing before the 64950
registrar, who shall provide the person with an opportunity for 64951
a hearing in accordance with this paragraph. A request for a 64952
hearing does not operate as a suspension of the order. The scope 64953
of the hearing shall be limited to whether the person in fact 64954
demonstrated to the registrar proof of financial responsibility 64955
in accordance with this section. The registrar shall determine 64956
the date, time, and place of any hearing, provided that the 64957
hearing shall be held, and an order issued or findings made, 64958
within thirty days after the registrar receives a request for a 64959
hearing. If requested by the person in writing, the registrar 64960
may designate as the place of hearing the county seat of the 64961
county in which the person resides or a place within fifty miles 64962
of the person's residence. The person shall pay the cost of the 64963
hearing before the registrar, if the registrar's order of 64964
suspension is upheld. 64965

(C) Any order of suspension issued under this section or 64966
division (B) of section 4509.37 of the Revised Code may be 64967

terminated at any time if the registrar determines upon a 64968
showing of proof of financial responsibility that the operator 64969
or owner of the motor vehicle was in compliance with division 64970
(A) (1) of this section at the time of the traffic offense, motor 64971
vehicle inspection, or accident that resulted in the order 64972
against the person. A determination may be made without a 64973
hearing. This division does not apply unless the person shows 64974
good cause for the person's failure to present satisfactory 64975
proof of financial responsibility to the registrar prior to the 64976
issuance of the order. 64977

(D) (1) (a) For the purpose of enforcing this section, every 64978
peace officer is deemed an agent of the registrar. 64979

(b) Any peace officer who, in the performance of the peace 64980
officer's duties as authorized by law, becomes aware of a person 64981
whose license is under an order of suspension, pursuant to this 64982
section, may confiscate the license and return it to the 64983
registrar. 64984

(2) A peace officer shall request the owner or operator of 64985
a motor vehicle to produce proof of financial responsibility in 64986
a manner described in division (G) of this section at the time 64987
the peace officer acts to enforce the traffic laws of this state 64988
and during motor vehicle inspections conducted pursuant to 64989
section 4513.02 of the Revised Code. 64990

(3) A peace officer shall indicate on every traffic ticket 64991
whether the person receiving the traffic ticket produced proof 64992
of the maintenance of financial responsibility in response to 64993
the officer's request under division (D) (2) of this section. The 64994
peace officer shall inform every person who receives a traffic 64995
ticket and who has failed to produce proof of the maintenance of 64996
financial responsibility that the person must submit proof to 64997

the traffic violations bureau with any payment of a fine and 64998
costs for the ticketed violation or, if the person is to appear 64999
in court for the violation, the person must submit proof to the 65000
court. 65001

(4) (a) If a person who has failed to produce proof of the 65002
maintenance of financial responsibility appears in court for a 65003
ticketed violation, the court may permit the defendant to 65004
present evidence of proof of financial responsibility to the 65005
court at such time and in such manner as the court determines to 65006
be necessary or appropriate. In a manner prescribed by the 65007
registrar, the clerk of courts shall provide the registrar with 65008
the identity of any person who fails to submit proof of the 65009
maintenance of financial responsibility pursuant to division (D) 65010
(3) of this section. 65011

(b) If a person who has failed to produce proof of the 65012
maintenance of financial responsibility also fails to submit 65013
that proof to the traffic violations bureau with payment of a 65014
fine and costs for the ticketed violation, the traffic 65015
violations bureau, in a manner prescribed by the registrar, 65016
shall notify the registrar of the identity of that person. 65017

(5) (a) Upon receiving notice from a clerk of courts or 65018
traffic violations bureau pursuant to division (D) (4) of this 65019
section, the registrar shall order the suspension of the license 65020
of the person required under division (A) (2) (a), (b), or (c) of 65021
this section, effective forty-five days after the date of the 65022
mailing of notification. The registrar also shall notify the 65023
person that the person must present the registrar with proof of 65024
financial responsibility in accordance with this section, 65025
surrender to the registrar the person's license, or submit a 65026
statement subject to section 2921.13 of the Revised Code that 65027

the person did not operate or permit the operation of the motor 65028
vehicle at the time of the offense. Notification shall be in 65029
writing and shall be sent to the person at the person's last 65030
known address as shown on the records of the bureau of motor 65031
vehicles. The person, within forty-five days after the date of 65032
the mailing of notification, shall present proof of financial 65033
responsibility, surrender the license to the registrar in a 65034
manner set forth in division (A) (4) of this section, or submit 65035
the statement required under this section together with other 65036
information the person considers appropriate. 65037

If the registrar does not receive proof or the person does 65038
not surrender the license, in accordance with this division, the 65039
registrar shall permit the order for the suspension of the 65040
license of the person to take effect. 65041

(b) In the case of a person who presents, within the 65042
forty-five-day period, proof of financial responsibility, the 65043
registrar shall terminate the order of suspension and shall send 65044
written notification to the person, at the person's last known 65045
address as shown on the records of the bureau. 65046

(c) Any person adversely affected by the order of the 65047
registrar under division (D) (5) (a) or (b) of this section, 65048
within fifteen days after the issuance of the order, may request 65049
an administrative hearing before the registrar, who shall 65050
provide the person with an opportunity for a hearing in 65051
accordance with this paragraph. A request for a hearing does not 65052
operate as a suspension of the order. The scope of the hearing 65053
shall be limited to whether, at the time of the hearing, the 65054
person presents proof of financial responsibility covering the 65055
vehicle and whether the person is eligible for an exemption in 65056
accordance with this section or any rule adopted under it. The 65057

registrar shall determine the date, time, and place of any hearing; provided, that the hearing shall be held, and an order issued or findings made, within thirty days after the registrar receives a request for a hearing. If requested by the person, the hearing may be held remotely by electronic means. If requested by the person in writing, the registrar may designate as the place of hearing the county seat of the county in which the person resides or a place within fifty miles of the person's residence. Such person shall pay the cost of the hearing before the registrar, if the registrar's order of suspension under division (D) (5) (a) or (b) of this section is upheld.

(6) Any forms used by law enforcement agencies in administering this section shall be prescribed, supplied, and paid for by the registrar.

(7) No peace officer, law enforcement agency employing a peace officer, or political subdivision or governmental agency that employs a peace officer shall be liable in a civil action for damages or loss to persons arising out of the performance of any duty required or authorized by this section.

(8) As used in this section, "peace officer" has the meaning set forth in section 2935.01 of the Revised Code.

(E) All fees, except court costs, fees paid to a deputy registrar, and those portions of the financial responsibility reinstatement fees as otherwise specified in this division, collected under this section shall be paid into the state treasury to the credit of the public safety - highway purposes fund established in section 4501.06 of the Revised Code and used to cover costs incurred by the bureau in the administration of this section and sections 4503.20, 4507.212, and 4509.81 of the Revised Code, and by any law enforcement agency employing any

peace officer who returns any license to the registrar pursuant 65088
to division (C) of this section. 65089

Of each financial responsibility reinstatement fee the 65090
registrar collects pursuant to division (A) (5) (a) of this 65091
section or receives from a deputy registrar under division (A) 65092
(5) (c) of this section, the registrar shall deposit ten dollars 65093
of each forty-dollar reinstatement fee, fifty dollars of each 65094
three-hundred-dollar reinstatement fee, and one hundred dollars 65095
of each six-hundred-dollar reinstatement fee into the state 65096
treasury to the credit of the indigent defense support fund 65097
created by section 120.08 of the Revised Code. 65098

(F) Chapter 119. of the Revised Code applies to this 65099
section only to the extent that any provision in that chapter is 65100
not clearly inconsistent with this section. 65101

(G) (1) (a) The registrar, court, traffic violations bureau, 65102
or peace officer may require proof of financial responsibility 65103
to be demonstrated by use of a standard form prescribed by the 65104
registrar. If the use of a standard form is not required, a 65105
person may demonstrate proof of financial responsibility under 65106
this section by presenting to the traffic violations bureau, 65107
court, registrar, or peace officer any of the following 65108
documents or a copy of the documents: 65109

(i) A financial responsibility identification card as 65110
provided in section 4509.103 of the Revised Code; 65111

(ii) A certificate of proof of financial responsibility on 65112
a form provided and approved by the registrar for the filing of 65113
an accident report required to be filed under section 4509.06 of 65114
the Revised Code; 65115

(iii) A policy of liability insurance, a declaration page 65116

of a policy of liability insurance, or liability bond, if the 65117
policy or bond complies with section 4509.20 or sections 4509.49 65118
to 4509.61 of the Revised Code; 65119

(iv) A bond or certification of the issuance of a bond as 65120
provided in section 4509.59 of the Revised Code; 65121

(v) A certificate of deposit of money or securities as 65122
provided in section 4509.62 of the Revised Code; 65123

(vi) A certificate of self-insurance as provided in 65124
section 4509.72 of the Revised Code. 65125

(b) A person also may present proof of financial 65126
responsibility under this section to the traffic violations 65127
bureau, court, registrar, or peace officer through use of an 65128
electronic wireless communications device as specified under 65129
section 4509.103 of the Revised Code. 65130

(2) If a person fails to demonstrate proof of financial 65131
responsibility in a manner described in division (G)(1) of this 65132
section, the person may demonstrate proof of financial 65133
responsibility under this section by any other method that the 65134
court or the bureau, by reason of circumstances in a particular 65135
case, may consider appropriate. 65136

(3) A motor carrier certificated by the interstate 65137
commerce commission or by the public utilities commission may 65138
demonstrate proof of financial responsibility by providing a 65139
statement designating the motor carrier's operating authority 65140
and averring that the insurance coverage required by the 65141
certificating authority is in full force and effect. 65142

(4) (a) A finding by the registrar or court that a person 65143
is covered by proof of financial responsibility in the form of 65144
an insurance policy or surety bond is not binding upon the named 65145

insurer or surety or any of its officers, employees, agents, or 65146
representatives and has no legal effect except for the purpose 65147
of administering this section. 65148

(b) The preparation and delivery of a financial 65149
responsibility identification card or any other document 65150
authorized to be used as proof of financial responsibility and 65151
the generation and delivery of proof of financial responsibility 65152
to an electronic wireless communications device that is 65153
displayed on the device as text or images does not do any of the 65154
following: 65155

(i) Create any liability or estoppel against an insurer or 65156
surety, or any of its officers, employees, agents, or 65157
representatives; 65158

(ii) Constitute an admission of the existence of, or of 65159
any liability or coverage under, any policy or bond; 65160

(iii) Waive any defenses or counterclaims available to an 65161
insurer, surety, agent, employee, or representative in an action 65162
commenced by an insured or third-party claimant upon a cause of 65163
action alleged to have arisen under an insurance policy or 65164
surety bond or by reason of the preparation and delivery of a 65165
document for use as proof of financial responsibility or the 65166
generation and delivery of proof of financial responsibility to 65167
an electronic wireless communications device. 65168

(c) Whenever it is determined by a final judgment in a 65169
judicial proceeding that an insurer or surety, which has been 65170
named on a document or displayed on an electronic wireless 65171
communications device accepted by a court or the registrar as 65172
proof of financial responsibility covering the operation of a 65173
motor vehicle at the time of an accident or offense, is not 65174

liable to pay a judgment for injuries or damages resulting from 65175
such operation, the registrar, notwithstanding any previous 65176
contrary finding, shall forthwith suspend the operating 65177
privileges and registration rights of the person against whom 65178
the judgment was rendered as provided in division (A) (2) of this 65179
section. 65180

(H) In order for any document or display of text or images 65181
on an electronic wireless communications device described in 65182
division (G) (1) of this section to be used for the demonstration 65183
of proof of financial responsibility under this section, the 65184
document or words or images shall state the name of the insured 65185
or obligor, the name of the insurer or surety company, and the 65186
effective and expiration dates of the financial responsibility, 65187
and designate by explicit description or by appropriate 65188
reference all motor vehicles covered which may include a 65189
reference to fleet insurance coverage. 65190

(I) For purposes of this section, "owner" does not include 65191
a licensed motor vehicle leasing dealer as defined in section 65192
4517.01 of the Revised Code, but does include a motor vehicle 65193
renting dealer as defined in section 4549.65 of the Revised 65194
Code. Nothing in this section or in section 4509.51 of the 65195
Revised Code shall be construed to prohibit a motor vehicle 65196
renting dealer from entering into a contractual agreement with a 65197
person whereby the person renting the motor vehicle agrees to be 65198
solely responsible for maintaining proof of financial 65199
responsibility, in accordance with this section, with respect to 65200
the operation, maintenance, or use of the motor vehicle during 65201
the period of the motor vehicle's rental. 65202

(J) The purpose of this section is to require the 65203
maintenance of proof of financial responsibility with respect to 65204

the operation of motor vehicles on the highways of this state, 65205
so as to minimize those situations in which persons are not 65206
compensated for injuries and damages sustained in motor vehicle 65207
accidents. The general assembly finds that this section contains 65208
reasonable civil penalties and procedures for achieving this 65209
purpose. 65210

(K) Nothing in this section shall be construed to be 65211
subject to section 4509.78 of the Revised Code. 65212

(L) (1) The registrar may terminate any suspension imposed 65213
under this section and not require the owner to comply with 65214
division (A) (5) of this section if the registrar with or without 65215
a hearing determines that the owner of the vehicle has 65216
established by clear and convincing evidence that all of the 65217
following apply: 65218

(a) The owner customarily maintains proof of financial 65219
responsibility. 65220

(b) Proof of financial responsibility was not in effect 65221
for the vehicle on the date in question for one of the following 65222
reasons: 65223

(i) The vehicle was inoperable. 65224

(ii) The vehicle is operated only seasonally, and the date 65225
in question was outside the season of operation. 65226

(iii) A person other than the vehicle owner or driver was 65227
at fault for the lapse of proof of financial responsibility 65228
through no fault of the owner or driver. 65229

(iv) The lapse of proof of financial responsibility was 65230
caused by excusable neglect under circumstances that are not 65231
likely to recur and do not suggest a purpose to evade the 65232

requirements of this chapter. 65233

(2) The registrar may grant an owner or driver relief for 65234
a reason specified in division (L) (1) (b) (iii) or (iv) of this 65235
section only if the owner or driver has not previously been 65236
granted relief under division (L) (1) (b) (iii) or (iv) of this 65237
section. 65238

(M) The registrar shall adopt rules in accordance with 65239
Chapter 119. of the Revised Code that ~~are necessary to~~ 65240
~~administer and enforce this section.~~ The rules shall include 65241
provisions relating to acceptable forms of proof of financial 65242
responsibility, the use of an electronic wireless communications 65243
device to present proof of financial responsibility, and 65244
verification of the existence of financial responsibility during 65245
the period of registration. 65246

(N) (1) When a person utilizes an electronic wireless 65247
communications device to present proof of financial 65248
responsibility, only the evidence of financial responsibility 65249
displayed on the device shall be viewed by the registrar, peace 65250
officer, employee or official of the traffic violations bureau, 65251
or the court. No other content of the device shall be viewed for 65252
purposes of obtaining proof of financial responsibility. 65253

(2) When a person provides an electronic wireless 65254
communications device to the registrar, a peace officer, an 65255
employee or official of a traffic violations bureau, or the 65256
court, the person assumes the risk of any resulting damage to 65257
the device unless the registrar, peace officer, employee, or 65258
official, or court personnel purposely, knowingly, or recklessly 65259
commits an action that results in damage to the device. 65260

Sec. 4510.10. (A) As used in this section: 65261

(1) "Reinstatement fees" means the fees that are required under section 4507.1612, 4507.45, 4509.101, 4509.81, 4511.191, 4511.951, or any other provision of the Revised Code, or under a schedule established by the bureau of motor vehicles, in order to reinstate a driver's or commercial driver's license or permit or nonresident operating privilege of an offender under a suspension.

(2) "Indigent" means a person who is a participant in any of the following programs:

(a) The supplemental nutrition assistance program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code;

(b) The medicaid program pursuant to Chapter 5163. of the Revised Code;

(c) The Ohio works first program administered by the department of job and family services pursuant to section 5107.10 of the Revised Code;

(d) The supplemental security income program pursuant to 20 C.F.R. 416.1100;

(e) The United States department of veterans affairs pension benefit program pursuant to 38 U.S.C. 1521.

(B) Reinstatement fees are those fees that compensate the bureau of motor vehicles for suspensions, cancellations, or disqualifications of a person's driving privileges and to compensate the bureau and other agencies in their administration of programs intended to reduce and eliminate threats to public safety through education, treatment, and other activities. The registrar of motor vehicles shall not reinstate a driver's or commercial driver's license or permit or nonresident operating

privilege of a person until the person has paid all 65291
reinstatement fees and has complied with all conditions for each 65292
suspension, cancellation, or disqualification incurred by that 65293
person. 65294

(C) When a municipal court or county court determines in a 65295
pending case involving an offender that the offender cannot 65296
reasonably pay reinstatement fees due and owing by the offender 65297
relative to one or more suspensions that have been or will be 65298
imposed by the bureau of motor vehicles or by a court of this 65299
state, the court, by order, may do either of the following: 65300

(1) Undertake an installment payment plan or a payment 65301
extension plan for the payment of reinstatement fees due and 65302
owing to the bureau in that pending case. The court shall 65303
establish an installment payment plan or a payment extension 65304
plan in accordance with the requirements of divisions (D) (1) and 65305
(2) of this section. 65306

(2) Authorize the offender to perform community service in 65307
lieu of payment of the reinstatement fees. 65308

A court that authorizes an offender to perform community 65309
service in lieu of paying reinstatement fees under this division 65310
shall provide the offender with documentation indicating 65311
completion of the court-ordered community service when the 65312
offender has completed that community service. In addition to 65313
complying with all other applicable requirements for 65314
reinstatement, other than payment of reinstatement fees, the 65315
offender shall provide the documentation of completion to the 65316
registrar when seeking reinstatement. 65317

(D) Independent of the provisions of division (C) of this 65318
section, an offender who cannot reasonably pay reinstatement 65319

fees due and owing by the offender relative to a suspension that 65320
has been imposed on the offender may file a petition in the 65321
municipal court, county court, or, if the person is under the 65322
age of eighteen, the juvenile division of the court of common 65323
pleas in whose jurisdiction the person resides or, if the person 65324
is not a resident of this state, in the Franklin county 65325
municipal court or juvenile division of the Franklin county 65326
court of common pleas for an order that does either of the 65327
following, in order of preference: 65328

(1) Establishes a reasonable payment plan of not less than 65329
fifty dollars per month, to be paid by the offender to the 65330
registrar of motor vehicles or an eligible deputy registrar, in 65331
all succeeding months until all reinstatement fees required of 65332
the offender are paid in full. If the person is making payments 65333
to a deputy registrar, the deputy registrar shall collect a 65334
service fee of ten dollars each time the deputy registrar 65335
collects a payment to compensate the deputy registrar for 65336
services performed under this section. The deputy registrar 65337
shall retain eight dollars of the service fee and shall transmit 65338
the reinstatement payments, plus two dollars of each service 65339
fee, to the registrar in the manner the registrar shall 65340
determine. 65341

(2) If the offender, but for the payment of the 65342
reinstatement fees, otherwise would be entitled to operate a 65343
vehicle in this state or to obtain reinstatement of the 65344
offender's operating privileges, permits the offender to operate 65345
a motor vehicle, as authorized by the court, until a future date 65346
upon which date all reinstatement fees must be paid in full. A 65347
payment extension granted under this division shall not exceed 65348
one hundred eighty days, and any operating privileges granted 65349
under this division shall be solely for the purpose of 65350

permitting the offender occupational or "family necessity" 65351
privileges in order to enable the offender to reasonably acquire 65352
the delinquent reinstatement fees due and owing. 65353

(E) If a municipal court, county court, or juvenile 65354
division enters an order of the type described in division (C) 65355
or division (D) (1) or (2) of this section, the court, at any 65356
time after the issuance of the order, may determine that a 65357
change of circumstances has occurred and may amend the order as 65358
justice requires, provided that the amended order also shall be 65359
an order that is permitted under division (C) or division (D) (1) 65360
or (2) of this section. 65361

(F) If a court enters an order of the type described in 65362
division (C), (D) (1), (D) (2), or (E) of this section, during the 65363
pendency of the order, the offender in relation to whom it 65364
applies is not subject to prosecution for failing to pay the 65365
reinstatement fees covered by the order. 65366

(G) (1) In addition to divisions (A) to (F) of this 65367
section, the registrar, with the approval of the director of 65368
public safety and in accordance with Chapter 119. of the Revised 65369
Code, may adopt rules that do both of the following: 65370

(a) Permit a person to pay reinstatement fees in 65371
installments in accordance with division (G) (2) of this section; 65372

(b) Permit a person who is indigent to apply for and 65373
receive a waiver of all reinstatement fees in accordance with 65374
division (G) (3) of this section. 65375

(2) The rules governing the bureau of motor vehicles 65376
installment plan may contain any of the following provisions: 65377

(a) A schedule establishing a minimum monthly payment 65378
amount; 65379

(b) If the person otherwise would have valid driving 65380
privileges but for the payment of the reinstatement fees, the 65381
registrar may record the person's driving privileges as "valid" 65382
so long as the person's installments are current. 65383

(c) If the person's installments are not current, the 65384
registrar may record the person's driving privileges as 65385
"suspended" or "failure to reinstate," as appropriate. 65386

~~(d) Any other provision the registrar reasonably may 65387
prescribe. 65388~~

(3) The rules governing the bureau of motor vehicles 65389
waiver plan may establish any of the following: 65390

(a) The form of the application; 65391

(b) The documentation required of a person to prove that 65392
the person is indigent; 65393

(c) A process for recording the person's driving 65394
privileges as "valid" after the waiver of the reinstatement 65395
fees; 65396

~~(d) Any other requirements or procedures the registrar 65397
determines are necessary for implementation of the waiver plan. 65398~~

(H) Reinstatement fees are debts that may be discharged in 65399
bankruptcy. 65400

Sec. 4510.108. (A) The director of public safety shall 65401
conduct public service announcements regarding the permanent 65402
driver's license reinstatement fee debt reduction and amnesty 65403
program that includes a description of the program and its 65404
requirements. In addition, the director shall make such 65405
information available on the department of public safety's and 65406
the bureau of motor vehicle's web sites. 65407

(B) The director shall establish a toll-free telephone number by which a person may receive information about the program and the person's eligibility for the program. The toll-free telephone number shall be listed as part of the public service announcements and on the department and bureau web sites.

~~(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code in order to establish any requirements and procedures necessary to administer and implement the program.~~

Sec. 4510.45. (A) (1) A manufacturer of ignition interlock devices that desires for its devices to be certified under section 4510.43 of the Revised Code and then to be included on the list of certified devices that the department of public safety compiles and makes available to courts pursuant to that section first shall obtain a license from the department under this section. ~~The department, in accordance with Chapter 119. of the Revised Code, shall adopt any rules that are necessary to implement this licensing requirement.~~

(2) A manufacturer shall apply to the department for the license and shall include all information the department may require ~~by rule~~. Each application, including an application for license renewal, shall be accompanied by an application fee of one hundred dollars, which the department shall deposit into the state treasury to the credit of the indigent drivers alcohol treatment fund created by section 4511.191 of the Revised Code. Each application also shall be accompanied by a signed agreement, in a form established by the director, affirming that the manufacturer agrees to install and monitor all devices produced by that manufacturer and affirming that the

manufacturer agrees to charge a reduced fee, established by the department, for the installation and monitoring of a device used by a person who is deemed to be an indigent offender by the court that granted limited or unlimited driving privileges to the offender subject to the condition that the offender use a certified ignition interlock device.

(3) Upon receipt of a completed application, if the department finds that a manufacturer has complied with all application requirements, the department shall issue a license to the manufacturer. A manufacturer that has been issued a license under this section is eligible immediately to have the models of ignition interlock devices it produces certified under section 4510.43 of the Revised Code and then included on the list of certified devices that the department compiles and makes available to courts pursuant to that section.

(4) (a) A license issued under this section shall expire annually on a date selected by the department. The department shall reject the license application of a manufacturer if any of the following apply:

(i) The application is not accompanied by the application fee or the required agreement.

(ii) The department finds that the manufacturer has not complied with all application requirements.

(iii) The license application is a renewal application and the manufacturer failed to file the annual report or failed to pay the fee as required by division (B) of this section.

(iv) The license application is a renewal application and the manufacturer failed to monitor or report violations as required under section 4510.46 of the Revised Code.

(b) The department may reject the license application of a manufacturer if the manufacturer has a history of failing to properly install immobilizing or disabling devices.

(c) A manufacturer whose license application is rejected by the department may appeal the decision to the director of public safety. The director or the director's designee shall hold a hearing on the matter not more than thirty days from the date of the manufacturer's appeal. If the director or the director's designee upholds the denial of the manufacturer's application for a license, the manufacturer may appeal the decision to the Franklin county court of common pleas. If the director or the director's designee reverses the denial of the manufacturer's application for a license, the director or the director's designee shall issue a written order directing that the department issue a license to the manufacturer.

(B) Every manufacturer of ignition interlock devices that is issued a license under this section shall file an annual report with the department on a form the department prescribes on or before a date the department prescribes. The annual report shall state the amount of net profit the manufacturer earned during a twelve-month period specified by the department that is attributable to the sales of that manufacturer's certified ignition interlock devices to purchasers in this state. Each manufacturer shall pay a fee equal to five per cent of the amount of the net profit described in this division.

The department may permit annual reports to be filed via electronic means.

(C) The department shall deposit all fees it receives from manufacturers under this section into the state treasury to the credit of the indigent drivers alcohol treatment fund created by

section 4511.191 of the Revised Code. All money so deposited 65497
into that fund that is paid by the department of mental health 65498
and addiction services to county indigent drivers alcohol 65499
treatment funds, county juvenile indigent drivers alcohol 65500
treatment funds, and municipal indigent drivers alcohol 65501
treatment funds shall be used only as described in division (H) 65502
(3) of section 4511.191 of the Revised Code. 65503

(D) (1) The director may make an assessment, based on any 65504
information in the director's possession, against any 65505
manufacturer that fails to file an annual report or pay the fee 65506
required by division (B) of this section. The director, in 65507
accordance with Chapter 119. of the Revised Code, shall adopt 65508
rules governing assessments and assessment procedures and 65509
related provisions. In adopting these rules, the director shall 65510
incorporate the provisions of section 5751.09 of the Revised 65511
Code to the greatest extent possible, except that the director 65512
is not required to incorporate any provisions of that section 65513
that by their nature are not applicable, appropriate, or 65514
necessary to assessments made by the director under this 65515
section. 65516

(2) A manufacturer may appeal the final determination of 65517
the director regarding an assessment made by the director under 65518
this section. The director, in accordance with Chapter 119. of 65519
the Revised Code, shall adopt rules governing such appeals. In 65520
adopting these rules, the director shall incorporate the 65521
provisions of section 5717.02 of the Revised Code to the 65522
greatest extent possible, except that the director is not 65523
required to incorporate any provisions of that section that by 65524
their nature are not applicable, appropriate, or necessary to 65525
appeals of assessments made by the director under this section. 65526

(E) The director, in accordance with Chapter 119. of the Revised Code, shall adopt a penalty schedule setting forth the monetary penalties to be imposed upon a manufacturer that is issued a license under this section and fails to file an annual report or pay the fee required by division (B) of this section in a timely manner. The penalty amounts shall not exceed the maximum penalty amounts established in section 5751.06 of the Revised Code for similar or equivalent facts or circumstances.

(F) (1) No manufacturer of ignition interlock devices that is required by division (B) of this section to file an annual report with the department or to pay a fee shall fail to do so as required by that division.

(2) No manufacturer of ignition interlock devices that is required by division (B) of this section to file an annual report with the department shall file a report that contains incorrect or erroneous information.

(G) Whoever violates division (F) (2) of this section is guilty of a misdemeanor of the first degree. The department shall remove from the list of certified devices described in division (A) (1) of this section the ignition interlock devices manufactured by a manufacturer that violates division (F) (1) or (2) of this section.

Sec. 4511.76. (A) The department of public safety, by and with the advice of the department of education and workforce, shall adopt and enforce rules relating to the operation, construction, design, and equipment, including lighting equipment, required by section 4511.771 of the Revised Code, of all school buses both publicly and privately owned and operated in this state, in furtherance of sections 4511.761, 4511.762, 4511.763, 4511.764, 4511.765, 4511.77, 4511.771, and 4511.772 of

the Revised Code. 65557

~~(B) The department of education and workforce, by and with
the advice of the director of public safety, shall adopt and
enforce rules relating to the operation of all vehicles used for
pupil transportation.~~ 65558
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~~(C)~~ No person shall operate a vehicle used for pupil 65562
transportation within this state in violation of the rules of 65563
the department of education and workforce or the department of 65564
public safety. No person, being the owner thereof or having the 65565
supervisory responsibility therefor, shall permit the operation 65566
of a vehicle used for pupil transportation within this state in 65567
violation of the rules of the department of education and 65568
workforce or the department of public safety. 65569

~~(D)~~ (C) The department of public safety shall adopt and 65570
enforce rules relating to the issuance of a license under 65571
section 4511.763 of the Revised Code. ~~The rules may relate~~ 65572
relating to the condition of the equipment to be operated; the 65573
liability and property damage insurance carried by the 65574
applicant; and the posting of satisfactory and sufficient bond; ~~and~~ 65575
~~and such other rules as the director of public safety determines~~ 65576
~~reasonably necessary for the safety of the pupils to be~~ 65577
~~transported.~~ 65578

~~(E)~~ (D) A chartered nonpublic school or a community school 65579
may own and operate, or contract with a vendor that supplies, 65580
alternative vehicles to transport students to and from regularly 65581
scheduled school sessions, school-related activities, and 65582
school-sanctioned events when one of the following applies: 65583

(1) A student's school district of residence has declared 65584
the transportation of the student impractical pursuant to 65585

section 3327.02 of the Revised Code; 65586

(2) A student does not live within thirty minutes of the 65587
chartered nonpublic school or the community school, as 65588
applicable, and the student's school district is not required to 65589
transport the student under section 3327.01 of the Revised Code; 65590

(3) The governing authority of the chartered nonpublic 65591
school or the community school has offered to provide the 65592
transportation for its students in lieu of the students being 65593
transported by their school district of residence. 65594

~~(F)~~(E) A school district may own and operate, or contract 65595
with a vendor that supplies, alternative vehicles to transport 65596
students to and from regularly scheduled school sessions, 65597
school-related activities, and school-sanctioned events. 65598

~~(G)~~(F) A school district or the governing authority of a 65599
chartered nonpublic school or community school that uses an 65600
alternative vehicle in accordance with division (D) or (E) ~~or~~ 65601
~~(F)~~ of this section, shall ensure that all of the following 65602
apply to the operation of that vehicle: 65603

(1) A qualified mechanic inspects the vehicle not fewer 65604
than two times each year and determines that it is safe for 65605
pupil transportation; 65606

(2) The driver of the vehicle does not stop on the roadway 65607
to load or unload passengers; 65608

(3) The driver of the vehicle meets the requirements 65609
specified for a driver of a school bus or motor van under 65610
section 3327.10 of the Revised Code ~~and any corresponding rules~~ 65611
~~adopted by the department of education and workforce.~~ 65612
Notwithstanding that section ~~or any department rules to the~~ 65613
~~contrary~~, the driver is not required to have a commercial 65614

driver's license but shall have a current, valid driver's license, and shall be accustomed to operating the vehicle used to transport the students.

(4) The driver and all passengers in the vehicle comply with the requirements of sections 4511.81 and 4513.263 of the Revised Code, as applicable.

~~(H)~~ (1) (G) (1) A school district, a chartered nonpublic school, or a community school may own and operate, or contract with a vendor that supplies, a multifunction school activity bus to transport students between school and school functions or activities.

(2) A multifunction school activity bus shall not be used to transport students between school and home or between school and designated school bus stops.

~~(I)~~ (H) As used in this section:

(1) "Alternative vehicle" means a motor vehicle originally manufactured and designed for not more than twelve passengers, not including the driver.

(2) "Vehicle used for pupil transportation" means any vehicle that is identified as such by the department of education and workforce ~~by rule and~~ that is subject to Chapter 3301-83 of the Administrative Code.

~~(J)~~ (I) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or section 4511.63, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 of the Revised Code or a municipal ordinance that is substantially similar to any of those sections, whoever violates this section

is guilty of a misdemeanor of the fourth degree. 65644

Sec. 4511.81. (A) When any child who is in either or both 65645
of the following categories is being transported in a motor 65646
vehicle, other than a taxicab or public safety vehicle as 65647
defined in section 4511.01 of the Revised Code, that is required 65648
by the United States department of transportation to be equipped 65649
with seat belts at the time of manufacture or assembly, the 65650
operator of the motor vehicle shall have the child properly 65651
secured in accordance with the manufacturer's instructions in a 65652
child restraint system that meets federal motor vehicle safety 65653
standards: 65654

(1) A child who is less than four years of age; 65655

(2) A child who weighs less than forty pounds. 65656

(B) When any child who is in either or both of the 65657
following categories is being transported in a motor vehicle, 65658
other than a taxicab, that is owned, leased, or otherwise under 65659
the control of a nursery school or child care center, the 65660
operator of the motor vehicle shall have the child properly 65661
secured in accordance with the manufacturer's instructions in a 65662
child restraint system that meets federal motor vehicle safety 65663
standards: 65664

(1) A child who is less than four years of age; 65665

(2) A child who weighs less than forty pounds. 65666

(C) When any child who is less than eight years of age and 65667
less than four feet nine inches in height, who is not required 65668
by division (A) or (B) of this section to be secured in a child 65669
restraint system, is being transported in a motor vehicle, other 65670
than a taxicab or public safety vehicle as defined in section 65671
4511.01 of the Revised Code or a vehicle that is regulated under 65672

section 5104.015 of the Revised Code, that is required by the 65673
United States department of transportation to be equipped with 65674
seat belts at the time of manufacture or assembly, the operator 65675
of the motor vehicle shall have the child properly secured in 65676
accordance with the manufacturer's instructions on a booster 65677
seat that meets federal motor vehicle safety standards. 65678

(D) When any child who is at least eight years of age but 65679
not older than fifteen years of age, and who is not otherwise 65680
required by division (A), (B), or (C) of this section to be 65681
secured in a child restraint system or booster seat, is being 65682
transported in a motor vehicle, other than a taxicab or public 65683
safety vehicle as defined in section 4511.01 of the Revised 65684
Code, that is required by the United States department of 65685
transportation to be equipped with seat belts at the time of 65686
manufacture or assembly, the operator of the motor vehicle shall 65687
have the child properly restrained either in accordance with the 65688
manufacturer's instructions in a child restraint system that 65689
meets federal motor vehicle safety standards or in an occupant 65690
restraining device as defined in section 4513.263 of the Revised 65691
Code. 65692

(E) Notwithstanding any provision of law to the contrary, 65693
no law enforcement officer shall cause an operator of a motor 65694
vehicle being operated on any street or highway to stop the 65695
motor vehicle for the sole purpose of determining whether a 65696
violation of division (C) or (D) of this section has been or is 65697
being committed or for the sole purpose of issuing a ticket, 65698
citation, or summons for a violation of division (C) or (D) of 65699
this section or causing the arrest of or commencing a 65700
prosecution of a person for a violation of division (C) or (D) 65701
of this section, and absent another violation of law, a law 65702
enforcement officer's view of the interior or visual inspection 65703

of a motor vehicle being operated on any street or highway may 65704
not be used for the purpose of determining whether a violation 65705
of division (C) or (D) of this section has been or is being 65706
committed. 65707

~~(F) The director of public safety shall adopt such rules— 65708
as are necessary to carry out this section.— 65709~~

~~(G)~~ The failure of an operator of a motor vehicle to 65710
secure a child in a child restraint system, a booster seat, or 65711
an occupant restraining device as required by this section is 65712
not negligence imputable to the child, is not admissible as 65713
evidence in any civil action involving the rights of the child 65714
against any other person allegedly liable for injuries to the 65715
child, is not to be used as a basis for a criminal prosecution 65716
of the operator of the motor vehicle other than a prosecution 65717
for a violation of this section, and is not admissible as 65718
evidence in any criminal action involving the operator of the 65719
motor vehicle other than a prosecution for a violation of this 65720
section. 65721

~~(H)~~ (G) This section does not apply when an emergency 65722
exists that threatens the life of any person operating or 65723
occupying a motor vehicle that is being used to transport a 65724
child who otherwise would be required to be restrained under 65725
this section. This section does not apply to a person operating 65726
a motor vehicle who has an affidavit signed by a physician 65727
licensed to practice in this state under Chapter 4731. of the 65728
Revised Code, a clinical nurse specialist or certified nurse 65729
practitioner licensed to practice in this state under Chapter 65730
4723. of the Revised Code, or a chiropractor licensed to 65731
practice in this state under Chapter 4734. of the Revised Code 65732
that states that the child who otherwise would be required to be 65733

restrained under this section has a physical impairment that 65734
makes use of a child restraint system, booster seat, or an 65735
occupant restraining device impossible or impractical, provided 65736
that the person operating the vehicle has safely and 65737
appropriately restrained the child in accordance with any 65738
recommendations of the physician, nurse, or chiropractor as 65739
noted on the affidavit. 65740

~~(I)~~(H) There is hereby created in the state treasury the 65741
child highway safety fund, consisting of fines imposed pursuant 65742
to division ~~(L)~~~~(1)~~(K) (1) of this section for violations of 65743
divisions (A), (B), (C), and (D) of this section. The money in 65744
the fund shall be used by the department of health only to 65745
defray the cost of designating hospitals as pediatric trauma 65746
centers under section 3727.081 of the Revised Code and to 65747
establish and administer a child highway safety program. The 65748
purpose of the program shall be to educate the public about 65749
child restraint systems and booster seats and the importance of 65750
their proper use. The program also shall include a process for 65751
providing child restraint systems and booster seats to persons 65752
who meet the eligibility criteria established by the department, 65753
and a toll-free telephone number the public may utilize to 65754
obtain information about child restraint systems and booster 65755
seats, and their proper use. 65756

~~(J)~~(I) The director of health, in accordance with Chapter 65757
119. of the Revised Code, shall adopt ~~any rules necessary to~~ 65758
~~carry out this section, including~~ rules establishing the 65759
criteria a person must meet in order to receive a child 65760
restraint system or booster seat under the department's child 65761
highway safety program; ~~provided that rules relating to the~~ 65762
~~verification of pediatric trauma centers shall not be adopted~~ 65763
~~under this section.~~ 65764

~~(K)~~(J) Nothing in this section shall be construed to
require any person to carry with the person the birth
certificate of a child to prove the age of the child, but the
production of a valid birth certificate for a child showing that
the child was not of an age to which this section applies is a
defense against any ticket, citation, or summons issued for
violating this section.

~~(L)(1)~~(K) (1) Whoever violates division (A), (B), (C), or
(D) of this section shall be punished as follows, provided that
the failure of an operator of a motor vehicle to secure more
than one child in a child restraint system, booster seat, or
occupant restraining device as required by this section that
occurred at the same time, on the same day, and at the same
location is deemed to be a single violation of this section:

(a) Except as otherwise provided in division ~~(L)(1)~~(K)
(1)(b) of this section, the offender is guilty of a minor
misdemeanor and shall be fined not less than twenty-five dollars
nor more than seventy-five dollars.

(b) If the offender previously has been convicted of or
pleaded guilty to a violation of division (A), (B), (C), or (D)
of this section or of a municipal ordinance that is
substantially similar to any of those divisions, the offender is
guilty of a misdemeanor of the fourth degree.

(2) All fines imposed pursuant to division ~~(L)(1)~~(K) (1) of
this section shall be forwarded to the treasurer of state for
deposit in the child highway safety fund created by division ~~(I)~~
(H) of this section.

Sec. 4513.52. (A) The department of public safety, with
the advice of the public utilities commission, shall adopt and

enforce rules relating to the inspection of buses ~~to determine~~ 65794
~~whether a bus is safe and lawful, including whether its~~ 65795
~~equipment is in proper adjustment or repair.~~ 65796

~~(B)~~ The rules shall that determine the safety features, 65797
items of equipment, and other safety-related conditions subject 65798
to inspection. The rules may authorize the state highway patrol 65799
to operate safety inspection sites, or to enter in or upon the 65800
property of any bus operator to conduct the safety inspections, 65801
or both. The rules also shall establish a fee, not to exceed two 65802
hundred dollars, for each bus inspected. 65803

~~(C)~~ (B) The state highway patrol shall conduct the bus 65804
safety inspections at least on an annual basis. An inspection 65805
conducted under this section is valid for twelve months unless, 65806
prior to that time, the bus fails a subsequent inspection or 65807
ownership of the bus is transferred. 65808

~~(D)~~ (C) The state highway patrol shall collect a fee for 65809
each bus inspected. 65810

~~(E)~~ (D) Upon determining that a bus is in safe operating 65811
condition, that its equipment is in proper adjustment and 65812
repair, and that it is otherwise lawful, the inspecting officer 65813
shall do both of the following: 65814

(1) Affix an official safety inspection decal to the 65815
outside surface of each side of the bus; 65816

(2) Issue the owner or operator of the bus a safety 65817
inspection report, to be presented to the registrar or a deputy 65818
registrar upon application for registration of the bus. 65819

Sec. 4517.17. (A) Each person applying for a construction 65820
equipment auction license shall make out and deliver an 65821
application to the registrar of motor vehicles, upon a form 65822

furnished by the registrar for that purpose. The application 65823
shall be signed and sworn to by the applicant and shall include 65824
such information as the registrar may require by rule. 65825

(B) The registrar shall issue a construction equipment 65826
auction license to any applicant who meets the requirements of 65827
this section and section 4517.16 of the Revised Code and pays 65828
the fee required by this section. 65829

(C) A construction equipment auction license shall expire 65830
five years after the date of issuance unless sooner revoked. The 65831
fee for a construction equipment auction license shall be seven 65832
thousand five hundred dollars and shall accompany the 65833
application. The registrar shall deposit all fees received under 65834
this section into the state treasury to the credit of the public 65835
safety - highway purposes fund established by section 4501.06 of 65836
the Revised Code. 65837

~~(D) In accordance with Chapter 119. of the Revised Code,~~ 65838
~~the registrar shall adopt rules necessary for the regulation of~~ 65839
~~construction equipment auction sales and licensees, which rules~~ 65840
~~shall be specific to construction equipment auction sales and~~ 65841
~~licensees, separate and distinct from any other rules adopted~~ 65842
~~under this chapter.~~ 65843

~~(E)~~ At the time the registrar grants the application of 65844
any person for a construction equipment auction license, the 65845
registrar shall issue to the person a license, which shall 65846
include the name and post-office address of the person licensed. 65847

~~(F)~~ (E) The business records of a construction equipment 65848
auction licensee shall be open for reasonable inspection by the 65849
registrar or the registrar's authorized agent. 65850

~~(G)~~ (F) Each construction equipment auction licensee shall 65851

keep the license, or a certified copy of the license, posted in 65852
a conspicuous place in each place of its business. 65853

Sec. 4517.22. (A) As used in this section: 65854

(1) "General market area" means the contiguous 65855
geographical area established by a motor vehicle show sponsor 65856
that is based upon the size of the show and that does not 65857
unreasonably exclude any licensed new motor vehicle dealer. 65858

(2) "Gross vehicle weight rating" means the maximum weight 65859
while loaded at which a motor vehicle can safely operate as 65860
rated by its manufacturer. 65861

(3) "Livestock trailer" means a new or used trailer 65862
designed by its manufacturer to be used to transport horses or 65863
to transport animals generally used for food or in the 65864
production of food, including cattle, sheep, goats, rabbits, 65865
poultry, swine, alpacas, and ~~any other animals included by the~~ 65866
~~director of agriculture in rules adopted under section 901.72 of~~ 65867
~~the Revised Code~~ llamas. 65868

(4) "Major livestock show" means any show of livestock 65869
that is held at the Ohio state fairgrounds, is national in 65870
scope, and that continues for more than ten consecutive days. 65871

(5) "Motor vehicle show" means a display of new motor 65872
vehicles that lasts not more than ten days by more than one new 65873
motor vehicle dealer dealing in competitive types of motor 65874
vehicles and that is authorized by the registrar of motor 65875
vehicles primarily to allow the general public an opportunity to 65876
compare and inspect a variety of makes and models 65877
simultaneously, test drive vehicles, and gain an understanding 65878
of new technology and available features. 65879

(B) Any group of licensed new motor vehicle dealers may 65880

display motor vehicles at a motor vehicle show within the 65881
general market area assigned by the sponsor if, not less than 65882
thirty days before the planned opening date of the motor vehicle 65883
show, the sponsor executes and files with the registrar an 65884
affidavit, in a form prescribed by the registrar, that certifies 65885
that all requirements of this section have been or will be met, 65886
as applicable. 65887

If the registrar approves the affidavit, the registrar 65888
shall grant the sponsor permission to conduct the motor vehicle 65889
show. If the registrar determines that there is a deficiency in 65890
the affidavit, the registrar shall inform the sponsor of the 65891
deficiency as soon as possible after the registrar receives the 65892
affidavit so that the sponsor has the opportunity to remedy the 65893
deficiency. The registrar also shall describe with specificity 65894
the measures the sponsor is required to take in order to cure 65895
the deficiency. The sponsor shall return the corrected affidavit 65896
to the registrar not later than before the planned opening date 65897
of the motor vehicle show in order for the sponsor to be 65898
eligible to hold the show. If the registrar finds that the 65899
deficiency has been cured in the corrected affidavit, the 65900
registrar shall grant the sponsor permission to conduct the 65901
motor vehicle show. If the registrar finds that the deficiency 65902
has not been cured, the registrar shall deny the sponsor 65903
permission to conduct the motor vehicle show. 65904

(C) No contracts shall be signed, deposits taken, or sales 65905
consummated at the location of a motor vehicle show. 65906

(D) Any sponsor of a motor vehicle show or the sponsor's 65907
representative shall offer by mail an invitation to all new 65908
motor vehicle dealers dealing in competitive types of motor 65909
vehicles in the general market area to participate and display 65910

motor vehicles in the show. The sponsor or representative may offer a similar invitation to manufacturers or distributors. A copy of each invitation shall be retained by the sponsor for one year after the show.

(E) A manufacturer or distributor may hold in any public place a motor vehicle show at which only one motor vehicle is displayed, but no such single unit show shall be held unless the manufacturer or distributor executes and files with the registrar not less than thirty days before the show an affidavit, in a form prescribed by the registrar, that certifies that all requirements of this section have been or will be met, as applicable, and subsequently receives approval of that affidavit from the registrar.

(F) The registrar shall not grant permission for any motor vehicle show to be held, unless it is proven to the registrar's satisfaction that no attempt is being made to circumvent the provisions of sections 4517.01 to 4517.45 of the Revised Code.

(G) Nothing contained in this section shall be construed as prohibiting the taking of orders for nonmotorized recreational vehicles as defined in section 4501.01 of the Revised Code at sports or camping shows.

(H) No motor vehicle dealer, motor vehicle leasing dealer, motor vehicle auction owner, or distributor licensed under sections 4517.01 to 4517.45 of the Revised Code shall display a motor vehicle at any place except the dealer's, owner's, or distributor's licensed location, unless the dealer, owner, or distributor first obtains permission from the registrar and complies with the applicable rules of the motor vehicle dealers board or the display is authorized pursuant to section 4517.221 of the Revised Code.

(I) Nothing contained in this section shall be construed as prohibiting the display of, the taking of orders for, or the sale of, livestock trailers at livestock and agricultural shows, including county fairs. Notwithstanding section 4517.03 of the Revised Code, livestock trailers may be sold at livestock and agricultural shows, including county fairs, as permitted by this division.

(J) Notwithstanding any provision of this section to the contrary, for a period not to exceed thirty days, contracts may be signed, deposits taken, and sales consummated at the location of a motor vehicle show if all of the following apply:

(1) The motor vehicles involved are horse trailers or motor vehicles that have a gross vehicle weight rating of six thousand eight hundred pounds or more.

(2) The motor vehicle show is being held as part of or in connection with a major livestock show.

(3) The licensed new motor vehicle dealers involved have complied with the applicable requirements of this section.

(4) The registrar has granted permission for the motor vehicle show in accordance with division (F) of this section.

(K) (1) Notwithstanding division (H) of this section, if, pursuant to division (B) of this section, the registrar has granted a show representative permission to hold a motor vehicle show at the annual fair of a county or independent agricultural society and if the society files a certification under division (K) (2) of this section, a new motor vehicle dealer may display motor vehicles at that annual fair even if no other new motor vehicle dealer displays competitive makes and models at the fair.

(2) To obtain a waiver under division (K) (1) of this section, a county or independent agricultural society shall certify all of the following:

(a) That an invitation was sent to all new motor vehicle dealers within the county where the fair is held;

(b) That the terms of the invitation were reasonable and nondiscriminatory;

(c) That only one new motor vehicle dealer accepted the invitation.

(L) (1) Until six months after March 23, 2015, whoever violates this section or section 4517.221 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(2) The board shall adopt rules establishing the amount of a penalty for a violation of this section or section 4517.221 of the Revised Code, which shall not exceed one thousand dollars for each violation.

(3) Beginning six months after March 23, 2015, after finding, pursuant to adjudication conducted in accordance with Chapter 119. of the Revised Code, that a person has violated this section or section 4517.221 of the Revised Code, the board may order the person to pay an administrative penalty described in division (L) (2) of this section for each violation in accordance with the rule adopted by the board.

(4) For purposes of the administrative penalties described in divisions (L) (2) and (3) of this section, each sale that occurs in violation of this section or section 4517.221 of the Revised Code and each day that a violation occurs or continues to occur constitutes a separate violation.

(5) All penalties collected pursuant to division (L)(3) of this section shall be paid to the title defect rescission fund established in section 1345.52 of the Revised Code. 65998
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Sec. 4517.32. Subject to sections 119.01 to 119.12 and section 4517.35 of the Revised Code, the motor vehicle dealers board may make ~~such reasonable rules as are necessary to carry out and effect its duties under this chapter, including such rules as are necessary~~ relating to the time, place, and manner of conducting hearings on the issuance, suspension, or revocation of licenses, and on protests filed under sections 4517.50, 4517.52, 4517.53, 4517.54, and 4517.56 of the Revised Code. The board may hear testimony in matters relating to the duties imposed upon it and the president and the secretary of the board may administer oaths. The board may require any proof it considers advisable and may require the attendance of such witnesses and the production of such books, records, and papers as it desires at any hearing before it or relating to any matter that it has authority to investigate. The board may, through its secretary, issue a subpoena for any witness, or a subpoena duces tecum for the production of any books, records, and papers, directed to the sheriff of the county where such witness resides or is found, which subpoena shall be served and returned in the same manner as a subpoena in a criminal case. 66001
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The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fees and mileage shall be paid in the same manner as other expenses of the board. 66021
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Depositions of witnesses residing within or without the state may be taken by the board in the manner prescribed for 66026
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like depositions in civil actions in the court of common pleas. 66028
In any case of disobedience to or neglect of any subpoena served 66029
on any person, or the refusal of any witness to testify to any 66030
matter regarding which the witness may lawfully be interrogated, 66031
the court of common pleas of any county where such disobedience, 66032
neglect, or refusal occurs, or any judge thereof on application 66033
of the secretary of the board, shall compel obedience by 66034
attachment proceedings for contempt as in the case of 66035
disobedience of a subpoena issued from such court or a refusal 66036
to testify therein. 66037

Sec. 4519.20. (A) The director of public safety, pursuant 66038
to Chapter 119. of the Revised Code, shall adopt rules for the 66039
equipment of snowmobiles, off-highway motorcycles, and all- 66040
purpose vehicles. ~~The rules may be revised from time to time as~~ 66041
~~the director considers necessary, and shall~~ that include, ~~but~~ 66042
~~not necessarily be limited to,~~ requirements for the following 66043
items of equipment: 66044

(1) At least one headlight having a minimum candlepower of 66045
sufficient intensity to reveal persons and objects at a distance 66046
of at least one hundred feet ahead under normal atmospheric 66047
conditions during hours of darkness; 66048

(2) At least one red tail light having a minimum 66049
candlepower of sufficient intensity to be plainly visible from a 66050
distance of five hundred feet to the rear under normal 66051
atmospheric conditions during hours of darkness; 66052

(3) Adequate brakes. Every snowmobile, while traveling on 66053
packed snow, shall be capable of carrying a driver who weighs 66054
one hundred seventy-five pounds or more, and, while carrying 66055
such driver, be capable of stopping in not more than forty feet 66056
from an initial steady speed of twenty miles per hour, or 66057

locking its traction belt. 66058

(4) A muffler system capable of precluding the emission of 66059
excessive smoke or exhaust fumes, and of limiting the engine 66060
noise of vehicles. On snowmobiles manufactured after January 1, 66061
1973, such requirement shall include sound dampening equipment 66062
such that noise does not exceed eighty-two decibels on the "A" 66063
scale at fifty feet as measured according to SAE J192 (September 66064
1970). 66065

(B) No person shall operate any snowmobile, off-highway 66066
motorcycle, or all-purpose vehicle in violation of division (A) 66067
(1), (2), (3), or (4) of this section, except that equipment 66068
specified in divisions (A) (1) and (2) of this section shall not 66069
be required on snowmobiles, off-highway motorcycles, or all- 66070
purpose vehicles operated during the daylight hours. 66071

(C) Except as otherwise provided in this division, whoever 66072
violates division (B) of this section shall be fined not more 66073
than fifty dollars. If the offender within the preceding year 66074
previously has committed a violation of division (B) of this 66075
section, whoever violates division (B) of this section shall be 66076
fined not less than fifteen nor more than one hundred dollars, 66077
imprisoned not more than three days, or both. 66078

Sec. 4519.51. The registrar of motor vehicles shall ~~adopt~~ 66079
~~rules the registrar considers necessary to ensure uniform and~~ 66080
orderly operation of sections 4519.51 to 4519.70 of the Revised 66081
Code, ~~and the clerks of the courts of common pleas shall conform~~ 66082
~~to those rules.~~ The registrar shall receive and file in the 66083
registrar's office all information forwarded to the registrar by 66084
the clerks of the courts of common pleas under these sections 66085
4519.51 to 4519.70 of the Revised Code, and the clerks shall 66086
maintain in their offices indexes for the certificates of title. 66087

The registrar shall check with the registrar's records all certificates of title received in the registrar's office from the clerks.

If it appears that any certificate of title has been issued improperly, the registrar shall cancel the certificate. Upon the cancellation of any certificate of title, the registrar shall notify the clerk who issued it, and the clerk shall enter the cancellation in the clerk's records. The registrar also shall notify the person to whom the certificate of title was issued, as well as any lienholders appearing on it, of the cancellation and, if it is a physical certificate of title, shall demand surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted on it. The holder of a physical certificate of title shall return it immediately to the registrar.

The clerks shall keep on hand a sufficient supply of blank forms, which, except for the certificate of title and memorandum certificate forms, shall be furnished and distributed without charge to registered manufacturers or dealers, or other persons residing within the county.

Sec. 4521.10. (A) (1) If a judgment or default judgment is entered against a person pursuant to section 4521.08 of the Revised Code for a violation of an ordinance, resolution, or regulation that regulates the standing or parking of a vehicle in an accessible parking space and the person has not paid the judgment or default judgment within ten days of the date of entry of the judgment, the parking violations bureau, joint parking violations bureau, or traffic violations bureau in which the judgment was entered may give notice of that fact to the registrar of motor vehicles. The notice, if given, shall be

given not earlier than sixteen days nor later than three years 66118
after the date of entry of the judgment, and shall be in a form 66119
and manner, and contain such information, as the registrar 66120
prescribes. 66121

(2) If three or more judgments or default judgments have 66122
been entered against a person pursuant to section 4521.08 of the 66123
Revised Code and the person has not paid the judgments or 66124
default judgments within ten days of the date of entry of the 66125
third judgment, the parking violations bureau, joint parking 66126
violations bureau, or traffic violations bureau in which the 66127
judgments were entered may give notice of that fact to the 66128
registrar. The notice, if given, shall be given not earlier than 66129
sixteen days nor later than three years after the date of entry 66130
of the third judgment, and shall be in a form and manner, and 66131
contain such information, as the registrar prescribes. 66132

(B) (1) Upon receipt of a notice as provided in division 66133
(A) of this section, neither the registrar nor any deputy 66134
registrar shall accept any application for the registration or 66135
transfer of registration of any motor vehicle owned or leased by 66136
the person named in the notice unless the person presents a 66137
release as provided in division (C) of this section or unless 66138
the registrar is properly notified by the parking violations 66139
bureau, joint parking violations bureau, or traffic violations 66140
bureau that the judgment or default judgment described in 66141
division (A) (1) of this section or the judgments or default 66142
judgments described in division (A) (2) of this section have been 66143
paid, dismissed, or reversed on appeal, or that the initial 66144
notice was given in error and is therefore canceled. 66145

(2) The registrar shall not be required to give effect to 66146
any notice provided by a parking violations bureau, joint 66147

parking violations bureau, or traffic violations bureau under 66148
division (A) of this section unless the information contained in 66149
the "Ohio uniform traffic tickets" described in Traffic Rule 3 66150
(A) and (B) that the bureau processes is transmitted to the 66151
registrar by means of an electronic transfer system. 66152

(C) When a notice as provided in division (A) of this 66153
section is given to the registrar and the judgments or default 66154
judgments are subsequently paid, dismissed, or reversed on 66155
appeal, or it is discovered that the notice was given in error 66156
and is therefore canceled, the parking violations bureau, joint 66157
parking violations bureau, or traffic violations bureau giving 66158
the initial notice shall immediately notify the registrar of 66159
such payment, dismissal, reversal, or cancellation. The 66160
notification shall be in a form and manner, and contain such 66161
information, as the registrar prescribes. If the initial notice 66162
was not given in error, the parking violations bureau, joint 66163
parking violations bureau, or traffic violations bureau shall 66164
charge the person a five dollar processing fee for each judgment 66165
or default judgment to cover the costs of the bureau of motor 66166
vehicles in administering this section. Upon payment of the fee, 66167
the parking violations bureau, joint parking violations bureau, 66168
or traffic violations bureau shall give to the person a release 66169
to be presented at the time of registering or transferring the 66170
registration of a motor vehicle owned or leased by the person. 66171
All fees collected under this division shall be transmitted 66172
monthly to the registrar for deposit in the public safety - 66173
highway purposes fund established by section 4501.06 of the 66174
Revised Code. 66175

(D) The registrar shall cause the information contained in 66176
each notice received pursuant to division (A) of this section to 66177
be removed from the records of the bureau of motor vehicles and 66178

of the deputy registrars thirteen months after the date the 66179
information was entered into the records, unless the registrar 66180
receives a further notice from the parking violations bureau, 66181
joint parking violations bureau, or traffic violations bureau 66182
submitting the initial notice that the judgments or default 66183
judgments are still outstanding. 66184

(E) When any application for the registration or transfer 66185
of registration of a motor vehicle is refused as provided in 66186
division (B) of this section, the registrar or deputy registrar 66187
to whom application is made shall inform the person that no such 66188
application may be accepted unless the person presents a release 66189
as provided in division (C) of this section or the records of 66190
the bureau of motor vehicles and of the deputy registrar 66191
indicate that each judgment and default judgment against the 66192
person is paid, dismissed, reversed on appeal, or canceled. 66193

(F) When any person named in a notice as provided in 66194
division (A) of this section applies for the registration or 66195
transfer of registration of any motor vehicle owned or leased by 66196
the person and presents a release as provided in division (C) of 66197
this section or the records of the bureau of motor vehicles and 66198
of any deputy registrar to whom the application is made indicate 66199
that each judgment and default judgment against the person has 66200
been paid, dismissed, or reversed on appeal, the registrar or 66201
deputy registrar shall accept the application for registration 66202
or transfer of registration and may issue a certificate of 66203
registration or amended certificate of registration for the 66204
motor vehicle. 66205

(G) In determining whether the judgments or default 66206
judgments that have been entered against a person as provided in 66207
division (A) (2) of this section total three or more, the parking 66208

violations bureau, joint parking violations bureau, or traffic 66209
violations bureau may apply to that total any violation the 66210
person committed during the relevant time period by illegally 66211
standing or parking a vehicle in an accessible parking space, 66212
irrespective of the amount of the fine imposed for such 66213
violation. 66214

~~(H) The registrar shall adopt such rules as the registrar-~~ 66215
~~considers necessary to ensure the orderly operation of sections-~~ 66216
~~4521.09 and 4521.10 of the Revised Code, and any parking-~~ 66217
~~violations bureau, joint parking violations bureau, or traffic-~~ 66218
~~violations bureau shall conform to those rules.~~ 66219

Sec. 4561.05. The department of transportation shall 66220
administer Chapter 4561. of the Revised Code.~~The department may~~ 66221
~~adopt and promulgate such rules as it determines necessary to~~ 66222
~~carry out this chapter.~~ 66223

The department may issue and amend orders, ~~and make,~~ 66224
~~promulgate, and amend, reasonable general and special rules and~~ 66225
~~procedure,~~ and establish minimum standards. 66226

The department may establish safety rules governing air 66227
navigation hazards, and the location, size, use, and equipment 66228
of airports and landing areas, and rules governing air marking, 66229
the use of signs or lights designed to be visible from the air, 66230
and other air navigation facilities. 66231

All rules and amendments thereto, prescribed by the 66232
department, shall conform to and coincide with, so far as 66233
possible, the "Civil Aeronautics Act of 1938," 52 Stat. 973, 49 66234
U.S.C. 401, as amended, passed by the congress of the United 66235
States, and the air commerce regulations issued pursuant 66236
thereto. 66237

All acts of the department authorized under this section 66238
shall be carried on in conformity with Chapter 119. of the 66239
Revised Code. 66240

Sec. 4561.32. (A) In accordance with Chapter 119. of the 66241
Revised Code, the department of transportation shall adopt, and 66242
may amend and rescind, ~~any rules necessary to administer~~ 66243
~~sections 4561.30 to 4561.39 of the Revised Code and shall adopt~~ 66244
rules based in whole upon the obstruction standards set forth in 66245
14 C.F.R. ~~77.21 to 77.29~~ Part 77, as amended, to uniformly 66246
regulate the height and location of structures and objects of 66247
natural growth in any airport's clear zone surface, horizontal 66248
surface, conical surface, primary surface, approach surface, or 66249
transitional surface. The rules shall provide that the 66250
department may grant a permit under section 4561.34 of the 66251
Revised Code that includes a waiver from full compliance with 66252
the obstruction standards. The rules shall also provide that the 66253
department shall base its decision on whether to grant such a 66254
waiver on sound aeronautic principles, as set out in F.A.A. 66255
technical manuals, as amended, including advisory circular 66256
150/5300-13, "airport design standards"; 7400.2c, "airspace 66257
procedures handbook,"; and the U.S. terminal procedures 66258
handbook. 66259

(B) The department may conduct any studies or 66260
investigations it considers necessary to carry out sections 66261
4561.30 to 4561.39 of the Revised Code. 66262

Sec. 4701.03. (A) The accountancy board annually shall 66263
elect a president, secretary, and treasurer from its members. 66264
~~The board may adopt and amend rules for the orderly conduct of~~ 66265
~~its affairs and for the administration of this chapter. The~~ 66266
board may adopt and amend rules defining the practice of public 66267

accounting, rules of professional conduct appropriate to 66268
establish and maintain a high standard of integrity and dignity 66269
in registrants and certificate holders under this chapter, and 66270
rules regulating the sole proprietorship, partnership, limited 66271
liability company, professional association, corporation-for- 66272
profit, or other legal entity practice of public accounting. A 66273
majority of the board shall constitute a quorum for the 66274
transaction of business. 66275

(B) The board shall keep and hold open for public 66276
inspection all records of its proceedings. 66277

(C) The board may employ any clerks that are necessary to 66278
assist it in the performance of its duties and the keeping of 66279
its records. If the board employs an executive director, the 66280
board shall pay the executive director in accordance with 66281
section 124.152 of the Revised Code. 66282

Sec. 4703.02. The architects board shall organize by 66283
electing from its membership a president and a secretary, and 66284
also a vice-president and an assistant secretary, who shall act 66285
during absence or disability of the president or secretary 66286
respectively. 66287

The board shall adopt ~~all necessary~~ rules, regulations, 66288
and bylaws, not inconsistent with sections 4703.01 to 4703.19 of 66289
the Revised Code and the constitutions and laws of this state or 66290
of the United States, to govern its times and places of meeting 66291
for organization and reorganization, for the holding of 66292
examinations, and for fixing the length of the term of its 66293
officers. The board, under Chapter 119. of the Revised Code, may 66294
adopt, promulgate, and enforce rules governing the standards of 66295
education, service, conduct, and practice to be followed in the 66296
practice of the profession of architecture in the state, 66297

~~including rules for the enforcement of sections 4703.01 to~~ 66298
~~4703.19 of the Revised Code.~~ The board shall include among the 66299
rules adopted governing the standards of practice, requirements 66300
regarding financial responsibility and professional liability 66301
insurance. The board may adopt rules pertaining to the 66302
satisfactory completion of continuing education requirements. 66303

If the board adopts rules pertaining to continuing 66304
education requirements, the board shall, in general, follow 66305
model continuing education recommendations established by the 66306
national council of architectural registration boards or a 66307
similar successor organization. 66308

The board shall issue to each successful examination 66309
applicant a certificate of qualification to practice 66310
architecture and shall impress on each certificate issued the 66311
seal of the board. 66312

The secretary of the board shall be responsible for 66313
keeping a true and complete record of all proceedings of the 66314
board. The board may employ an executive secretary, 66315
investigators, and clerical assistance it determines necessary. 66316

Sec. 4703.06. (A) Any person shall, before engaging in the 66317
practice of architecture or before being styled or known as an 66318
architect, secure from the architects board a certificate of the 66319
person's qualifications to practice under the title of 66320
"architect," and be registered with the board. 66321

Any person holding such certificate and being registered 66322
pursuant to sections 4703.01 to 4703.19 of the Revised Code may 66323
be styled or known as an architect or as a registered architect. 66324

No other person shall assume such title or use any 66325
abbreviation, or any words, letters, or figures, to indicate or 66326

imply that the person is an architect or registered architect, 66327
except that persons may be authorized by the board to use the 66328
specific title "intern architect," "architectural intern," or 66329
"emeritus architect" as described in division (B) of this 66330
section. 66331

(B) The board may authorize by rule any person to use the 66332
title "intern architect," "architectural intern," or "emeritus 66333
architect." The board may adopt any rules ~~the board deems~~ 66334
~~necessary pertaining to intern architects, architectural~~ 66335
~~interns, and emeritus architects, including, but not limited to,~~ 66336
~~rules pertaining to registration, registration fees, and renewal~~ 66337
~~fees for intern architects, architectural interns, and emeritus~~ 66338
architects. 66339

Sec. 4707.19. (A) The director of agriculture ~~may adopt~~ 66340
~~reasonable rules necessary for the implementation of this~~ 66341
~~chapter in accordance with Chapter 119. of the Revised Code. In~~ 66342
~~addition, the director shall adopt rules in accordance with~~ 66343
Chapter 119. of the Revised Code that establish the portion of 66344
license fees collected under this chapter that are to be 66345
deposited into the auction recovery fund under section 4707.25 66346
of the Revised Code. 66347

No person shall fail to comply with a rule adopted under 66348
this chapter. 66349

(B) The director shall adopt rules that establish a 66350
schedule of civil penalties for violations of this chapter, 66351
rules adopted under it, or orders issued under it. The rules 66352
shall provide that the civil penalty for the first violation of 66353
this chapter, rule, or order shall not exceed five thousand 66354
dollars and the civil penalty for each subsequent offense shall 66355
not exceed ten thousand dollars. In addition, the director, in 66356

establishing the schedule of civil penalties in the rules, shall 66357
consider past violations of this chapter and rules adopted under 66358
it, the severity of a violation, and the amount of actual or 66359
potential damage to the public or the auction profession. 66360

(C) The department of agriculture may hear testimony in 66361
matters relating to the duties imposed on it, and any person 66362
authorized by the director may administer oaths. The department 66363
may require other proof of the honesty and truthfulness of any 66364
person named in the application for an auction firm's or 66365
auctioneer's license before admitting the applicant to an 66366
examination or issuing a license. 66367

Sec. 4709.05. (A) In addition to any other duty imposed on 66368
the state cosmetology and barber board under this chapter or 66369
Chapter 4713. of the Revised Code, the board shall do all of the 66370
following: 66371

(1) Regulate the practice of barbering in this state; 66372

(2) Conduct or have conducted the examination for 66373
applicants to practice as licensed barbers; 66374

(3) Prescribe and make available application forms to be 66375
used by individuals seeking admission to an examination 66376
conducted under section 4709.07 of the Revised Code or a license 66377
or permit issued under this chapter; 66378

(4) Prescribe and make available application forms to be 66379
used by individuals seeking renewal of a license or permit 66380
issued under this chapter; 66381

(5) Furnish a copy of the infection control standards 66382
adopted pursuant to division (A) (8) (a) of this section to both 66383
of the following: 66384

- (a) Each individual or person to whom the board issues a barber license or license to operate a barber shop; 66385
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- (b) Each individual providing cosmetic therapy, massage therapy, or other professional service in a barber shop under section 4709.091 of the Revised Code. 66387
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- (6) Supply a copy of the poster created pursuant to division (B) of section 5502.63 of the Revised Code to each person authorized to operate a barber shop under this chapter; 66390
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- (7) Comply with sections 4713.641 and 4713.66 of the Revised Code regarding investigations and inspections; 66393
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- (8) Adopt rules, in accordance with Chapter 119. of the Revised Code, ~~to administer and enforce this chapter and~~ that cover all of the following: 66395
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- (a) Infection control standards for the practice of barbering and the operation of barber shops; 66398
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- (b) The content of the examination required of an applicant for a barber license under section 4709.07 of the Revised Code and the passing score required for the examination; 66400
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- (c) Conditions an individual must satisfy to qualify for a temporary pre-examination work permit under section 4709.071 of the Revised Code and the conditions and method of renewing a temporary pre-examination work permit under that section; 66403
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- (d) Requirements for the licensure of barber instructors and assistant barber instructors that are in addition to the requirements specified in section 4709.072 of the Revised Code; 66407
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66409
- (e) Conditions under which the board will take into account, under section 4709.073 of the Revised Code, instruction an applicant for a license under section 4709.07 or 4709.072 of 66410
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the Revised Code received more than five years before the date 66413
of application for the license; 66414

(f) Conditions an applicant must satisfy for the board to 66415
issue the applicant a license under section 4709.08 of the 66416
Revised Code without the applicant taking an examination 66417
conducted under section 4709.07 of the Revised Code; 66418

(g) Conditions an applicant must satisfy for the board to 66419
issue the applicant an independent contractor license under 66420
section 4709.09 of the Revised Code and the fee for the issuance 66421
and renewal of the license; 66422

(h) Specify which professions regulated by a professional 66423
regulatory board of this state may be practiced in a barber shop 66424
under section 4709.091 of the Revised Code, including whether 66425
cosmetic therapy may be practiced in a barber shop; 66426

(i) Establish standards for the provision of cosmetic 66427
therapy, massage therapy, or other professional service in a 66428
barber shop pursuant to section 4709.091 of the Revised Code; 66429

(j) If the board, under section 4709.111 of the Revised 66430
Code, develops a procedure for classifying licenses inactive, do 66431
both of the following: 66432

(i) Establish a fee for having a license classified 66433
inactive that reflects the cost to the board of providing the 66434
inactive license service; 66435

(ii) Specify the continuing education that an individual 66436
whose license has been classified inactive must complete to have 66437
the license restored. 66438

~~(k) Any other area the board determines appropriate to 66439
administer or enforce this chapter. 66440~~

(B) The infection control standards established under 66441
division (A) (8) (a) of this section shall focus in particular on 66442
precautions to be employed to prevent infectious or contagious 66443
diseases being created or spread. 66444

(C) The content of the examination specified in rules 66445
adopted under division (A) (8) (b) of this section shall include a 66446
practical demonstration and a written test, shall relate only to 66447
the practice of barbering, and shall require the applicant to 66448
demonstrate that the applicant has a thorough knowledge of and 66449
competence in the proper techniques in the safe use of chemicals 66450
used in the practice of barbering. The minimum passing score of 66451
the examination shall not exceed seventy-five per cent. 66452

(D) The rules adopted under division (A) (8) (c) of this 66453
section may establish additional conditions for a temporary pre- 66454
examination work permit under section 4709.071 of the Revised 66455
Code that are applicable to individuals who are licensed to 66456
practice barbering in another state or country. 66457

(E) The conditions specified in rules adopted under 66458
division (A) (8) (f) of this section may include that an applicant 66459
is applying for a barber license for which the board determines 66460
an examination is unnecessary. 66461

(F) The rules adopted under division (A) (8) (h) of this 66462
section shall not include a profession if practice of the 66463
profession in a barber shop is a violation of a statute or rule 66464
governing the profession. 66465

(G) If the board adopts a procedure for classifying 66466
licenses inactive, the continuing education specified under 66467
division (A) (8) (j) (ii) of this section shall be sufficient to 66468
ensure the minimum competency in the use or administration of a 66469

new procedure or product required by a licensee necessary to 66470
protect public health and safety. The requirement shall not 66471
exceed the cumulative number of hours of continuing education 66472
that the individual would have been required to complete had the 66473
individual retained an active license. 66474

Sec. 4713.08. (A) The state cosmetology and barber board 66475
shall adopt rules in accordance with Chapter 119. of the Revised 66476
Code ~~as necessary to implement this chapter. The rules shall~~ 66477
that do all of the following: 66478

(1) Govern the practice of the branches of cosmetology; 66479

(2) Specify conditions an individual must satisfy to 66480
qualify for a temporary pre-examination work permit under 66481
section 4713.22 of the Revised Code and the conditions and 66482
method of renewing a temporary pre-examination work permit under 66483
that section; 66484

(3) Provide for the conduct of examinations under section 66485
4713.24 of the Revised Code; 66486

(4) Specify conditions under which the board will take 66487
into account, under section 4713.32 of the Revised Code, 66488
instruction an applicant for a license under section 4713.28, 66489
4713.30, or 4713.31 of the Revised Code received more than five 66490
years before the date of application for the license; 66491

(5) Provide for the granting of waivers under section 66492
4713.29 of the Revised Code; 66493

(6) Specify conditions an applicant must satisfy for the 66494
board to issue the applicant a license under section 4713.34 of 66495
the Revised Code without the applicant taking an examination 66496
conducted under section 4713.24 of the Revised Code; 66497

- (7) Specify locations in which glamour photography services in which a branch of cosmetology is practiced may be provided; 66498
66499
66500
- (8) Establish conditions and the fee for a temporary special occasion work permit under section 4713.37 of the Revised Code and specify the amount of time such a permit is valid; 66501
66502
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66504
- (9) Specify conditions an applicant must satisfy for the board to issue the applicant an independent contractor license under section 4713.39 of the Revised Code and the fee for issuance and renewal of the license; 66505
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- (10) Establish conditions under which food may be sold at a salon; 66509
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- (11) Specify which professions regulated by a professional regulatory board of this state may be practiced in a salon under section 4713.42 of the Revised Code, including whether cosmetic therapy may be practiced in a salon; 66511
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- (12) Establish standards for the provision of cosmetic therapy, massage therapy, or other professional service in a salon pursuant to section 4713.42 of the Revised Code; 66515
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- (13) Establish standards for board approval of, and the granting of credits for, training in branches of cosmetology or barbering at schools licensed in this state; 66518
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- (14) Establish the manner in which a school licensed under section 4713.44 of the Revised Code may offer post-secondary and advanced practice programs; 66521
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66523
- (15) Establish infection control standards for the practice of the branches of cosmetology and the operation of 66524
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salons and schools; 66526

(16) Establish the application process for obtaining a 66527
tanning facility permit under section 4713.48 of the Revised 66528
Code, including the amount of the fee for an initial or renewed 66529
permit; 66530

(17) Establish standards for installing and operating a 66531
tanning facility in a manner that ensures the health and safety 66532
of consumers, including infection control standards and 66533
standards that do all of the following: 66534

(a) Establish a maximum safe time of exposure to radiation 66535
and a maximum safe temperature at which sun lamps may be 66536
operated; 66537

(b) Require consumers to wear protective eyeglasses; 66538

(c) Require consumers to be supervised as to the length of 66539
time consumers use the facility's sun lamps; 66540

(d) Require the operator to prohibit consumers from 66541
standing too close to sun lamps and to post signs warning 66542
consumers of the potential effects of radiation on individuals 66543
taking certain medications and of the possible relationship of 66544
the radiation to skin cancer; 66545

(e) Require the installation of protective shielding for 66546
sun lamps and handrails for consumers; 66547

(f) Require floors to be dry during operation of lamps; 66548

(g) Establish procedures an operator must follow in making 66549
reasonable efforts in compliance with section 4713.50 of the 66550
Revised Code to determine the age of an individual seeking to 66551
use sun lamp tanning services. 66552

(18) If the board, under section 4713.61 of the Revised Code, develops a procedure for classifying licenses inactive, do both of the following:

(a) Establish a fee for having a license classified inactive that reflects the cost to the board of providing the inactive license service;

(b) Specify the continuing education that an individual whose license has been classified inactive must complete to have the license restored. The continuing education shall be sufficient to ensure the minimum competency in the use or administration of a new procedure or product required by a licensee necessary to protect public health and safety. The requirement shall not exceed the cumulative number of hours of continuing education that the individual would have been required to complete had the individual retained an active license.

(19) Establish a fee for approval of a continuing education program under section 4713.62 of the Revised Code that is adequate to cover any expense the board incurs in the approval process;

(20) Establish requirements for students of schools who are engaged in learning the theory and practice of barbering;

(21) Establish the minimum student-instructor ratio that a school offering instruction in the theory and practice of barbering must meet;

~~(22) Anything else necessary to implement this chapter.~~

(B) The rules adopted under division (A) (2) of this section may establish additional conditions for a temporary pre-examination work permit under section 4713.22 of the Revised

Code that are applicable to individuals who practice a branch of
cosmetology in another state or country. 66582
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(C) The conditions specified in rules adopted under 66584
division (A) (6) of this section may include that an applicant is 66585
applying for a license to practice a branch of cosmetology for 66586
which the board determines an examination is unnecessary. 66587

(D) The rules adopted under division (A) (11) of this 66588
section shall not include a profession if practice of the 66589
profession in a salon is a violation of a statute or rule 66590
governing the profession. 66591

(E) The infection control standards established under 66592
division (A) (15) of this section shall focus in particular on 66593
precautions to be employed to prevent infectious or contagious 66594
diseases being created or spread. 66595

(F) The fee established by rules adopted under division 66596
(A) (16) of this section shall cover the cost the board incurs in 66597
inspecting tanning facilities and enforcing the board's rules 66598
but may not exceed one hundred dollars per location of such 66599
facilities. 66600

Sec. 4715.03. (A) The state dental board shall organize by 66601
electing from its members a president, vice-president, 66602
secretary, and vice-secretary. The secretary and vice-secretary 66603
shall be elected from the members of the board who are dentists. 66604
It shall hold meetings monthly at least eight months a year at 66605
such times and places as the board designates. A majority of the 66606
members of the board shall constitute a quorum. ~~The board shall~~ 66607
~~make such reasonable rules as it determines necessary pursuant~~ 66608
~~to Chapter 119. of the Revised Code.~~ 66609

(B) A concurrence of a majority of the members of the 66610

board shall be required to do any of the following: 66611

(1) Grant, refuse, suspend, place on probationary status, 66612
revoke, refuse to renew, or refuse to reinstate a license or 66613
censure a license holder or take any other action authorized 66614
under section 4715.30 of the Revised Code; 66615

(2) Seek an injunction under section 4715.05 of the 66616
Revised Code; 66617

(3) Enter into a consent agreement with a license holder; 66618

(4) If the board develops and implements the quality 66619
intervention program under section 4715.031 of the Revised Code, 66620
refer a license holder to the program; 66621

(5) Terminate an investigation conducted under division 66622
(D) of this section; 66623

(6) Dismiss any complaint filed with the board. 66624

(C) (1) The board shall adopt rules in accordance with 66625
Chapter 119. of the Revised Code to do both of the following: 66626

(a) Establish standards for the safe practice of dentistry 66627
and dental hygiene by qualified practitioners and shall, through 66628
its policies and activities, promote such practice; 66629

(b) Establish universal blood and body fluid precautions 66630
that shall be used by each person licensed under this chapter 66631
who performs exposure prone invasive procedures. 66632

(2) The rules adopted under division (C) (1) (b) of this 66633
section shall define and establish requirements for universal 66634
blood and body fluid precautions that include the following: 66635

(a) Appropriate use of hand washing; 66636

(b) Disinfection and sterilization of equipment; 66637

(c) Handling and disposal of needles and other sharp instruments; 66638
66639

(d) Wearing and disposal of gloves and other protective garments and devices. 66640
66641

(D) ~~The board shall administer and enforce the provisions of this chapter.~~ The board shall, in accordance with sections 4715.032 to 4715.035 of the Revised Code, investigate evidence which appears to show that any person has violated any provision of this chapter. Any person may report to the board under oath any information such person may have appearing to show a violation of any provision of this chapter. In the absence of bad faith, any person who reports such information or who testifies before the board in any disciplinary proceeding conducted pursuant to Chapter 119. of the Revised Code is not liable for civil damages as a result of making the report or providing testimony. If after investigation and reviewing the recommendation of the secretary and vice-secretary issued pursuant to section 4715.034 of the Revised Code the board determines that there are reasonable grounds to believe that a violation of this chapter has occurred, the board shall, except as provided in this chapter, conduct disciplinary proceedings pursuant to Chapter 119. of the Revised Code, seek an injunction under section 4715.05 of the Revised Code, enter into a consent agreement with a license holder, or provide for a license holder to participate in the quality intervention program established under section 4715.031 of the Revised Code if the board develops and implements that program. 66642
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For the purpose of any disciplinary proceeding or any investigation conducted under this division, the board may administer oaths, order the taking of depositions, issue 66665
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subpoenas in accordance with section 4715.033 of the Revised Code, compel the attendance and testimony of persons at depositions, and compel the production of books, accounts, papers, documents, or other tangible things. The hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code. Notwithstanding section 121.22 of the Revised Code and except as provided in section 4715.036 of the Revised Code, proceedings of the board relative to the investigation of a complaint or the determination whether there are reasonable grounds to believe that a violation of this chapter has occurred are confidential and are not subject to discovery in any civil action.

(E) (1) The board shall examine or cause to be examined eligible applicants to practice dental hygiene. The board may distinguish by rule different classes of qualified personnel according to skill levels and require all or only certain of these classes of qualified personnel to be examined and certified by the board.

(2) The board shall administer a written jurisprudence examination to each applicant for a license to practice dentistry. The examination shall cover only the statutes and administrative rules governing the practice of dentistry in this state.

(F) (1) In accordance with Chapter 119. of the Revised Code, subject to division (F) (2) of this section the board shall adopt, and may amend or rescind, rules establishing the eligibility criteria, the application and permit renewal procedures, and safety standards applicable to a dentist licensed under this chapter who applies for a permit to employ or use conscious sedation. These rules shall include all of the

following: 66698

(a) The eligibility requirements and application 66699
procedures for an eligible dentist to obtain a conscious 66700
sedation permit; 66701

(b) The minimum educational and clinical training 66702
standards required of applicants, which shall include 66703
satisfactory completion of an advanced cardiac life support 66704
course; 66705

(c) The facility equipment and inspection requirements; 66706

(d) Safety standards; 66707

(e) Requirements for reporting adverse occurrences. 66708

(2) The board shall issue a permit to employ or use 66709
conscious sedation in accordance with Chapter 4796. of the 66710
Revised Code to a dentist licensed under this chapter if either 66711
of the following applies: 66712

(a) The dentist holds a license or permit to employ or use 66713
conscious sedation in another state. 66714

(b) The dentist has satisfactory work experience, a 66715
government certification, or a private certification as 66716
described in Chapter 4796. of the Revised Code in employing or 66717
using conscious sedation in a state that does not issue that 66718
license. 66719

(G) (1) In accordance with Chapter 119. of the Revised 66720
Code, subject to division (G) (2) of this section the board shall 66721
adopt rules establishing eligibility criteria, application and 66722
permit renewal procedures, and safety standards applicable to a 66723
dentist licensed under this chapter who applies for a general 66724
anesthesia permit. 66725

(2) The board shall issue a general anesthesia permit in accordance with Chapter 4796. of the Revised Code to a dentist licensed under this chapter if either of the following applies:

(a) The dentist holds a general anesthesia license or permit in another state.

(b) The dentist has satisfactory work experience, a government certification, or a private certification as described in Chapter 4796. of the Revised Code utilizing general anesthesia in a state that does not issue that license or permit.

Sec. 4715.031. (A) The state dental board may develop and implement a quality intervention program. The board may propose that the holder of a license issued by the board participate in the program if the board determines pursuant to an investigation conducted under section 4715.03 of the Revised Code that there are reasonable grounds to believe the license holder has violated a provision of this chapter due to a clinical or communication problem that could be improved through participation in the program and determines that the license holder's participation in the program is appropriate. The board shall refer a license holder who agrees to participate in the program to an educational and assessment service provider selected by the board.

(B) If the board develops and implements a quality intervention program, all of the following apply:

(1) The board shall select, by a concurrence of a majority of the board's members, educational and assessment service providers, which may include quality intervention program panels of case reviewers. A provider selected by the board to provide

services to a license holder shall recommend to the board the 66755
educational and assessment services the license holder should 66756
receive under the program. The license holder may begin 66757
participation in the program if the board approves the services 66758
the provider recommends. The license holder shall not be 66759
required to participate in the program beyond one hundred eighty 66760
days from the date the license holder agrees to participate in 66761
the program under this division. The license holder shall pay 66762
the amounts charged by the provider for the services. 66763

(2) The board shall monitor a license holder's progress in 66764
the program and determine whether the license holder has 66765
successfully completed the program. If the board determines that 66766
the license holder has successfully completed the program, it 66767
may continue to monitor the license holder, take other action it 66768
considers appropriate, or both. The additional monitoring, other 66769
action taken by the board, or both, shall not continue beyond 66770
one year from the date the license holder agrees to participate 66771
in the program under this division. If the board determines that 66772
the license holder has not successfully completed the program, 66773
it shall, as soon as possible thereafter, commence disciplinary 66774
proceedings against the license holder under section 4715.03 of 66775
the Revised Code. 66776

(3) The board shall elect, from the board's members who 66777
are dentists, a coordinator to administer and provide oversight 66778
of the quality intervention program. The coordinator may 66779
delegate to the board's members or employees those duties that 66780
the coordinator considers appropriate. 66781

~~(C) The board may adopt rules in accordance with Chapter 66782
119. of the Revised Code to further implement the quality- 66783
intervention program. 66784~~

Sec. 4715.372. (A) The state dental board shall adopt 66785
rules in accordance with Chapter 119. of the Revised Code ~~as~~ 66786
~~necessary to implement the oral health access supervision~~ 66787
~~program, including rules that~~ do all of the following: 66788

(1) For the purpose of division (G) (19) of section 4715.36 66789
of the Revised Code, designate additional facilities at which a 66790
dental hygienist may be authorized to perform dental hygiene 66791
services under the oral health access supervision program; 66792

(2) For the purpose of section 4715.362 of the Revised 66793
Code, prescribe the application form and requirements for 66794
obtaining an oral health access supervision permit; 66795

(3) For the purpose of section 4715.363 of the Revised 66796
Code, prescribe the application form for a permit to practice as 66797
a dental hygienist under the oral health access supervision of a 66798
dentist; 66799

(4) For the purpose of division (B) (3) of section 4715.363 66800
of the Revised Code and subject to division (B) of this section, 66801
establish standards for the course in the practice of dental 66802
hygiene under oral health access supervision; 66803

(5) For the purpose of section 4715.369 of the Revised 66804
Code, prescribe the form for renewal of an oral health access 66805
supervision permit; 66806

(6) For the purpose of section 4715.37 of the Revised 66807
Code, prescribe the form for renewal of a permit to practice as 66808
a dental hygienist under the oral health access supervision of a 66809
dentist. 66810

(B) The course in the practice of dental hygiene under 66811
oral health access supervision for which the board establishes 66812
standards under division (A) (4) of this section shall meet all 66813

of the following requirements: 66814

(1) Be eight hours in length; 66815

(2) Include, at a minimum, instruction in both of the 66816
following: 66817

(a) The treatment of geriatric patients, medically 66818
compromised patients, developmentally disabled patients, and 66819
pediatric patients; 66820

(b) Recordkeeping practices. 66821

(3) Be developed and offered by an institution accredited 66822
by the American dental association commission on dental 66823
accreditation or a program provided by a sponsor of continuing 66824
education approved by the board; 66825

(4) Include content that is separate and independent from 66826
the course content required for the completion of dental hygiene 66827
education from an accredited dental hygiene school. 66828

Sec. 4715.42. (A) (1) As used in this section: 66829

(a) "Free clinic" has the same meaning as in section 66830
3701.071 of the Revised Code. 66831

(b) "Indigent and uninsured person" and "operation" have 66832
the same meanings as in section 2305.234 of the Revised Code. 66833

(2) For the purposes of this section, a person shall be 66834
considered retired from practice if the person's license has 66835
been surrendered or allowed to expire with the intention of 66836
ceasing to practice as a dentist or dental hygienist for 66837
remuneration. 66838

(B) Within thirty days after receiving an application for 66839
a volunteer's certificate that includes all of the items listed 66840

in divisions (C) (1), (2), and (3) of this section, the state 66841
dental board shall issue, without examination, a volunteer's 66842
certificate to a person who is retired from practice so that the 66843
person may provide dental services to indigent and uninsured 66844
persons at any location, including a free clinic. 66845

(C) An application for a volunteer's certificate shall 66846
include all of the following: 66847

(1) A copy of the applicant's degree from dental college 66848
or dental hygiene school. 66849

(2) One of the following, as applicable: 66850

(a) A copy of the applicant's most recent license to 66851
practice dentistry or dental hygiene issued by a jurisdiction in 66852
the United States that licenses persons to practice dentistry or 66853
dental hygiene. 66854

(b) A copy of the applicant's most recent license 66855
equivalent to a license to practice dentistry or dental hygiene 66856
in one or more branches of the United States armed services that 66857
the United States government issued. 66858

(3) Evidence of one of the following, as applicable: 66859

(a) The applicant has maintained for at least ten years 66860
prior to retirement full licensure in good standing in any 66861
jurisdiction in the United States that licenses persons to 66862
practice dentistry or dental hygiene. 66863

(b) The applicant has practiced as a dentist or dental 66864
hygienist in good standing for at least ten years prior to 66865
retirement in one or more branches of the United States armed 66866
services. 66867

(D) The holder of a volunteer's certificate may provide 66868

dental services only to indigent and uninsured persons, but may
do so at any location, including a free clinic. The holder shall
not accept any form of remuneration for providing dental
services while in possession of the certificate. Except in a
dental emergency, the holder shall not perform any operation.
The board may revoke a volunteer's certificate on receiving
proof satisfactory to the board that the holder has engaged in
practice in this state outside the scope of the holder's
certificate or that there are grounds for action against the
person under section 4715.30 of the Revised Code.

(E) (1) A volunteer's certificate shall be valid for a
period of three years, and may be renewed upon the application
of the holder, unless the certificate was previously revoked
under division (D) of this section. The board shall maintain a
register of all persons who hold volunteer's certificates. The
board shall not charge a fee for issuing or renewing a
certificate pursuant to this section.

(2) To be eligible for renewal of a volunteer's
certificate, the holder of the certificate shall certify to the
board completion of sixty hours of continuing dental education
that meets the requirements of section 4715.141 of the Revised
Code and the rules adopted under that section, or completion of
eighteen hours of continuing dental hygiene education that meets
the requirements of section 4715.25 of the Revised Code and the
rules adopted under that section, as the case may be. The board
may not renew a certificate if the holder has not complied with
the appropriate continuing education requirements. Any entity
for which the holder provides dental services may pay for or
reimburse the holder for any costs incurred in obtaining the
required continuing education credits.

(3) The board shall issue to each person who qualifies 66899
under this section for a volunteer's certificate a wallet 66900
certificate and a wall certificate that state that the 66901
certificate holder is authorized to provide dental services 66902
pursuant to the laws of this state. The holder shall keep the 66903
wallet certificate on the holder's person while providing dental 66904
services and shall display the wall certificate prominently at 66905
the location where the holder primarily practices. 66906

(4) The holder of a volunteer's certificate issued 66907
pursuant to this section is subject to the immunity provisions 66908
regarding the provision of services to indigent and uninsured 66909
persons in section 2305.234 of the Revised Code. 66910

~~(F) The board shall adopt rules in accordance with Chapter 66911
119. of the Revised Code to administer and enforce this section. 66912~~

~~(G)~~The state dental board shall make available through 66913
the board's web site the application form for a volunteer's 66914
certificate under this section, a description of the application 66915
process, and a list of all items that are required by division 66916
(C) of this section to be submitted with the application. 66917

~~(H)~~(G) Chapter 4796. of the Revised Code does not apply to 66918
a license issued under this section. 66919

Sec. 4715.436. The state dental board shall adopt rules in 66920
accordance with Chapter 119. of the Revised Code ~~as it considers~~ 66921
~~necessary to implement sections 4715.43 to 4715.435 of the~~ 66922
~~Revised Code. The rules shall that include all of the following:~~ 66923

(A) Requirements that must be met for issuance of a 66924
teledentistry permit under section 4715.43 of the Revised Code; 66925

(B) Approval of courses on the proper placement of interim 66926
therapeutic restorations and the application of silver diamine 66927

fluoride, as authorized under section 4715.431 of the Revised Code. 66928
66929

(C) Requirements for obtaining informed consent for the 66930
placement of interim therapeutic restorations or the application 66931
of silver diamine fluoride when the patient is not examined in 66932
person by a dentist and the services are provided under a 66933
teledentistry permit, as described in section 4715.431 of the 66934
Revised Code. 66935

The rules may specify procedures a dental hygienist is not 66936
permitted to perform when practicing in the absence of the 66937
authorizing dentist pursuant to section 4715.431 of the Revised 66938
Code. 66939

Sec. 4715.57. (A) Each person seeking approval for an 66940
educational program in dental x-ray machine operation shall 66941
apply to the state dental board on a form the board shall 66942
prescribe and provide. The application shall be accompanied by 66943
the fee established in rules adopted under division (C) of this 66944
section. 66945

(B) The board shall approve educational programs that meet 66946
the standards established in rules adopted under division (C) of 66947
this section. The approval shall be valid until surrendered by 66948
the program or suspended or revoked by the board. A program's 66949
approval may be suspended or revoked if the program does not 66950
comply with applicable requirements of this chapter or rules 66951
adopted under it. 66952

(C) ~~The board shall adopt rules to implement and~~ 66953
~~administer this section. The rules shall be adopted in~~ 66954
accordance with Chapter 119. of the Revised Code and that shall 66955
be no less stringent than any applicable standards specified in 66956

42 C.F.R. 75. The rules shall do ~~at least~~ both of the following: 66957

(1) Establish the fee that must accompany each application 66958
for approval of an educational program; 66959

(2) Establish standards that an educational program must 66960
meet to be approved by the board. 66961

Sec. 4715.66. (A) The state dental board shall adopt rules 66962
~~as the board considers necessary to implement and administer~~ 66963
~~sections 4715.61 to 4715.64 of the Revised Code. The rules shall~~ 66964
~~be adopted~~ in accordance with Chapter 119. of the Revised Code. 66965

~~(B) In adopting rules under this section, all of the~~ 66966
~~following apply as follows:~~ 66967

(1) The board shall adopt rules specifying the education 66968
or training necessary for an individual to register as an 66969
expanded function dental auxiliary under this chapter. 66970

(2) The board shall adopt rules specifying the standards 66971
that must be met for an examination to be accepted by the board 66972
as an examination of competency to practice as an expanded 66973
function dental auxiliary. In specifying the standards, the 66974
board shall provide that an examination will be accepted only if 66975
the entity that administered the examination required an 66976
individual to be one of the following as a condition of 66977
admission to the examination: 66978

(a) An unlicensed dentist who has graduated from an 66979
accredited dental college, as specified in section 4715.10 of 66980
the Revised Code, and does not have a dental license under 66981
suspension or revocation by the board; 66982

(b) A dental student who is enrolled in an accredited 66983
dental college, as specified in section 4715.10 of the Revised 66984

Code, and is considered by the dean of the college to be in good standing as a dental student; 66985
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(c) A graduate of a dental college located outside of the United States; 66987
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(d) A dental assistant who is certified by the dental assisting national board, the Ohio commission on dental assistant certification, or the American medical technologists; 66989
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(e) A dental hygienist licensed under this chapter whose license is in good standing; 66992
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(f) An unlicensed dental hygienist who has graduated from an accredited dental hygiene school, as specified in section 4715.21 of the Revised Code, and does not have a dental hygienist license under suspension or revocation by the board. 66994
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(3) The board may adopt rules specifying procedures an expanded function dental auxiliary may perform that are in addition to the procedures specified in divisions (A) (1) to (10) of section 4715.64 of the Revised Code. 66998
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Sec. 4717.04. (A) The board of embalmers and funeral directors shall adopt rules in accordance with Chapter 119. of the Revised Code for the government, transaction of the business, and the management of the affairs of the board of embalmers and funeral directors and the crematory review board, ~~and for the administration and enforcement of this chapter.~~ ~~These rules shall~~ that include all of the following: 67002
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(1) The nature, scope, content, and form of the application that must be completed and license examination that must be passed in order to receive an embalmer's license or a funeral director's license under section 4717.05 of the Revised Code. The rules shall ensure both of the following: 67009
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- (a) That the embalmer's license examination tests the applicant's knowledge through at least a comprehensive section and an Ohio laws section; 67014
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- (b) That the funeral director's license examination tests the applicant's knowledge through at least a comprehensive section, an Ohio laws section, and a sanitation section. 67017
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- (2) The minimum license examination score necessary to be licensed under section 4717.05 of the Revised Code as an embalmer or as a funeral director; 67020
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- (3) Procedures for determining the dates of the embalmer's and funeral director's license examinations, which shall be administered at least once each year, the time and place of each examination, and the supervision required for each examination; 67023
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- (4) Procedures for determining whether the board shall accept an applicant's compliance with the licensure, registration, or certification requirements of another state as grounds for granting the applicant a license under this chapter; 67027
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- (5) A determination of whether completion of a nationally recognized embalmer's or funeral director's examination sufficiently meets the license requirements for the comprehensive section of either the embalmer's or the funeral director's license examination administered under this chapter; 67031
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- (6) Continuing education requirements for licensed embalmers and funeral directors; 67036
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- (7) Requirements for the licensing and operation of funeral homes; 67038
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- (8) Requirements for the licensing and operation of embalming facilities; 67040
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(9) A schedule that lists, and specifies a forfeiture commensurate with, each of the following types of conduct which, for the purposes of division (A) (9) of this section and section 4717.15 of the Revised Code, are violations of this chapter:

(a) Obtaining a license under this chapter by fraud or misrepresentation either in the application or in passing the required examination for the license;

(b) Purposely violating any provision of sections 4717.01 to 4717.15 of the Revised Code or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B) (1) or (2), (C) (1) or (2), (D), (E), or (F) (1) or (2), or divisions (H) to (K) of section 4717.26; division (D) (1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the Revised Code;

(c) Committing unprofessional conduct;

(d) Knowingly permitting an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the licensee's supervision;

(e) Refusing to promptly submit the custody of a dead human body or cremated remains upon the express order of the person legally entitled to the body;

(f) Transferring a license to operate a funeral home, embalming facility, or crematory facility from one owner or operator to another, or from one location to another, without notifying the board and following the requirements of section 4717.11 of the Revised Code;

(g) Misleading the public using false or deceptive advertising;

(h) Failing to forward to the board on or before its due date the annual report of preneed funeral sales required by division (J) of section 4717.31 of the Revised Code. If the annual report is sent to the board by United States mail, it shall be postmarked on or before the due date for the submission of the annual report in order to be timely filed with the board. Mail that is not postmarked shall be considered filed on the date it is received by the board.

Each instance of the commission of any of the types of conduct described in division (A) (9) of this section is a separate violation. The rules adopted under division (A) (9) of this section shall establish the amount of the forfeiture for a violation of each of those divisions. The forfeiture for a first violation shall not exceed five thousand dollars, and the forfeiture for a second or subsequent violation shall not exceed ten thousand dollars. The amount of the forfeiture may differ among the types of violations according to what the board considers the seriousness of each violation.

(10) Requirements for the licensing and operation of crematory facilities;

(11) Procedures for the board to take possession of and to arrange the lawful disposition of unclaimed cremated remains that were held or stored at a funeral home or crematory that has been closed;

(12) Procedures for the issuance of duplicate licenses;

(13) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;

(14) The amount and content of corrective action courses required by the board under section 4717.14 of the Revised Code.

(B) The board may adopt rules governing the educational standards for licensure as an embalmer or funeral director, or obtaining a permit to be a crematory operator, and the standards of service and practice to be followed in embalming, funeral directing, and cremation, and in the operation of funeral homes, embalming facilities, and crematory facilities in this state.

(C) Nothing in this chapter authorizes the board of embalmers and funeral directors to regulate cemeteries, except that the board shall license and regulate funeral homes, embalming facilities, and crematory facilities located at cemeteries in accordance with this chapter.

(D) If the executive director of the board has knowledge or notice of a violation of division (A) (1), (3), (5), or (6) of section 4717.13 of the Revised Code or that a person is engaging in the business or profession of funeral directing in violation of division (A) (14) of that section, the executive director shall notify the appropriate law enforcement authority for investigation.

Sec. 4723.07. In accordance with Chapter 119. of the Revised Code, the board of nursing shall adopt and may amend and rescind rules that establish all of the following:

(A) Provisions for the board's government and control of its actions and business affairs;

(B) Subject to section 4723.072 of the Revised Code, minimum standards for nursing education programs that prepare graduates to be licensed under this chapter and procedures for granting, renewing, and withdrawing approval of those programs;

(C) Criteria that applicants for licensure must meet to be eligible to take examinations for licensure;

(D) Standards and procedures for renewal of the licenses and certificates issued by the board;	67129 67130
(E) Standards for approval of continuing nursing education programs and courses for registered nurses, advanced practice registered nurses, and licensed practical nurses. The standards may provide for approval of continuing nursing education programs and courses that have been approved by other state boards of nursing or by national accreditation systems for nursing, including, but not limited to, the American nurses' credentialing center and the national association for practical nurse education and service.	67131 67132 67133 67134 67135 67136 67137 67138 67139
(F) Standards that persons must meet to be authorized by the board to approve continuing education programs and courses and a schedule by which that authorization expires and may be renewed;	67140 67141 67142 67143
(G) Requirements, including continuing education requirements, for reactivating inactive licenses or certificates, and for reinstating licenses or certificates that have lapsed;	67144 67145 67146 67147
(H) Conditions that may be imposed for reinstatement of a license or certificate following action taken under section 3123.47, 4723.28, 4723.281, 4723.652, or 4723.86 of the Revised Code resulting in a license or certificate suspension;	67148 67149 67150 67151
(I) Criteria for evaluating the qualifications of an applicant for a license to practice nursing as a registered nurse, a license to practice nursing as an advanced practice registered nurse, or a license to practice nursing as a licensed practical nurse for the purpose of issuing the license by the board's endorsement of the applicant's authority to practice	67152 67153 67154 67155 67156 67157

issued by the licensing agency of another state; 67158

(J) Universal and standard precautions that shall be used 67159
by each licensee or certificate holder. The rules shall define 67160
and establish requirements for universal and standard 67161
precautions that include the following: 67162

(1) Appropriate use of hand washing; 67163

(2) Disinfection and sterilization of equipment; 67164

(3) Handling and disposal of needles and other sharp 67165
instruments; 67166

(4) Wearing and disposal of gloves and other protective 67167
garments and devices. 67168

(K) Quality assurance standards for advanced practice 67169
registered nurses; 67170

(L) Additional criteria for the standard care arrangement 67171
required by section 4723.431 of the Revised Code entered into by 67172
a clinical nurse specialist, certified nurse-midwife, or 67173
certified nurse practitioner and the nurse's collaborating 67174
physician or podiatrist; 67175

(M) For purposes of division (B) (31) of section 4723.28 of 67176
the Revised Code, the actions, omissions, or other circumstances 67177
that constitute failure to establish and maintain professional 67178
boundaries with a patient; 67179

(N) Standards and procedures for delegation under section 67180
4723.48 of the Revised Code of the authority to administer 67181
drugs. 67182

~~The board may adopt other rules necessary to carry out the 67183
provisions of this chapter. The rules shall be adopted in 67184~~

~~accordance with Chapter 119. of the Revised Code.~~ 67185

Sec. 4723.114. (A) As used in this section, "person" has 67186
the same meaning as in section 1.59 of the Revised Code. 67187

(B) A person or governmental entity that employs, or 67188
contracts directly or through another person or governmental 67189
entity for the provision of services by, a nurse holding a 67190
multistate license to practice registered or licensed practical 67191
nursing issued pursuant to section 4723.11 of the Revised Code 67192
shall do both of the following if the nurse's home state, as 67193
defined in that section, is not Ohio: 67194

(1) Report to the board of nursing the number of nurses 67195
holding multistate licenses who are employed by, or providing 67196
services for, the person or governmental entity; 67197

(2) Provide each nurse holding a multistate license a copy 67198
of board-developed information concerning laws and rules 67199
specific to the practice of nursing in Ohio. 67200

(C) The board shall develop information concerning laws 67201
and rules specific to the practice of nursing in Ohio and make 67202
that information available on its internet web site. 67203

(D) The board may display on its internet web site a list 67204
of the names of persons or governmental entities that have 67205
complied with the reporting requirement described in division 67206
(B) (1) of this section or any rule adopted by the board to 67207
implement that requirement. The board may update the list 67208
annually to reflect any changes in compliance with the 67209
requirement or rule. 67210

~~(E) The board may adopt rules in accordance with Chapter~~ 67211
~~119. of the Revised Code to implement this section.~~ 67212

Sec. 4723.26. (A) (1) As used in this section:	67213
(a) "Free clinic" has the same meaning as in section 3701.071 of the Revised Code.	67214 67215
(b) "Indigent and uninsured person" and "operation" have the same meanings as in section 2305.234 of the Revised Code.	67216 67217
(2) For the purposes of this section, a person shall be considered retired from practice if the person's license has expired with the intention of ceasing to practice nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse for remuneration.	67218 67219 67220 67221 67222
(B) The board of nursing may issue, without examination, a volunteer's certificate to a qualified person who is retired from practice so that the person may provide nursing services to indigent and uninsured persons at any location, including a free clinic.	67223 67224 67225 67226 67227
(C) Except as provided in division (D) of this section, an application for a volunteer's certificate shall include all of the following:	67228 67229 67230
(1) A copy or other evidence of the applicant's degree from a school of registered nursing, practical nursing, or advanced practice registered nursing;	67231 67232 67233
(2) One of the following, as applicable:	67234
(a) A copy or other evidence of the applicant's most recent license to practice nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse issued by a jurisdiction in the United States that licenses persons to practice nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse;	67235 67236 67237 67238 67239 67240

(b) A copy or other evidence of the applicant's most recent license equivalent to a license to practice nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse in one or more branches of the United States armed services that the United States government issued.

(3) Evidence of one of the following, as applicable:

(a) The applicant has maintained for at least ten years prior to retirement a valid, unrestricted license in any jurisdiction in the United States that licenses persons to practice nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse.

(b) The applicant has practiced nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse under a valid, unrestricted license for at least ten years prior to retirement in one or more branches of the United States armed services.

(D) For an applicant retired from practice for at least ten years, the applicant shall do both of the following:

(1) Certify to the board completion of continuing nursing education that meets the requirements of section 4723.24 of the Revised Code and the rules adopted under that section;

(2) Submit a request to the bureau of criminal identification and investigation for a criminal records check and check of federal bureau of investigation records pursuant to section 4723.091 of the Revised Code.

(E) Chapter 4796. of the Revised Code does not apply to a certificate issued under this section.

(F) The holder of a volunteer's certificate may provide

nursing services only to indigent and uninsured persons, but may
do so at any location, including a free clinic. The holder shall
not accept any form of remuneration for providing nursing
services while in possession of the certificate. The board may
suspend or revoke a volunteer's certificate on receiving proof
satisfactory to the board that the holder has engaged in
practice in this state outside the scope of the holder's
certificate or that there are grounds for action against the
person under section 4723.28 of the Revised Code. In revoking a
certificate, the board may specify that the revocation is
permanent.

(G) (1) A volunteer's certificate shall be valid for a
period of two years, and may be renewed upon the application of
the holder, unless the certificate is suspended or revoked under
division (F) of this section. The board shall maintain a record
of all persons who hold volunteer's certificates. The board
shall not charge a fee for issuing or renewing a certificate
pursuant to this section.

(2) To be eligible for renewal of a volunteer's
certificate, the holder of the certificate shall certify to the
board completion of continuing nursing education that meets the
requirements of section 4723.24 of the Revised Code and the
rules adopted under that section. The board may not renew a
certificate if the holder has not complied with the appropriate
continuing education requirements. Any entity for which the
holder provides nursing services may pay for or reimburse the
holder for any costs incurred in obtaining the required
continuing education hours.

(3) The holder of a volunteer's certificate issued
pursuant to this section is subject to the immunity provisions

regarding the provision of services to indigent and uninsured persons in section 2305.234 of the Revised Code. 67299
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~~(H) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this section.~~ 67301
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Sec. 4723.351. (A) To be qualified to contract with the board of nursing to conduct the safe haven program, an organization must meet all of the following requirements: 67303
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(1) Operate in this state as a professionals health program; 67306
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(2) Be organized as a not-for-profit entity and exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code; 67308
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(3) Contract with or employ to serve as the organization's medical director an individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery and specializes or has training and expertise in addiction medicine or psychiatry; 67311
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(4) Contract with or employ one or more licensed health care professionals as necessary for the organization's operation. 67316
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(B) The monitoring organization shall do all of the following pursuant to the contract: 67319
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(1) Conduct a review of individuals and entities providing impairment evaluation and treatment services to determine which should be approved to serve as the program's evaluators and treatment providers; 67321
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(2) Grant or deny approval to evaluators and treatment providers and periodically review and update the program's list 67325
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of approved evaluators and providers, including by examining 67327
their outcomes and operations; 67328

(3) Receive any report of applicant or practitioner 67329
impairment or suspected impairment from any source, including 67330
board referrals described in section 4723.35 of the Revised 67331
Code; 67332

(4) Notify an applicant or practitioner who is the subject 67333
of a referral or report received under this section that the 67334
referral or report has been made and that the applicant or 67335
practitioner may be eligible to participate in the program 67336
conducted under this section; 67337

(5) Determine whether an applicant or practitioner 67338
referred or reported to the monitoring organization is eligible 67339
to participate in the program, which may include evaluating 67340
records as described in division (D) (1) (c) of this section, and 67341
notify the practitioner or applicant of the determination; 67342

(6) In the case of an applicant or practitioner reported 67343
by a treatment provider, notify the treatment provider of the 67344
eligibility determination; 67345

(7) Report to the board any practitioner or applicant who 67346
is determined ineligible to participate in the program; 67347

(8) Refer an eligible applicant or practitioner who 67348
chooses to participate in the program for evaluation by a 67349
treatment provider approved by the monitoring organization, 67350
unless the report received by the monitoring organization was 67351
made by an approved treatment provider and the applicant or 67352
practitioner has already been evaluated by the treatment 67353
provider; 67354

(9) Monitor the evaluation of an eligible applicant or 67355

practitioner; 67356

(10) Refer an eligible applicant or practitioner who 67357
chooses to participate in the program to a treatment provider 67358
approved by the monitoring organization; 67359

(11) Establish, in consultation with the treatment 67360
provider to which an applicant or practitioner is referred, the 67361
terms and conditions with which the applicant or practitioner 67362
must comply for continued participation in and successful 67363
completion of the program; 67364

(12) Report to the board any applicant or practitioner who 67365
does not complete evaluation or treatment or does not comply 67366
with any of the terms and conditions established by the 67367
monitoring organization and the treatment provider; 67368

(13) Perform any other activities specified in the 67369
contract with the board or that the monitoring organization 67370
considers necessary to comply with this section and section 67371
4723.35 of the Revised Code. 67372

(C) The monitoring organization shall not disclose to the 67373
board the name of an applicant or practitioner or any records 67374
relating to an applicant or practitioner, unless any of the 67375
following occurs: 67376

(1) The applicant or practitioner is determined to be 67377
ineligible to participate in the program. 67378

(2) The applicant or practitioner requests the disclosure. 67379

(3) The applicant or practitioner is unwilling or unable 67380
to complete or comply with any part of the program, including 67381
evaluation, treatment, or monitoring. 67382

(4) The applicant or practitioner presents an imminent 67383

danger to the public or to the applicant or practitioner, as a 67384
result of the applicant's or practitioner's impairment. 67385

(5) The applicant's or practitioner's impairment has not 67386
been substantially alleviated by participation in the program. 67387

(D) (1) The monitoring organization shall develop 67388
procedures governing each of the following: 67389

(a) Receiving referrals or reports of applicant or 67390
practitioner impairment or potential impairment; 67391

(b) Notifying applicants or practitioners of referrals, 67392
reports, and eligibility determinations; 67393

(c) Evaluating records of referred applicants and 67394
practitioners, in particular records from other jurisdictions 67395
regarding prior treatment for impairment or continued 67396
monitoring; 67397

(d) Referring eligible applicants and practitioners for 67398
evaluation or treatment; 67399

(e) Establishing individualized treatment plans for 67400
eligible applicants and practitioners, as recommended by 67401
treatment providers; 67402

(f) Establishing individualized terms and conditions with 67403
which eligible applicants or practitioners must comply for 67404
continued participation in and successful completion of the 67405
program; 67406

(g) Establishing criteria for the approval and periodic 67407
review of evaluators and treatment providers, including 67408
examinations of evaluator and provider outcomes and operations. 67409

(2) The monitoring organization, in consultation with the 67410

board, shall develop procedures governing each of the following: 67411

(a) Providing reports to the board on a periodic basis on 67412
the total number of applicants and practitioners participating 67413
in the program, without disclosing the names or records of any 67414
program participants other than those about whom reports are 67415
required by this section; 67416

(b) Reporting to the board any applicant or practitioner 67417
who due to impairment presents an imminent danger to the public 67418
or to the applicant or practitioner; 67419

(c) Reporting to the board any applicant or practitioner 67420
who is unwilling or unable to complete or comply with any part 67421
of the program, including evaluation, treatment, or monitoring; 67422

(d) Reporting to the board any applicant or practitioner 67423
whose impairment was not substantially alleviated by 67424
participation in the program. 67425

(E) The board may adopt ~~any rules it considers necessary~~ 67426
~~to implement this section and section 4723.35 of the Revised~~ 67427
~~Code, including rules~~ regarding the monitoring organization and 67428
treatment providers that provide treatment to practitioners 67429
referred by the monitoring organization. Any such rules shall be 67430
adopted in accordance with Chapter 119. of the Revised Code. 67431

Sec. 4723.50. (A) As used in this section: 67432

(1) "Controlled substance" has the same meaning as in 67433
section 3719.01 of the Revised Code. 67434

(2) "Medication-assisted treatment" has the same meaning 67435
as in section 340.01 of the Revised Code. 67436

(B) In accordance with Chapter 119. of the Revised Code, 67437
the board of nursing shall adopt rules ~~as necessary to implement~~ 67438

~~the provisions of this chapter pertaining to the authority of
advanced practice registered nurses who are designated as
clinical nurse specialists, certified nurse-midwives, and
certified nurse practitioners to prescribe and furnish drugs and
therapeutic devices.~~ 67439
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~~The board shall adopt rules establishing an exclusionary
formulary that lists the drugs and therapeutic devices a
clinical nurse specialist, certified nurse-midwife, or certified
nurse practitioner is prohibited from prescribing or personally
furnishing. ~~The~~~~ 67444
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~~The~~ exclusionary formulary shall permit, in a manner
consistent with section 4723.481 of the Revised Code, the
prescribing of controlled substances, including drugs that
contain buprenorphine used in medication-assisted treatment and
both oral and long-acting opioid antagonists. ~~The~~ 67449
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~~The~~ formulary shall not permit ~~the prescribing or
furnishing of~~ such a nurse to prescribe or furnish any of the
following: 67454
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(1) A drug or device to perform or induce an abortion; 67457

(2) A drug or device prohibited by federal or state law. 67458

(C) In addition to the rules described in division (B) of
this section, the board shall adopt rules under this section
that do the following: 67459
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(1) Establish standards for board approval of the course
of study in advanced pharmacology and related topics required by
section 4723.482 of the Revised Code; 67462
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(2) Establish requirements for board approval of the two-
hour course of instruction in the laws of this state as required 67465
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under division (C) (1) of section 4723.482 of the Revised Code; 67467

(3) Establish criteria for the components of the standard 67468
care arrangements described in section 4723.431 of the Revised 67469
Code that apply to the authority of a clinical nurse specialist, 67470
certified nurse-midwife, or certified nurse practitioner to 67471
prescribe, including the components that apply to the authority 67472
to prescribe schedule II controlled substances. The rules shall 67473
be consistent with that section and include all of the 67474
following: 67475

(a) Quality assurance standards; 67476

(b) Standards for periodic review by a collaborating 67477
physician or podiatrist of the records of patients treated by 67478
the clinical nurse specialist, certified nurse-midwife, or 67479
certified nurse practitioner; 67480

(c) Acceptable travel time between the location at which 67481
the clinical nurse specialist, certified nurse-midwife, or 67482
certified nurse practitioner is engaging in the prescribing 67483
components of the nurse's practice and the location of the 67484
nurse's collaborating physician or podiatrist. 67485

Sec. 4723.69. ~~(A) The board of nursing may adopt rules to~~ 67486
~~implement sections 4723.63 to 4723.68 of the Revised Code. All~~ 67487
~~rules adopted under this section shall be adopted in~~ In 67488
accordance with Chapter 119. of the Revised Code.— 67489

~~(B) If the board adopts,~~ the board of nursing may adopt 67490
rules under this section establishing standards governing 67491
approval of and participation in medication aide training 67492
programs. In adopting those rules, both of the following apply: 67493

~~(1)~~ (A) With respect to supervised clinical practice 67494
components of training programs, when such training is provided 67495

in a nursing home or residential care facility and the home or 67496
facility has been notified by the department of health of real 67497
and present danger related to its administration of medications 67498
or provision of skilled nursing care, the board shall prohibit 67499
the home or facility from commencing any further supervised 67500
clinical practice components until either of the following 67501
occurs: 67502

~~(a)~~ (1) A plan of correction is approved. 67503

~~(b)~~ (2) The home or facility resolves the danger. 67504

The board shall allow a training program to continue any 67505
supervised clinical practice components that commenced prior to 67506
the department of health notifying the home or facility. 67507

~~(2)~~ (B) If the rules establish a minimum or maximum number 67508
of days for participating in or completing a training program, 67509
the board shall base that number on calendar days rather than 67510
business days. 67511

Sec. 4723.79. The board of nursing shall adopt rules ~~to~~ 67512
~~administer and enforce sections 4723.71 to 4723.79 of the~~ 67513
~~Revised Code. The board shall adopt the rules in accordance with~~ 67514
Chapter 119. of the Revised Code. ~~The rules shall to~~ establish 67515
or specify all of the following: 67516

(A) The application process, fee, and requirements for 67517
approval, reapproval, and withdrawing the approval of a dialysis 67518
training program under section 4723.74 of the Revised Code. The 67519
requirements shall include standards that must be satisfied 67520
regarding curriculum, length of training, and instructions in 67521
patient care. 67522

(B) The application process, fee, and requirements for 67523
issuance of a dialysis technician certificate under section 67524

4723.75 of the Revised Code, except that the amount of the fee shall be no greater than the fee charged under division (A) (1) of section 4723.08 of the Revised Code;

(C) The process for approval of testing organizations under section 4723.751 of the Revised Code;

(D) Subjects to be included in a certification examination pursuant to section 4723.751 of the Revised Code;

(E) The schedule, fees, and continuing education requirements for renewal of a dialysis technician certificate under section 4723.77 of the Revised Code, except that the amount of the fee for renewal shall be no greater than the fee charged under division (A) (9) of section 4723.08 of the Revised Code;

(F) Standards for approval of continuing education programs and courses for dialysis technicians;

(G) Standards for the administration of medication by dialysis technicians and dialysis technician interns under section 4723.72 of the Revised Code;

(H) Standards and procedures for the supervision of dialysis technicians who provide dialysis care in a patient's home, including monthly home visits by a registered nurse to monitor the quality of the dialysis care;

~~(I) Any other procedures or requirements necessary for the administration and enforcement of sections 4723.71 to 4723.79 of the Revised Code.~~

Sec. 4723.88. The board of nursing, in accordance with Chapter 119. of the Revised Code, shall adopt rules to administer and enforce sections 4723.81 to 4723.87 of the

~~Revised Code. The rules shall establish all of the following:~~ 67553

(A) Standards and procedures for issuance of community health worker certificates; 67554
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(B) Standards for evaluating the competency of an individual who applies to receive a certificate on the basis of having been employed in a capacity substantially the same as a community health worker before the board implemented the certification program; 67556
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(C) Standards and procedures for renewal of community health worker certificates, including the continuing education requirements that must be met for renewal; 67561
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(D) Standards governing the performance of activities related to nursing care that are delegated by a registered nurse to certified community health workers. In establishing the standards, the board shall specify limits on the number of certified community health workers a registered nurse may supervise at any one time. 67564
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(E) Standards and procedures for assessing the quality of the services that are provided by certified community health workers; 67570
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(F) Standards and procedures for denying, suspending, and revoking a community health worker certificate, including reasons for imposing the sanctions that are substantially similar to the reasons that sanctions are imposed under section 4723.28 of the Revised Code; 67573
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(G) Standards and procedures for approving and renewing the board's approval of training programs that prepare individuals to become certified community health workers. In establishing the standards, the board shall specify the minimum 67578
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components that must be included in a training program, shall 67582
require that all approved training programs offer the 67583
standardized curriculum, and shall ensure that the curriculum 67584
enables individuals to use the training as a basis for entering 67585
programs leading to other careers, including nursing education 67586
programs. 67587

(H) Standards for approval of continuing education 67588
programs and courses for certified community health workers; 67589

(I) Standards and procedures for withdrawing the board's 67590
approval of a training program, refusing to renew the approval 67591
of a training program, and placing a training program on 67592
provisional approval; 67593

(J) Amounts for each fee that may be imposed under 67594
division (A) (17) of section 4723.08 of the Revised Code; 67595

~~(K) Any other standards or procedures the board considers 67596
necessary and appropriate for the administration and enforcement 67597
of sections 4723.81 to 4723.87 of the Revised Code. 67598~~

Sec. 4723.89. (A) As used in this section and section 67599
4723.90 of the Revised Code: 67600

(1) "Doula" means a trained, nonmedical professional who 67601
advocates for, and provides continuous physical, emotional, and 67602
informational support to, a pregnant woman through the delivery 67603
of a child and immediately after the delivery, including during 67604
any of the following periods: 67605

(a) The antepartum period; 67606

(b) The intrapartum period; 67607

(c) The postpartum period. 67608

(2) "Doula certification organization" means an organization that is recognized, at an international, national, state, or local level, for training and certifying doulas.

(B) A person shall not use or assume the title "state of Ohio certified doula" unless the person holds a certificate issued under this section by the board of nursing.

(C) The board of nursing shall seek and consider the opinion of the doula advisory group established in section 4723.90 of the Revised Code when an individual is seeking to be eligible for medicaid reimbursement as a state of Ohio certified doula.

(D) The board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for issuing certificates to doulas under this section. The rules shall include all of the following:

(1) Requirements for certification as a state of Ohio certified doula, including both of the following:

(a) A requirement that a doula either be certified by a doula certification organization or, if not certified, have education and experience considered by the board to be appropriate, as specified in the rules;

(b) A requirement that the results of a criminal records check conducted in accordance with section 4723.091 of the Revised Code demonstrate that the applicant is not ineligible for certification in accordance with section 4723.092 of the Revised Code.

(2) Requirements for renewal of a certificate and continuing education;

(3) Requirements for training on racial bias, health
disparities, and cultural competency as a condition of initial
certification and certificate renewal; 67637
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(4) Certificate application and renewal fees, as well as a
waiver of those fees for applicants with a family income not
exceeding three hundred per cent of the federal poverty line; 67640
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(5) Requirements and standards of practice for state of
Ohio certified doulas; 67643
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(6) The amount of a fine to be imposed under division (F)
of this section; 67645
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~~(7) Any other standards or procedures the board considers
necessary to implement this section. 67647
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(E) The board of nursing shall develop and regularly
update a registry of doulas who hold certificates issued under
this section. The registry shall be made available to the public
on a web site maintained by the board. 67649
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(F) In an adjudication under Chapter 119. of the Revised
Code, the board of nursing may impose a fine against any person
who violates division (B) of this section. On request of the
board, the attorney general shall bring and prosecute to
judgment a civil action to collect any fine imposed under this
division that remains unpaid. 67653
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Sec. 4725.09. ~~(A) The state vision professionals board
shall adopt rules as it considers necessary to govern the
practice of optometry and to administer and enforce sections
4725.01 to 4725.34 of the Revised Code. All rules adopted under
those sections this section shall be adopted in accordance with
Chapter 119. of the Revised Code. 67659
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(B) The state vision professionals board, in consultation with the state board of pharmacy, shall adopt rules specifying any oral drugs or dangerous drugs that are therapeutic pharmaceutical agents under division (C) (3) of section 4725.01 of the Revised Code.

(C) The board shall adopt rules that establish standards to be met and procedures to be followed with respect to the delegation by an optometrist of the performance of an optometric task to a person who is not licensed or otherwise specifically authorized by the Revised Code to perform the task. The rules shall permit an optometrist to delegate the administration of drugs included in the optometrist's scope of practice.

The rules adopted under this division shall provide for all of the following:

(1) On-site supervision when the delegation occurs in an institution or other facility that is used primarily for the purpose of providing health care, unless the board established a specific exception to the on-site supervision requirement with respect to routine administration of a topical drug;

(2) Evaluation of whether delegation is appropriate according to the acuity of the patient involved;

(3) Training and competency requirements that must be met by the person administering the drugs;

~~(4) Other standards and procedures the board considers relevant.~~

(D) The board shall adopt rules establishing criminal records checks requirements for applicants under section 4776.03 of the Revised Code.

Sec. 4725.16. (A) (1) Each certificate of licensure for the practice of optometry issued by the state vision professionals board shall expire on the last day of December of each even-numbered year, and may be renewed in accordance with this section and the standard renewal procedure established under Chapter 4745. of the Revised Code.

(2) An optometrist seeking to continue to practice optometry shall file with the board an application for license renewal. The application shall be in such form and require such pertinent professional biographical data as the board may require.

(3) (a) Except as provided in division (A) (3) (b) of this section, in the case of an optometrist seeking renewal who prescribes or personally furnishes analgesic controlled substances authorized pursuant to section 4725.091 of the Revised Code that are opioid analgesics, as defined in section 3719.01 of the Revised Code, the optometrist shall certify to the board whether the optometrist has been granted access to the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(b) The requirement in division (A) (3) (a) of this section does not apply if any of the following is the case:

(i) The state board of pharmacy notifies the state vision professionals board pursuant to section 4729.861 of the Revised Code that the license holder has been restricted from obtaining further information from the drug database.

(ii) The state board of pharmacy no longer maintains the drug database.

(iii) The license holder does not practice optometry in

this state. 67722

(c) If an optometrist certifies to the state vision 67723
professionals board that the optometrist has been granted access 67724
to the drug database and the board finds through an audit or 67725
other means that the optometrist has not been granted access, 67726
the board may take action under section 4725.19 of the Revised 67727
Code. 67728

(B) All licensed optometrists shall complete continuing 67729
education in subjects relating to the practice of optometry, to 67730
the end that the utilization and application of new techniques, 67731
scientific and clinical advances, and the achievements of 67732
research will assure comprehensive care to the public. The board 67733
shall ~~prescribe by rule~~ adopt rules in accordance with Chapter 67734
119. of the Revised Code prescribing the continuing optometric 67735
education that licensed optometrists must complete. The length 67736
of study shall be fifty clock hours each biennial licensing 67737
period, including twenty clock hours of instruction in 67738
pharmacology to be completed by all licensed optometrists. 67739

Unless the continuing education required under this 67740
division is waived or deferred under division (D) of this 67741
section, the continuing education must be completed during the 67742
biennial licensing period beginning on the first day of January 67743
of each odd-numbered year and ending on the last day of December 67744
of each even-numbered year. If the board receives notice from a 67745
continuing education program indicating that an optometrist 67746
completed the program after the last day of December of an even- 67747
numbered year, and the optometrist wants to use the continuing 67748
education completed after that day to renew the license, the 67749
optometrist shall pay the penalty specified under section 67750
4725.34 of the Revised Code for late completion of continuing 67751

education. 67752

At least once annually, the board shall post on its web 67753
site and shall mail, or send by electronic mail, to each 67754
licensed optometrist a list of courses approved in accordance 67755
with standards prescribed by board rule adopted under this 67756
section. Upon the request of a licensed optometrist, the 67757
executive director of the board shall supply a list of 67758
additional courses that the board has approved subsequent to the 67759
most recent web site posting, electronic mail transmission, or 67760
mailing of the list of approved courses. 67761

(C) (1) Not later than the first day of November of each 67762
even-numbered year, the board shall mail or send by electronic 67763
mail a notice regarding license renewal to each licensed 67764
optometrist who may be eligible for renewal. The notice shall be 67765
sent to the optometrist's most recent electronic mail or mailing 67766
address shown in the board's records. If the board knows that 67767
the optometrist has completed the required continuing optometric 67768
education for the biennium, the board may include with the 67769
notice an application for license renewal. 67770

(2) Filing a license renewal application with the board 67771
shall serve as notice by the optometrist that the continuing 67772
optometric education requirement has been successfully 67773
completed. If the board finds that an optometrist has not 67774
completed the required continuing optometric education, the 67775
board shall disapprove the optometrist's application. The 67776
board's disapproval of renewal is effective without a hearing, 67777
unless a hearing is requested pursuant to Chapter 119. of the 67778
Revised Code. 67779

(3) The board shall refuse to accept an application for 67780
renewal from any applicant whose license is not in good standing 67781

or who is under disciplinary review pursuant to section 4725.19 67782
of the Revised Code. 67783

(4) Notice of an applicant's failure to qualify for 67784
renewal shall be served upon the applicant by mail to the 67785
applicant's last address shown in the board's records. 67786

(D) In cases of certified illness or undue hardship, the 67787
board may waive or defer for up to twelve months the requirement 67788
of continuing optometric education, except that in such cases 67789
the board may not waive or defer the continuing education in 67790
pharmacology required to be completed by optometrists. The board 67791
shall waive the requirement of continuing optometric education 67792
for any optometrist who is serving on active duty in the armed 67793
forces of the United States or a reserve component of the armed 67794
forces of the United States, including the Ohio national guard 67795
or the national guard of any other state or who has received an 67796
initial certificate of licensure during the nine-month period 67797
which ended on the last day of December of an even-numbered 67798
year. 67799

(E) An optometrist whose renewal application has been 67800
approved may renew the license held by paying to the treasurer 67801
of state the fee for renewal specified under section 4725.34 of 67802
the Revised Code. On payment of all applicable fees, the board 67803
shall issue a renewal of the optometrist's certificate of 67804
licensure. 67805

(F) Not later than the fifteenth day of January of each 67806
odd-numbered year, the board shall mail or send by electronic 67807
mail a second notice regarding license renewal to each licensed 67808
optometrist who may be eligible for renewal but did not respond 67809
to the notice sent under division (C) (1) of this section. The 67810
notice shall be sent to the optometrist's most recent electronic 67811

mail or mailing address shown in the board's records. If an 67812
optometrist fails to file a renewal application after the second 67813
notice is sent, the board shall send a third notice regarding 67814
license renewal prior to any action under division (I) of this 67815
section to classify the optometrist's license as expired. 67816

(G) The failure of an optometrist to apply for license 67817
renewal or the failure to pay the applicable renewal fee on or 67818
before the date of expiration, shall automatically work a 67819
forfeiture of the optometrist's authority to practice optometry 67820
in this state. 67821

(H) The board shall accept renewal applications and 67822
renewal fees that are submitted from the first day of January to 67823
the last day of January of the odd-numbered year next succeeding 67824
the date of expiration. An individual who submits such a late 67825
renewal application or fee shall pay the late renewal fee 67826
specified in section 4725.34 of the Revised Code. 67827

(I) (1) If the date of expiration of a certificate of 67828
licensure issued by the board to an individual has passed and 67829
the individual has not filed a complete application during the 67830
late renewal period, the individual's certificate of licensure 67831
shall be classified in the board's records as expired. 67832

(2) Any optometrist whose certificate of licensure has 67833
been classified as expired may submit an application to the 67834
board for reinstatement. For reinstatement to occur, the 67835
applicant must meet all of the following conditions: 67836

(a) Submit to the board evidence of compliance with board 67837
rules requiring continuing optometric education in a sufficient 67838
number of hours to make up for any delinquent compliance; 67839

(b) Pay the renewal fees for the biennium in which 67840

application for reinstatement is made; 67841

(c) Pass all or part of the licensing examination accepted 67842
by the board under section 4725.11 of the Revised Code as the 67843
board considers appropriate to determine whether the application 67844
for reinstatement should be approved; 67845

(d) If the applicant has been practicing optometry in 67846
another state or country, submit evidence that the applicant's 67847
license to practice optometry in the other state or country is 67848
in good standing. 67849

(3) The board shall approve an application for 67850
reinstatement if the conditions specified in division (I) (2) of 67851
this section are met. An optometrist who receives reinstatement 67852
is subject to the continuing education requirements specified 67853
under division (B) of this section for the year in which 67854
reinstatement occurs. 67855

Sec. 4725.19. (A) In accordance with Chapter 119. of the 67856
Revised Code and by an affirmative vote of a majority of its 67857
members, the state vision professionals board, for any of the 67858
reasons specified in division (B) of this section, shall refuse 67859
to grant a certificate of licensure to practice optometry to an 67860
applicant and may, with respect to a licensed optometrist, do 67861
one or more of the following: 67862

(1) Suspend the operation of any certificate of licensure 67863
granted by it to the optometrist; 67864

(2) Permanently revoke the certificate of licensure; 67865

(3) Limit or otherwise place restrictions on the 67866
certificate of licensure; 67867

(4) Reprimand the optometrist; 67868

(5) Impose a monetary penalty. If the reason for which the board is imposing the penalty involves a criminal offense that carries a fine under the Revised Code, the penalty shall not exceed the maximum fine that may be imposed for the criminal offense. In any other case, the penalty imposed by the board shall not exceed five hundred dollars.

(6) Require the optometrist to take corrective action courses.

The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, establishing the amount and content of corrective action courses shall be established by the board in ~~rules adopted under section 4725.09 of the Revised Code.~~

(B) Except as provided in division (E) of this section, the sanctions specified in division (A) of this section may be taken by the board for any of the following reasons:

(1) Committing fraud in passing the licensing examination or making false or purposely misleading statements in an application for a certificate of licensure;

(2) Being at any time guilty of immorality, regardless of the jurisdiction in which the act was committed;

(3) Being guilty of dishonesty or unprofessional conduct in the practice of optometry;

(4) Being at any time guilty of a felony, regardless of the jurisdiction in which the act was committed;

(5) Being at any time guilty of a misdemeanor committed in the course of practice, regardless of the jurisdiction in which the act was committed;

(6) Violating the conditions of any limitation or other

restriction placed by the board on a certificate of licensure 67897
issued by the board; 67898

(7) Engaging in the practice of optometry as provided in 67899
section 4725.01 of the Revised Code when the certificate of 67900
licensure authorizing that practice is under suspension, in 67901
which case the board shall permanently revoke the certificate of 67902
licensure; 67903

(8) Being denied a license to practice optometry in 67904
another state or country or being subject to any other sanction 67905
by the optometric licensing authority of another state or 67906
country, other than sanctions imposed for the nonpayment of 67907
fees; 67908

(9) Departing from or failing to conform to acceptable and 67909
prevailing standards of care in the practice of optometry as 67910
followed by similar practitioners under the same or similar 67911
circumstances, regardless of whether actual injury to a patient 67912
is established; 67913

(10) Failing to maintain comprehensive patient records; 67914

(11) Advertising a price of optical accessories, eye 67915
examinations, or other products or services by any means that 67916
would deceive or mislead the public; 67917

(12) Being addicted to the use of alcohol, stimulants, 67918
narcotics, or any other substance which impairs the intellect 67919
and judgment to such an extent as to hinder or diminish the 67920
performance of the duties included in the person's practice of 67921
optometry; 67922

(13) Engaging in the practice of optometry as provided in 67923
section 4725.01 of the Revised Code without authority to do so 67924
or, if authorized, in a manner inconsistent with the authority 67925

granted;	67926
(14) Failing to make a report to the board as required by division (A) of section 4725.21 or section 4725.31 of the Revised Code;	67927 67928 67929
(15) Soliciting patients from door to door or establishing temporary offices, in which case the board shall suspend the certificate of licensure held by the optometrist;	67930 67931 67932
(16) Except as provided in division (D) of this section:	67933
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers optometric services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that optometrist.	67934 67935 67936 67937 67938 67939
(b) Advertising that the optometrist will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers optometric services, would otherwise be required to pay.	67940 67941 67942 67943 67944
(17) Failing to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an analgesic controlled substance authorized pursuant to section 4725.091 of the Revised Code that is an opioid analgesic, as defined in section 3719.01 of the Revised Code;	67945 67946 67947 67948 67949 67950
(18) Violating the rules adopted under section 4725.66 of the Revised Code;	67951 67952
(19) A pattern of continuous or repeated violations of	67953

division (E) (2) or (3) of section 3963.02 of the Revised Code. 67954

(C) Any person who is the holder of a certificate of 67955
licensure, or who is an applicant for a certificate of licensure 67956
against whom is preferred any charges, shall be furnished by the 67957
board with a copy of the complaint and shall have a hearing 67958
before the board in accordance with Chapter 119. of the Revised 67959
Code. 67960

(D) Sanctions shall not be imposed under division (B) (16) 67961
of this section against any optometrist who waives deductibles 67962
and copayments: 67963

(1) In compliance with the health benefit plan that 67964
expressly allows such a practice. Waiver of the deductibles or 67965
copayments shall be made only with the full knowledge and 67966
consent of the plan purchaser, payer, and third-party 67967
administrator. Documentation of the consent shall be made 67968
available to the board upon request. 67969

(2) For professional services rendered to any other 67970
optometrist licensed by the board, to the extent allowed by 67971
sections 4725.01 to 4725.34 of the Revised Code ~~and the rules of~~ 67972
~~the board.~~ 67973

(E) The board shall not refuse to grant a certificate of 67974
licensure to practice optometry to an applicant because of a 67975
conviction of or plea of guilty to an offense unless the refusal 67976
is in accordance with section 9.79 of the Revised Code. 67977

(F) If a violation described in this section has caused, 67978
is causing, or is about to cause substantial and material harm, 67979
the board may issue an order requiring that person to cease and 67980
desist from engaging in the violation. Notice of the order shall 67981
be mailed by certified mail, return receipt requested, 67982

immediately after its issuance to the person subject to the 67983
order and to all persons known to be involved in the violation. 67984
The board may thereafter publicize or otherwise make known to 67985
all interested parties that the order has been issued. 67986

The notice shall specify the particular act, omission, 67987
practice, or transaction that is subject to the cease-and-desist 67988
order and shall set a date, not more than fifteen days after the 67989
date of the order, for a hearing on the continuation or 67990
revocation of the order. The person shall comply with the order 67991
immediately upon receipt of notice of the order. 67992

The board may, on the application of a party and for good 67993
cause shown, continue the hearing. Chapter 119. of the Revised 67994
Code applies to the hearing to the extent that that chapter does 67995
not conflict with the procedures set forth in this section. The 67996
board shall, within fifteen days after objections are submitted 67997
to the hearing officer's report and recommendation, issue a 67998
final order either confirming or revoking the cease-and-desist 67999
order. The final order may be appealed as provided under section 68000
119.12 of the Revised Code. 68001

The remedy under this division is cumulative and 68002
concurrent with the other remedies available under this section. 68003

Sec. 4725.33. (A) An individual whom the state vision 68004
professionals board licenses to engage in the practice of 68005
optometry may render the professional services of an optometrist 68006
within this state through a corporation formed under division 68007
(B) of section 1701.03 of the Revised Code, a limited liability 68008
company formed under former Chapter 1705. of the Revised Code as 68009
that chapter existed prior to February 11, 2022, or Chapter 68010
1706. of the Revised Code, a partnership, or a professional 68011
association formed under Chapter 1785. of the Revised Code. This 68012

division does not preclude an optometrist from rendering 68013
professional services as an optometrist through another form of 68014
business entity, including, but not limited to, a nonprofit 68015
corporation or foundation, or in another manner that is 68016
authorized by or in accordance with this chapter, or another 68017
chapter of the Revised Code, ~~or rules of the state vision-~~ 68018
~~professionals board adopted pursuant to this chapter.~~ 68019

(B) A corporation, limited liability company, partnership, 68020
or professional association described in division (A) of this 68021
section may be formed for the purpose of providing a combination 68022
of the professional services of the following individuals who 68023
are licensed, certificated, or otherwise legally authorized to 68024
practice their respective professions: 68025

(1) Optometrists who are authorized to practice optometry 68026
under Chapter 4725. of the Revised Code; 68027

(2) Chiropractors who are authorized to practice 68028
chiropractic or acupuncture under Chapter 4734. of the Revised 68029
Code; 68030

(3) Psychologists who are authorized to practice 68031
psychology under Chapter 4732. of the Revised Code; 68032

(4) Registered or licensed practical nurses who are 68033
authorized to practice nursing as registered nurses or as 68034
licensed practical nurses under Chapter 4723. of the Revised 68035
Code; 68036

(5) Pharmacists who are authorized to practice pharmacy 68037
under Chapter 4729. of the Revised Code; 68038

(6) Physical therapists who are authorized to practice 68039
physical therapy under sections 4755.40 to 4755.56 of the 68040
Revised Code; 68041

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, marriage and family therapists, art therapists, or music therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to an optometrist that prohibits an optometrist from engaging in the practice of optometry in combination with a person who is licensed, certificated, or otherwise legally authorized to practice chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, marriage and family therapy, art therapy, or music therapy, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of optometry.

Sec. 4725.44. (A) The state vision professionals board

shall be responsible for the administration of sections 4725.40 68071
to 4725.59 of the Revised Code and, in particular, shall process 68072
applications for licensure as licensed dispensing opticians; 68073
schedule, administer, and supervise the qualifying examinations 68074
for licensure or contract with a testing service to schedule, 68075
administer, and supervise the qualifying examination for 68076
licensure; issue licenses to qualified individuals; and revoke 68077
and suspend licenses. 68078

(B) The board shall adopt, amend, or rescind rules, 68079
pursuant to Chapter 119. of the Revised Code, ~~for the licensure-~~ 68080
~~of dispensing opticians, and such other rules as are required by~~ 68081
~~or necessary to carry out the responsibilities imposed by-~~ 68082
~~sections 4725.40 to 4725.59 of the Revised Code, including rules~~ 68083
~~establishing~~ that establish criminal records check requirements 68084
under section 4776.03 of the Revised Code and ~~rules establishing~~ 68085
disqualifying offenses for licensure as a dispensing optician or 68086
certification as an apprentice dispensing optician pursuant to 68087
sections 9.79, 4725.48, 4725.52, 4725.53, and 4776.10 of the 68088
Revised Code. 68089

(C) The board shall have no authority to adopt rules 68090
governing the employment of dispensing opticians, the location 68091
or number of optical stores, advertising of optical products or 68092
services, or the manner in which optical products can be 68093
displayed. 68094

Sec. 4725.51. (A) (1) Each license issued under sections 68095
4725.40 to 4725.59 of the Revised Code shall expire on the last 68096
day of December of each odd-numbered year. Each person holding a 68097
valid, current license may apply to the state vision 68098
professionals board for the extension of the license under the 68099
standard renewal procedures of Chapter 4745. of the Revised 68100

Code. Each application for renewal shall be accompanied by a 68101
renewal fee of one hundred ninety-five dollars. In addition, 68102
except as provided in division (A) (2) of this section, the 68103
application shall contain evidence that the applicant has 68104
completed continuing education within each biennial licensing 68105
period as follows: 68106

(a) Licensed spectacle dispensing opticians shall have 68107
completed a length of study of twelve clock hours, approved by 68108
the board. 68109

(b) Licensed spectacle-contact lens dispensing opticians 68110
shall have completed a length of study of twenty-four clock 68111
hours, approved by the board. 68112

(2) An application for the initial renewal of a license 68113
issued under sections 4725.40 to 4725.55 of the Revised Code is 68114
not required to contain evidence that the applicant has 68115
completed the continuing education requirements of division (A) 68116
(1) of this section. 68117

(B) No person who fails to renew the person's license 68118
under division (A) of this section shall be required to take a 68119
qualifying examination under section 4725.48 of the Revised Code 68120
as a condition of renewal, provided that the application for 68121
renewal and proof of the requisite continuing education hours 68122
are submitted within thirty days from the date the license 68123
expired and the applicant pays the renewal fee and a penalty of 68124
seventy-five dollars. The board may ~~provide, by rule,~~ adopt rules 68125
in accordance with Chapter 119. of the Revised Code providing 68126
for an extension of the grace period for licensed dispensing 68127
opticians who are serving in the armed forces of the United 68128
States or a reserve component of the armed forces of the United 68129
States, including the Ohio national guard or the national guard 68130

of any other state and for waiver of the continuing education 68131
requirements or the penalty in cases of hardship or illness. 68132

(C) The board shall approve continuing education programs 68133
and shall adopt rules ~~as necessary in accordance with Chapter~~ 68134
119. of the Revised Code establishing standards and procedures 68135
for approving the programs. The rules shall permit programs to 68136
be conducted either in person or through electronic or other 68137
self-study means. Approved programs shall be scheduled, 68138
sponsored, and conducted in accordance with the board's rules. 68139

(D) Any license given a grandfathered issuance or renewal 68140
between March 22, 1979, and March 22, 1980, shall be renewed in 68141
accordance with this section. 68142

Sec. 4727.13. (A) The superintendent of financial 68143
institutions shall ~~adopt rules in accordance with Chapter 119.~~ 68144
~~of the Revised Code for the administration and enforcement of~~ 68145
~~this chapter.~~ 68146

~~(B)~~ The superintendent shall enforce this chapter, make 68147
all reasonable effort to discover alleged violators, notify the 68148
proper prosecuting officer whenever the superintendent has 68149
reasonable grounds to believe that a violation has occurred, act 68150
as complainant in the prosecution thereof, and aid such officers 68151
to the best of the superintendent's ability in such 68152
prosecutions. The superintendent shall employ such deputies as 68153
may be necessary to make the investigations and inspections, and 68154
otherwise perform the duties imposed by such sections. 68155

~~(C)~~ (B) The superintendent may issue a cease and desist 68156
order against any person the superintendent reasonably suspects 68157
has violated, is currently violating, or is about to violate 68158
this chapter. The superintendent may apply to a court of common 68159

pleas for an order compelling a person to comply with any cease and desist order or any subpoena issued by the superintendent. 68160
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~~(D)~~(C) The superintendent may obtain from the court of common pleas any form of injunctive relief against any person that has violated, is currently violating, or is about to violate this chapter. 68162
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~~(E)~~(D) To enforce this chapter, the superintendent may issue a subpoena to any person to compel the production of any item, record, or writing, including an electronic writing, and may issue a subpoena to any person to compel the appearance and rendering of testimony. 68166
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~~(F)~~(E) The superintendent may examine and investigate the business, including the business location and any books, records, writings, including electronic writings, safes, files, or storage areas located in or utilized by the business location, of any person the superintendent reasonably suspects to be advertising, transacting, or soliciting business as a pawnbroker. The superintendent may request the attendance and assistance of the appropriate chief of police of a municipal corporation or township, the county sheriff, or the state highway patrol during the examination and investigation of the business. 68171
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Sec. 4729.10. The state board of pharmacy may adopt rules ~~under section 4729.26 of the Revised Code~~ requiring a licensee or registrant under this chapter to report to the board a violation of state or federal law, including any rule adopted under this chapter. 68182
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In the absence of fraud or bad faith, a person who reports under this section or testifies in any adjudication conducted 68187
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under Chapter 119. of the Revised Code is not liable to any 68189
person for damages in a civil action as a result of the report 68190
or testimony. 68191

Sec. 4729.12. A license issued by the state board of 68192
pharmacy under section 4729.08 or 4729.11 of the Revised Code 68193
entitles the individual to whom it is issued to practice as a 68194
pharmacist or as a pharmacy intern in this state until the next 68195
renewal date. 68196

Licenses shall be renewed according to the standard 68197
renewal procedure of Chapter 4745. of the Revised Code and rules 68198
adopted by the board under this section ~~4729.26 of the Revised~~ 68199
~~Code. Licenses are valid for the period specified in the rules,~~ 68200
~~unless earlier revoked or suspended by the board.~~ The board 68201
shall adopt rules specifying the period for which a license 68202
remains valid, which shall not exceed twenty-four months, unless 68203
the board extends the period in the rules to adjust license 68204
renewal schedules. The rules also shall specify that a license 68205
is valid for that time period, unless earlier revoked or 68206
suspended by the board. All rules adopted under this section 68207
shall be adopted in accordance with Chapter 119. of the Revised 68208
Code. 68209

A pharmacist or pharmacy intern who desires to continue in 68210
the practice of pharmacy shall file with the board an 68211
application in such form and containing such data as the board 68212
may require for renewal of a license. In the case of a 68213
pharmacist who dispenses or plans to dispense controlled 68214
substances in this state, the pharmacist shall certify, as part 68215
of the application, that the pharmacist has been granted access 68216
to the drug database established and maintained by the board 68217
pursuant to section 4729.75 of the Revised Code, unless the 68218

board has restricted the pharmacist from obtaining further 68219
information from the database or the board no longer maintains 68220
the database. If the pharmacist certifies to the board that the 68221
applicant has been granted access to the drug database and the 68222
board finds through an audit or other means that the pharmacist 68223
has not been granted access, the board may take action under 68224
section 4729.16 of the Revised Code. 68225

An application filed under this section for renewal of a 68226
license may not be withdrawn without the approval of the board. 68227

The board shall renew an applicant's license if the board 68228
finds all of the following: 68229

(A) The applicant's license has not been revoked or placed 68230
under suspension. 68231

(B) The applicant has paid the renewal fee. 68232

(C) If the applicant is a pharmacist, the applicant has 68233
completed thirty hours of continued pharmacy education in the 68234
previous two years in accordance with any rules of the board. 68235

(D) The applicant is entitled to continue in the practice 68236
of pharmacy. 68237

When a license has expired but an application is made 68238
within three years after the expiration of the license, the 68239
applicant's license shall be renewed without further examination 68240
if the applicant meets the requirements of this section and pays 68241
the fee designated under division (A) (5) of section 4729.15 of 68242
the Revised Code. 68243

A pharmacist or pharmacy intern who fails to renew the 68244
pharmacist's or intern's license by the renewal date prescribed 68245
by the board shall not engage in the practice of pharmacy until 68246

a valid license is issued by the board. 68247

Sec. 4729.16. (A) (1) The state board of pharmacy, after 68248
notice and hearing in accordance with Chapter 119. of the 68249
Revised Code, may impose any one or more of the following 68250
sanctions on a pharmacist or pharmacy intern if the board finds 68251
the individual engaged in any of the conduct set forth in 68252
division (A) (2) of this section: 68253

(a) Revoke, suspend, restrict, limit, or refuse to grant 68254
or renew a license; 68255

(b) Reprimand or place the license holder on probation; 68256

(c) Impose a monetary penalty or forfeiture not to exceed 68257
in severity any fine designated under the Revised Code for a 68258
similar offense, or in the case of a violation of a section of 68259
the Revised Code that does not bear a penalty, a monetary 68260
penalty or forfeiture of not more than five hundred dollars. 68261

(2) Except as provided in division (I) of this section, 68262
the board may impose the sanctions listed in division (A) (1) of 68263
this section if the board finds a pharmacist or pharmacy intern: 68264

(a) Has been convicted of a felony, or a crime of moral 68265
turpitude, as defined in section 4776.10 of the Revised Code; 68266

(b) Engaged in dishonesty or unprofessional conduct in the 68267
practice of pharmacy; 68268

(c) Is addicted to or abusing alcohol or drugs or is 68269
impaired physically or mentally to such a degree as to render 68270
the pharmacist or pharmacy intern unfit to practice pharmacy; 68271

(d) Has been convicted of a misdemeanor related to, or 68272
committed in, the practice of pharmacy; 68273

- (e) Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions; 68274
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- (f) Permitted someone other than a pharmacist or pharmacy intern to practice pharmacy; 68279
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- (g) Knowingly lent the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or had a professional connection with an illegal practitioner of pharmacy; 68281
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- (h) Divided or agreed to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home; 68285
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- (i) Violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code; 68290
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- (j) Committed fraud, misrepresentation, or deception in applying for or securing a license issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code; 68292
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- (k) Failed to comply with an order of the board or a settlement agreement; 68296
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- ~~(l) Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code. 68298
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68300~~
- (B) Any individual whose license is revoked, suspended, or 68301

refused, shall return the license to the offices of the state 68302
board of pharmacy within ten days after receipt of notice of 68303
such action. 68304

(C) As used in this section: 68305

"Unprofessional conduct in the practice of pharmacy" 68306
includes any of the following: 68307

(1) Advertising or displaying signs that promote dangerous 68308
drugs to the public in a manner that is false or misleading; 68309

(2) Except as provided in section 3715.50, 3715.502, 68310
4729.281, or 4729.47 of the Revised Code, the dispensing or sale 68311
of any drug for which a prescription is required, without having 68312
received a prescription for the drug; 68313

(3) Knowingly dispensing medication pursuant to false or 68314
forged prescriptions; 68315

(4) Knowingly failing to maintain complete and accurate 68316
records of all dangerous drugs received or dispensed in 68317
compliance with federal laws and regulations and state laws and 68318
rules; 68319

(5) Obtaining any remuneration by fraud, 68320
misrepresentation, or deception; 68321

(6) Failing to conform to prevailing standards of care of 68322
similar pharmacists or pharmacy interns under the same or 68323
similar circumstances, whether or not actual injury to a patient 68324
is established; 68325

~~(7) Engaging in any other conduct that the board specifies 68326
as unprofessional conduct in the practice of pharmacy in rules 68327
adopted under section 4729.26 of the Revised Code. 68328~~

(D) The board may suspend a license under division (B) of 68329
section 3719.121 of the Revised Code by utilizing a telephone 68330
conference call to review the allegations and take a vote. 68331

(E) For purposes of this division, an individual 68332
authorized to practice as a pharmacist or pharmacy intern 68333
accepts the privilege of practicing in this state subject to 68334
supervision by the board. By filing an application for or 68335
holding a license to practice as a pharmacist or pharmacy 68336
intern, an individual gives consent to submit to a mental or 68337
physical examination when ordered to do so by the board in 68338
writing and waives all objections to the admissibility of 68339
testimony or examination reports that constitute privileged 68340
communications. 68341

If the board has reasonable cause to believe that an 68342
individual who is a pharmacist or pharmacy intern is physically 68343
or mentally impaired, the board may require the individual to 68344
submit to a physical or mental examination, or both. The expense 68345
of the examination is the responsibility of the individual 68346
required to be examined. 68347

Failure of an individual who is a pharmacist or pharmacy 68348
intern to submit to a physical or mental examination ordered by 68349
the board, unless the failure is due to circumstances beyond the 68350
individual's control, constitutes an admission of the 68351
allegations and a suspension order shall be entered without the 68352
taking of testimony or presentation of evidence. Any subsequent 68353
adjudication hearing under Chapter 119. of the Revised Code 68354
concerning failure to submit to an examination is limited to 68355
consideration of whether the failure was beyond the individual's 68356
control. 68357

If, based on the results of an examination ordered under 68358

this division, the board determines that the individual's 68359
ability to practice is impaired, the board shall suspend the 68360
individual's license or deny the individual's application and 68361
shall require the individual, as a condition for an initial, 68362
continued, reinstated, or renewed license to practice, to submit 68363
to a physical or mental examination and treatment. 68364

An order of suspension issued under this division shall 68365
not be subject to suspension by a court during pendency of any 68366
appeal filed under section 119.12 of the Revised Code. 68367

(F) If the board is required under Chapter 119. of the 68368
Revised Code to give notice of an opportunity for a hearing and 68369
the applicant or licensee does not make a timely request for a 68370
hearing in accordance with section 119.07 of the Revised Code, 68371
the board is not required to hold a hearing, but may adopt a 68372
final order that contains the board's findings. In the final 68373
order, the board may impose any of the sanctions listed in 68374
division (A) of this section. 68375

(G) Notwithstanding the provision of division (D) (2) of 68376
section 2953.32 or division (F) (1) of section 2953.39 of the 68377
Revised Code specifying that if records pertaining to a criminal 68378
case are sealed or expunged under that section the proceedings 68379
in the case must be deemed not to have occurred, sealing or 68380
expungement of the following records on which the board has 68381
based an action under this section shall have no effect on the 68382
board's action or any sanction imposed by the board under this 68383
section: records of any conviction, guilty plea, judicial 68384
finding of guilt resulting from a plea of no contest, or a 68385
judicial finding of eligibility for a pretrial diversion program 68386
or intervention in lieu of conviction. The board shall not be 68387
required to seal, destroy, redact, or otherwise modify its 68388

records to reflect the court's sealing or expungement of 68389
conviction records. 68390

(H) No pharmacist or pharmacy intern shall knowingly 68391
engage in any conduct described in divisions (A) (2) (b) or (A) (2) 68392
(e) to (l) of this section. 68393

(I) The board shall not refuse to issue a license to an 68394
applicant for a conviction of an offense unless the refusal is 68395
in accordance with section 9.79 of the Revised Code. 68396

Sec. 4729.28. (A) As used in this section, "dispense" has 68397
the meaning specified by the state board of pharmacy in rules 68398
adopted under this section ~~4729.26 of the Revised Code.~~ 68399

(B) (1) Except as provided in division (B) (2) of this 68400
section, no person who is not a pharmacist or a pharmacy intern 68401
under the personal supervision of a pharmacist shall compound or 68402
sell dangerous drugs or otherwise engage in the practice of 68403
pharmacy. 68404

(2) Except as provided in section 3701.048 of the Revised 68405
Code with respect to other health care professionals, in 68406
sections 3715.512 and 4729.47 of the Revised Code with respect 68407
to pharmacy interns, or in rules adopted by the board under this 68408
section ~~4729.26 of the Revised Code,~~ no person who is not a 68409
pharmacist shall dispense dangerous drugs. 68410

(C) The board shall adopt rules in accordance with Chapter 68411
119. of the Revised Code to implement divisions (A) and (B) (2) 68412
of this section. 68413

Sec. 4729.382. (A) As used in this section, "epinephrine 68414
autoinjector" means a device used to administer epinephrine only 68415
in a manufactured dosage form. 68416

(B) Subject to division (C) of this section, a pharmacist dispensing an epinephrine autoinjector pursuant to a prescription that identifies a specific type of epinephrine autoinjector may substitute the prescribed autoinjector with another epinephrine autoinjector, but only if the form of epinephrine contained in the autoinjector to be dispensed by substitution meets either of the following conditions:

(1) It is identical to the form of epinephrine in the type of autoinjector that was prescribed.

(2) It is a pharmaceutical equivalent of the form of epinephrine in the type of autoinjector that was prescribed in that it contains identical amounts of the identical active ingredients, but not necessarily the same inactive ingredients; it has been approved by the United States food and drug administration; and it has not been excluded from recognition as a pharmaceutical equivalent form of epinephrine by rules adopted under division (H) of this section.

(C) All of the following conditions apply with respect to a pharmacist's authority to dispense an epinephrine autoinjector by substitution:

(1) The pharmacist shall not make the substitution if the person receiving the autoinjector pursuant to the prescription instructs otherwise.

(2) The pharmacist shall not make the substitution if either of the following applies to the prescription:

(a) In the case of a written or electronic prescription, including a computer-generated prescription, the prescriber handwrites or actively causes to display on the prescription "dispense as written," "D.A.W.," "do not substitute," "medically

necessary as prescribed," or any other statement or numerical 68446
code that indicates the prescriber's intent to prevent 68447
substitution. Such a designation shall not be preprinted or 68448
stamped on the prescription, but a reminder to the prescriber of 68449
the designation procedure may be preprinted or displayed on the 68450
prescription form or electronic system the prescriber uses to 68451
issue the prescription. 68452

(b) In the case of an oral prescription, the prescriber 68453
specifies that the epinephrine autoinjector as prescribed is 68454
medically necessary or otherwise indicates the prescriber's 68455
intent to prevent substitution. 68456

(3) The pharmacist shall not make the substitution unless 68457
its price to the patient is less than or equal to the price of 68458
the prescribed epinephrine autoinjector, except that a 68459
pharmacist may substitute an epinephrine autoinjector with a 68460
price to the patient that is greater than the prescribed 68461
autoinjector if the patient specifically requests the more 68462
expensive autoinjector. 68463

(4) The pharmacist, or a pharmacy intern or agent of the 68464
pharmacist, shall make a reasonable attempt to inform the 68465
patient or the patient's representative if a type of epinephrine 68466
autoinjector is available at a lower or equal cost. 68467

(5) The pharmacist, or a pharmacy intern or agent of the 68468
pharmacist, shall inform the patient or the patient's 68469
representative of the person's right to refuse substitution of 68470
the prescribed epinephrine autoinjector. 68471

(D) (1) Unless the prescriber instructs otherwise, the 68472
label for every epinephrine autoinjector dispensed shall include 68473
the epinephrine autoinjector's name, if any, and the distributor 68474

of the autoinjector. Abbreviations may be used as necessary. 68475

(2) When dispensing at retail an epinephrine autoinjector 68476
by substitution, the pharmacist shall indicate on the 68477
autoinjector's label or container that a substitution was made. 68478

(3) The labeling requirements established by divisions (D) 68479
(1) and (2) of this section are in addition to all other 68480
labeling requirements as required in rules adopted by the state 68481
board of pharmacy. 68482

(E) When a pharmacist dispenses an epinephrine 68483
autoinjector by substitution, the pharmacist or a pharmacy 68484
intern shall provide to the person receiving the device 68485
instruction on the proper method of administering epinephrine 68486
with the device, except that the instruction does not have to be 68487
provided if the person is receiving the same device that was 68488
dispensed when the person last received the device by having a 68489
prescription filled or refilled. 68490

(F) A pharmacist who dispenses an epinephrine autoinjector 68491
pursuant to this section assumes no greater liability for 68492
dispensing the autoinjector by substitution than would be 68493
incurred for dispensing the autoinjector identified on the 68494
prescription. 68495

(G) The failure of a prescriber to restrict a prescription 68496
by indicating an intent to prevent substitution pursuant to this 68497
section shall not constitute evidence of the prescriber's 68498
negligence unless the prescriber had reasonable cause to believe 68499
that the health condition of the patient for whom the 68500
epinephrine autoinjector was intended warranted the prescription 68501
of a specific type of epinephrine autoinjector and no other. No 68502
prescriber shall be liable for civil damages or in any criminal 68503

prosecution arising from a pharmacist dispensing an epinephrine 68504
autoinjector by substitution, unless the type of autoinjector 68505
prescribed would have reasonably caused the same loss, damage, 68506
injury, or death. 68507

(H) The state board of pharmacy may adopt rules in 68508
accordance with Chapter 119. of the Revised Code ~~to implement~~ 68509
~~this section. The rules may specify~~ specifying the forms of 68510
epinephrine that are not to be recognized as pharmaceutical 68511
equivalents of other forms of epinephrine for purposes of this 68512
section. 68513

(I) No pharmacist shall knowingly engage in conduct that 68514
is prohibited by division (C) or (D) of this section. 68515

Sec. 4729.39. (A) As used in this section: 68516

(1) "Certified nurse practitioner," "certified nurse- 68517
midwife," "clinical nurse specialist," and "standard care 68518
arrangement" have the same meanings as in section 4723.01 of the 68519
Revised Code. 68520

(2) "Collaborating physician" means a physician who has 68521
entered into a standard care arrangement with a clinical nurse 68522
specialist, certified nurse-midwife, or certified nurse 68523
practitioner. 68524

(3) "Physician" means an individual authorized under 68525
Chapter 4731. of the Revised Code to practice medicine and 68526
surgery or osteopathic medicine and surgery. 68527

(4) "Physician assistant" means an individual who is 68528
licensed to practice as a physician assistant under Chapter 68529
4730. of the Revised Code, holds a valid prescriber number 68530
issued by the state medical board, and has been granted 68531
physician-delegated prescriptive authority. 68532

(5) "Supervising physician" means a physician who has entered into a supervision agreement with a physician assistant under section 4730.19 of the Revised Code.

(B) Subject to division (C) of this section, one or more pharmacists may enter into a consult agreement with one or more of the following practitioners:

(1) Physicians;

(2) Physician assistants, if entering into a consult agreement is authorized by one or more supervising physicians;

(3) Clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners, if entering into a consult agreement is authorized by one or more collaborating physicians.

(C) Before entering into a consult agreement, all of the following conditions must be met:

(1) Each practitioner must have an ongoing practitioner-patient relationship with each patient whose drug therapy is to be managed.

(2) The diagnosis for which each patient has been prescribed drug therapy must be within the scope of each practitioner's practice.

(3) Each pharmacist must have training and experience related to the particular diagnosis for which drug therapy is to be prescribed.

(D) With respect to consult agreements, all of the following apply:

(1) Under a consult agreement, a pharmacist is authorized to do both of the following, but only to the extent specified in

the agreement, this section, and the rules adopted under this section: 68560
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(a) Manage drug therapy for treatment of specified diagnoses or diseases for each patient who is subject to the agreement, including all of the following: 68562
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(i) Changing the duration of treatment for the current drug therapy; 68565
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(ii) Adjusting a drug's strength, dose, dosage form, frequency of administration, or route of administration; 68567
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(iii) Discontinuing the use of a drug; 68569

(iv) Administering a drug; 68570

(v) Notwithstanding the definition of "licensed health professional authorized to prescribe drugs" in section 4729.01 of the Revised Code, adding a drug to the patient's drug therapy. 68571
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(b) (i) Order laboratory and diagnostic tests, including blood and urine tests, that are related to the drug therapy being managed, and evaluate the results of the tests that are ordered. 68575
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(ii) A pharmacist's authority to evaluate test results under division (D) (1) (b) (i) of this section does not authorize the pharmacist to make a diagnosis. 68579
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(2) (a) A consult agreement, or the portion of the agreement that applies to a particular patient, may be terminated by any of the following: 68582
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(i) A pharmacist who entered into the agreement; 68585

(ii) A practitioner who entered into the agreement; 68586

- (iii) A patient whose drug therapy is being managed; 68587
- (iv) An individual who consented to the treatment on 68588
behalf of a patient or an individual authorized to act on behalf 68589
of a patient. 68590
- (b) The pharmacist or practitioner who receives the notice 68591
of a patient's termination of the agreement shall provide 68592
written notice to every other pharmacist or practitioner who is 68593
a party to the agreement. A pharmacist or practitioner who 68594
terminates a consult agreement with regard to one or more 68595
patients shall provide written notice to all other pharmacists 68596
and practitioners who entered into the agreement and to each 68597
individual who consented to treatment under the agreement. The 68598
termination of a consult agreement with regard to one or more 68599
patients shall be recorded by the pharmacist and practitioner in 68600
the medical records of each patient to whom the termination 68601
applies. 68602
- (3) A consult agreement shall be made in writing and shall 68603
include all of the following: 68604
- (a) The diagnoses and diseases being managed under the 68605
agreement, including whether each disease is primary or 68606
comorbid; 68607
- (b) A description of the drugs or drug categories the 68608
agreement involves; 68609
- (c) A description of the procedures, decision criteria, 68610
and plan the pharmacist is to follow in acting under a consult 68611
agreement; 68612
- (d) A description of how the pharmacist is to comply with 68613
divisions (D) (5) and (6) of this section. 68614

(4) The content of a consult agreement shall be 68615
communicated to each patient whose drug therapy is managed under 68616
the agreement. 68617

(5) A pharmacist acting under a consult agreement shall 68618
maintain a record of each action taken for each patient whose 68619
drug therapy is managed under the agreement. 68620

(6) Communication between a pharmacist and practitioner 68621
acting under a consult agreement shall take place at regular 68622
intervals specified by the primary practitioner acting under the 68623
agreement. The agreement may include a requirement that a 68624
pharmacist send a consult report to each consulting 68625
practitioner. 68626

(7) A consult agreement is effective for two years and may 68627
be renewed if the conditions specified in division (C) of this 68628
section continue to be met. 68629

(8) A consult agreement does not permit a pharmacist to 68630
manage drug therapy prescribed by a practitioner who has not 68631
entered into the agreement. 68632

(E) The state board of pharmacy, state medical board, and 68633
board of nursing shall each adopt rules as follows for its 68634
license holders establishing standards and procedures for 68635
entering into a consult agreement and managing a patient's drug 68636
therapy under a consult agreement: 68637

(1) The state board of pharmacy, in consultation with the 68638
state medical board and board of nursing, shall adopt rules to 68639
be followed by pharmacists. 68640

(2) The state medical board, in consultation with the 68641
state board of pharmacy, shall adopt rules to be followed by 68642
physicians and rules to be followed by physician assistants. 68643

(3) The board of nursing, in consultation with the state board of pharmacy and state medical board, shall adopt rules to be followed by clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners.

The boards shall specify in the rules any categories of drugs or types of diseases for which a consult agreement may not be established. ~~Each board may adopt any other rules it considers necessary for the implementation and administration of this section.~~ All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(F) (1) Subject to division (F) (2) of this section, both of the following apply:

(a) A pharmacist acting in accordance with a consult agreement regarding a practitioner's change in a drug for a patient whose drug therapy the pharmacist is managing under the agreement is not liable in damages in a tort or other civil action for injury or loss to person or property allegedly arising from the change.

(b) A practitioner acting in accordance with a consult agreement regarding a pharmacist's change in a drug for a patient whose drug therapy the pharmacist is managing under a consult agreement is not liable in damages in a tort or other civil action for injury or loss to person or property allegedly arising from the change unless the practitioner authorized the specific change.

(2) Division (F) (1) of this section does not limit a practitioner's or pharmacist's liability in damages in a tort or other civil action for injury or loss to person or property allegedly arising from actions that are not related to the

practitioner's or pharmacist's change in a drug for a patient 68673
whose drug therapy is being managed under a consult agreement. 68674

Sec. 4729.391. (A) A pharmacist may modify a drug's 68675
prescription to also include a drug delivery device, if the 68676
pharmacist determines that the device is necessary for the 68677
drug's administration. 68678

~~(B) The state board of pharmacy may adopt rules to 68679
implement this section. The rules shall be adopted in accordance 68680
with Chapter 119. of the Revised Code. 68681~~

~~(C) For purposes of reimbursement under the terms of a 68682
health benefit plan by a health care insurer, government health 68683
care program, pharmacy benefit manager, or other entity that 68684
offers health benefit plans, a prescription modified as 68685
described in this section, and in accordance with any rules 68686
adopted under it, shall be deemed a valid prescription for the 68687
drug delivery device. 68688~~

Sec. 4729.41. (A) (1) A pharmacist licensed under this 68689
chapter who meets the requirements of division (B) of this 68690
section, a pharmacy intern licensed under this chapter who meets 68691
the requirements of division (B) of this section and is working 68692
under the direct supervision of a pharmacist who meets the 68693
requirements of that division, and a certified pharmacy 68694
technician or a registered pharmacy technician who meets the 68695
requirements of division (B) of this section and is working 68696
under the direct supervision of a pharmacist who meets the 68697
requirements of that division, may administer to an individual 68698
who is five years of age or older an immunization for any 68699
disease, including an immunization for influenza or COVID-19. 68700

(2) As part of engaging in the administration of 68701

immunizations or supervising a pharmacy intern's, certified 68702
pharmacy technician's, or registered pharmacy technician's 68703
administration of immunizations, a pharmacist may administer 68704
epinephrine or diphenhydramine, or both, to individuals in 68705
emergency situations resulting from adverse reactions to the 68706
immunizations administered by the pharmacist, pharmacy intern, 68707
certified pharmacy technician, or registered pharmacy 68708
technician. 68709

(B) For a pharmacist, pharmacy intern, certified pharmacy 68710
technician, or registered pharmacy technician to be authorized 68711
to engage in the administration of immunizations, the 68712
pharmacist, pharmacy intern, certified pharmacy technician, or 68713
registered pharmacy technician shall do all of the following: 68714

(1) Successfully complete a course in the administration 68715
of immunizations that meets the requirements established in 68716
rules adopted under this section for such courses; 68717

(2) Receive and maintain certification to perform basic 68718
life-support procedures by successfully completing a basic life- 68719
support training course that is certified by the American red 68720
cross or American heart association or approved by the state 68721
board of pharmacy; 68722

(3) Practice in accordance with a protocol that meets the 68723
requirements of division (C) of this section. 68724

(C) All of the following apply with respect to the 68725
protocol required by division (B) (3) of this section: 68726

(1) The protocol shall be established by a physician 68727
authorized under Chapter 4731. of the Revised Code to practice 68728
medicine and surgery or osteopathic medicine and surgery or a 68729
certified nurse-midwife, clinical nurse specialist, or certified 68730

nurse practitioner licensed under Chapter 4723. of the Revised Code. 68731
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(2) The protocol shall specify a definitive set of 68733
treatment guidelines and the locations at which a pharmacist, 68734
pharmacy intern, certified pharmacy technician, or registered 68735
pharmacy technician may engage in the administration of 68736
immunizations. 68737

(3) The protocol shall satisfy the requirements 68738
established in rules adopted under this section for protocols. 68739

(4) The protocol shall include provisions for 68740
implementation of the following requirements: 68741

(a) The pharmacist, pharmacy intern, certified pharmacy 68742
technician, or registered pharmacy technician who administers an 68743
immunization shall observe the individual who receives the 68744
immunization to determine whether the individual has an adverse 68745
reaction to the immunization. The length of time and location of 68746
the observation shall comply with the rules adopted under this 68747
section establishing requirements for protocols. The protocol 68748
shall specify procedures to be followed by a pharmacist when 68749
administering epinephrine or diphenhydramine, or both, to an 68750
individual who has an adverse reaction to an immunization 68751
administered by the pharmacist or by a pharmacy intern, 68752
certified pharmacy technician, or registered pharmacy 68753
technician. 68754

(b) For each immunization administered to an individual by 68755
a pharmacist, pharmacy intern, certified pharmacy technician, or 68756
registered pharmacy technician, other than an immunization for 68757
influenza administered to an individual eighteen years of age or 68758
older, the pharmacist, pharmacy intern, certified pharmacy 68759

technician, or registered pharmacy technician shall notify the individual's primary care provider or, if the individual has no primary care provider, the board of health of the health district in which the individual resides or the authority having the duties of a board of health for that district under section 3709.05 of the Revised Code. The notice shall be given not later than thirty days after the immunization is administered.

(c) For each immunization administered by a pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician to an individual younger than eighteen years of age, the pharmacist, a pharmacy intern, certified pharmacy technician, or registered pharmacy technician shall obtain permission from the individual's parent or legal guardian in accordance with the procedures specified in rules adopted under this section.

(d) For each immunization administered by a pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician to an individual who is younger than eighteen years of age, the pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician shall inform the individual's parent or legal guardian of the importance of well child visits with a pediatrician or other primary care provider and shall refer patients when appropriate.

(D) (1) No pharmacist shall do either of the following:

(a) Engage in the administration of immunizations unless the requirements of division (B) of this section have been met;

(b) Delegate to any person the pharmacist's authority to engage in or supervise the administration of immunizations.

(2) No pharmacy intern shall engage in the administration

of immunizations unless the requirements of division (B) of this section have been met. 68789
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(3) No certified pharmacy technician or registered pharmacy technician shall engage in the administration of immunizations unless the requirements of division (B) of this section have been met. 68791
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(E) (1) The state board of pharmacy shall adopt rules ~~to~~ implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code ~~and shall include to~~ establish the following: 68795
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(a) Requirements for courses in administration of immunizations, including requirements that are consistent with any standards established for such courses by the centers for disease control and prevention; 68799
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(b) Requirements for protocols to be followed by pharmacists, pharmacy interns, certified pharmacy technicians, and registered pharmacy technicians in engaging in the administration of immunizations; 68803
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(c) Procedures to be followed by pharmacists, pharmacy interns, certified pharmacy technicians, and registered pharmacy technicians in obtaining from the individual's parent or legal guardian permission to administer immunizations to an individual younger than eighteen years of age. 68807
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(2) Prior to adopting rules regarding requirements for protocols to be followed by pharmacists, pharmacy interns, certified pharmacy technicians, and registered pharmacy technicians in engaging in the administration of immunizations, the state board of pharmacy shall consult with the state medical board and the board of nursing. 68812
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Sec. 4729.47. (A) As used in this section: 68818

(1) "Board of health" means a board of health of a city or 68819
general health district or an authority having the duties of a 68820
board of health under section 3709.05 of the Revised Code. 68821

(2) "Physician" means an individual authorized under 68822
Chapter 4731. of the Revised Code to practice medicine and 68823
surgery, osteopathic medicine and surgery, or podiatric medicine 68824
and surgery. 68825

(B) If use of a protocol that has been developed pursuant 68826
to rules adopted under division (G) of this section has been 68827
authorized under section 3707.60, 4723.4812, or 4731.961 of the 68828
Revised Code, a pharmacist or pharmacy intern may dispense 68829
epinephrine without a prescription in accordance with that 68830
protocol to either of the following individuals so long as the 68831
individual is at least eighteen years of age: 68832

(1) An individual who there is reason to believe is 68833
experiencing or at risk of experiencing anaphylaxis if the 68834
pharmacy affiliated with the pharmacist or intern has a record 68835
of previously dispensing epinephrine to the individual in 68836
accordance with a prescription issued by a licensed health 68837
professional authorized to prescribe drugs; 68838

(2) An individual acting on behalf of a qualified entity, 68839
as defined in section 3728.01 of the Revised Code. 68840

(C) (1) A pharmacist or pharmacy intern who dispenses 68841
epinephrine under this section shall instruct the individual to 68842
whom epinephrine is dispensed to summon emergency services as 68843
soon as practicable either before or after administering 68844
epinephrine. 68845

(2) A pharmacist or pharmacy intern who dispenses 68846

epinephrine to an individual identified in division (B) (1) (a) of 68847
this section shall provide notice of the dispensing to the 68848
individual's primary care provider, if known, or to the 68849
prescriber who issued the individual the initial prescription 68850
for epinephrine. 68851

(D) A pharmacist may document the dispensing of 68852
epinephrine by the pharmacist or a pharmacy intern supervised by 68853
the pharmacist on a prescription form. The form may be assigned 68854
a number for record-keeping purposes. 68855

(E) This section does not affect the authority of a 68856
pharmacist or pharmacy intern to fill or refill a prescription 68857
for epinephrine. 68858

(F) A board of health that in good faith authorizes a 68859
pharmacist or pharmacy intern to dispense epinephrine without a 68860
prescription in accordance with a protocol developed pursuant to 68861
rules adopted under division (G) of this section is not liable 68862
for or subject to any of the following for any action or 68863
omission of the individual to whom the epinephrine is dispensed: 68864
damages in any civil action, prosecution in any criminal 68865
proceeding, or professional disciplinary action. 68866

A physician, certified nurse-midwife, clinical nurse 68867
specialist, or certified nurse practitioner who in good faith 68868
authorizes a pharmacist or pharmacy intern to dispense 68869
epinephrine without a prescription in accordance with a protocol 68870
developed pursuant to rules adopted under division (G) of this 68871
section is not liable for or subject to any of the following for 68872
any action or omission of the individual to whom the epinephrine 68873
is dispensed: damages in any civil action, prosecution in any 68874
criminal proceeding, or professional disciplinary action. 68875

A pharmacist or pharmacy intern authorized under this section to dispense epinephrine without a prescription who does so in good faith is not liable for or subject to any of the following for any action or omission of the individual to whom the epinephrine is dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

(G) The state board of pharmacy shall, after consulting with the state medical board and board of nursing, adopt rules ~~to implement this section. The rules shall specify~~ specifying minimum requirements for protocols established by physicians, certified nurse-midwives, clinical nurse specialists, or certified nurse practitioners under which pharmacists or pharmacy interns may dispense epinephrine without a prescription.

All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4729.51. (A) No person other than a licensed manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, or wholesale distributor of dangerous drugs shall possess for sale, sell, distribute, or deliver, at wholesale, dangerous drugs or investigational drugs or products, except as follows:

(1) A licensed terminal distributor of dangerous drugs that is a pharmacy may make occasional sales of dangerous drugs or investigational drugs or products at wholesale.

(2) A licensed terminal distributor of dangerous drugs having more than one licensed location may transfer or deliver dangerous drugs from one licensed location to another licensed

location owned by the terminal distributor if the license issued 68905
for each location is in effect at the time of the transfer or 68906
delivery. 68907

(3) A licensed terminal distributor of dangerous drugs 68908
that is not a pharmacy may make occasional sales of the 68909
following at wholesale: 68910

(a) Overdose reversal drugs; 68911

(b) Dangerous drugs if the drugs being sold are in 68912
shortage, as defined in rules adopted under division (J) of this 68913
section ~~4729.26 of the Revised Code;~~ 68914

(c) Dangerous drugs other than those described in 68915
divisions (A) (3) (a) and (b) of this section or investigational 68916
drugs or products if authorized by rules adopted under division 68917
(J) of this section ~~4729.26 of the Revised Code.~~ 68918

(B) No licensed manufacturer, outsourcing facility, third- 68919
party logistics provider, repackager, or wholesale distributor 68920
shall possess for sale, sell, or distribute, at wholesale, 68921
dangerous drugs or investigational drugs or products to any 68922
person other than the following: 68923

(1) Subject to division (D) of this section, a licensed 68924
terminal distributor of dangerous drugs; 68925

(2) Subject to division (C) of this section, any person 68926
exempt from licensure as a terminal distributor of dangerous 68927
drugs under section 4729.541 of the Revised Code; 68928

(3) A licensed manufacturer, outsourcing facility, third- 68929
party logistics provider, repackager, or wholesale distributor; 68930

(4) A terminal distributor, manufacturer, outsourcing 68931
facility, third-party logistics provider, repackager, or 68932

wholesale distributor that is located in another state, is not 68933
engaged in the sale of dangerous drugs within this state, and is 68934
actively licensed to engage in the sale of dangerous drugs by 68935
the state in which the distributor conducts business. 68936

(C) No licensed manufacturer, outsourcing facility, third- 68937
party logistics provider, repackager, or wholesale distributor 68938
shall possess for sale, sell, or distribute, at wholesale, 68939
dangerous drugs or investigational drugs or products to either 68940
of the following: 68941

(1) A prescriber who is employed by a pain management 68942
clinic that is not licensed as a terminal distributor of 68943
dangerous drugs with a pain management clinic classification 68944
issued under section 4729.552 of the Revised Code; 68945

(2) A business entity described in division (A) (2) or (3) 68946
of section 4729.541 of the Revised Code that is, or is 68947
operating, a pain management clinic without a license as a 68948
terminal distributor of dangerous drugs with a pain management 68949
clinic classification issued under section 4729.552 of the 68950
Revised Code. 68951

(D) No licensed manufacturer, outsourcing facility, third- 68952
party logistics provider, repackager, or wholesale distributor 68953
shall possess dangerous drugs or investigational drugs or 68954
products for sale at wholesale, or sell or distribute such drugs 68955
at wholesale, to a licensed terminal distributor of dangerous 68956
drugs, except as follows: 68957

(1) In the case of a terminal distributor with a category 68958
II license, only dangerous drugs in category II, as defined in 68959
division (A) (1) of section 4729.54 of the Revised Code; 68960

(2) In the case of a terminal distributor with a category 68961

III license, dangerous drugs in category II and category III, as 68962
defined in divisions (A) (1) and (2) of section 4729.54 of the 68963
Revised Code; 68964

(3) In the case of a terminal distributor with a limited 68965
category II or III license, only the dangerous drugs specified 68966
in the license. 68967

(E) (1) Except as provided in division (E) (2) of this 68968
section, no person shall do any of the following: 68969

(a) Sell or distribute, at retail, dangerous drugs; 68970

(b) Possess for sale, at retail, dangerous drugs; 68971

(c) Possess dangerous drugs. 68972

(2) (a) Divisions (E) (1) (a), (b), and (c) of this section 68973
do not apply to any of the following: 68974

(i) A licensed terminal distributor of dangerous drugs; 68975

(ii) A person who possesses, or possesses for sale or 68976
sells, at retail, a dangerous drug in accordance with Chapters 68977
3719., 4715., 4723., 4725., 4729., 4730., 4731., 4741., and 68978
4772. of the Revised Code; 68979

(iii) Any of the persons identified in divisions (A) (1) to 68980
(5) and (18) of section 4729.541 of the Revised Code, but only 68981
to the extent specified in that section. 68982

(b) Division (E) (1) (c) of this section does not apply to 68983
any of the following: 68984

(i) A licensed manufacturer, outsourcing facility, third- 68985
party logistics provider, repackager, or wholesale distributor; 68986

(ii) Any of the persons identified in divisions (A) (6) to 68987
(16) of section 4729.541 of the Revised Code, but only to the 68988

extent specified in that section. 68989

(F) No licensed terminal distributor of dangerous drugs or 68990
person that is exempt from licensure under section 4729.541 of 68991
the Revised Code shall purchase dangerous drugs or 68992
investigational drugs or products from any person other than a 68993
licensed manufacturer, outsourcing facility, third-party 68994
logistics provider, repackager, or wholesale distributor, except 68995
as follows: 68996

(1) A licensed terminal distributor of dangerous drugs or 68997
person that is exempt from licensure under section 4729.541 of 68998
the Revised Code may make occasional purchases of dangerous 68999
drugs or investigational drugs or products that are sold in 69000
accordance with division (A) (1) or (3) of this section. 69001

(2) A licensed terminal distributor of dangerous drugs 69002
having more than one licensed location may transfer or deliver 69003
dangerous drugs or investigational drugs or products from one 69004
licensed location to another licensed location if the license 69005
issued for each location is in effect at the time of the 69006
transfer or delivery. 69007

(G) No licensed terminal distributor of dangerous drugs 69008
shall engage in the retail sale or other distribution of 69009
dangerous drugs or investigational drugs or products or maintain 69010
possession, custody, or control of dangerous drugs or 69011
investigational drugs or products for any purpose other than the 69012
distributor's personal use or consumption, at any establishment 69013
or place other than that or those described in the license 69014
issued by the state board of pharmacy to such terminal 69015
distributor. 69016

(H) Nothing in this section shall be construed to 69017

interfere with the performance of official duties by any law enforcement official authorized by municipal, county, state, or federal law to collect samples of any drug, regardless of its nature or in whose possession it may be.

(I) Notwithstanding anything to the contrary in this section, the board of education of a city, local, exempted village, or joint vocational school district may distribute epinephrine autoinjectors for use in accordance with section 3313.7110 of the Revised Code, may distribute inhalers for use in accordance with section 3313.7113 of the Revised Code, and may distribute injectable or nasally administered glucagon for use in accordance with section 3313.7115 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the board shall adopt rules to implement and administer division (A) (3) (b) of this section and may adopt rules to implement and administer division (A) (3) (c) of this section.

Sec. 4729.52. (A) As used in this section:

(1) "Category II" means any dangerous drug that is not included in category III.

(2) "Category III" means any controlled substance that is contained in schedule I, II, III, IV, or V.

(3) "Schedule I," "schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code.

(B) (1) (a) The state board of pharmacy shall license persons seeking to operate as any of the following, whether located within or outside this state:

(i) Wholesale distributors of dangerous drugs;

(ii) Manufacturers of dangerous drugs;	69046
(iii) Outsourcing facilities;	69047
(iv) Third-party logistics providers;	69048
(v) Repackagers of dangerous drugs.	69049
(b) When the board issues a license to a person identified	69050
in division (B) (1) (a) of this section, the license shall be	69051
issued according to one of the following categories, as the case	69052
may be for the person's business operations:	69053
(i) Category II license. A category II license applies to	69054
a person whose business operations are located within this	69055
state. A person who obtains this license may possess, have	69056
custody or control of, and distribute only the dangerous drugs	69057
described in category II.	69058
(ii) Category III license. A category III license applies	69059
to a person whose business operations are located within this	69060
state. A person who obtains this license may possess, have	69061
custody or control of, and distribute the dangerous drugs	69062
described in category II and the controlled substances described	69063
in category III.	69064
(iii) Nonresident license. A nonresident license applies	69065
to a person whose business operations are located outside this	69066
state. One of the following subcategories shall be designated by	69067
the board on the license, based on the license holder's business	69068
operations: wholesale distributor of dangerous drugs,	69069
manufacturer of dangerous drugs, outsourcing facility, third-	69070
party logistics provider, or repackager of dangerous drugs. A	69071
person who obtains a nonresident license may possess, have	69072
custody or control of, and distribute the dangerous drugs	69073
described in category II and the controlled substances described	69074

in category III. 69075

(c) The board may adopt rules ~~under section 4729.26 of the Revised Code~~ in accordance with Chapter 119. of the Revised Code to create classification types of any license issued pursuant to this section. Persons who meet the definitions of the classification types shall comply with all requirements for the specific license classification specified in rule. 69076
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(C) A person seeking a license issued under this section shall file with the executive director of the board a verified application containing such information as the board requires of the applicant relative to the licensure qualifications set forth in section 4729.53 of the Revised Code and the rules adopted under that section. 69082
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(D) (1) The board shall issue a category II or category III license, designated for a manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor as the case may be, to each applicant whose business operations are located within this state, if the applicant pays the required license fee and the board determines that the applicant meets the licensure qualifications set forth in section 4729.53 of the Revised Code and the rules adopted under that section. 69088
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(2) The board shall issue a nonresident license with the appropriate subcategory designation to an applicant whose business operations are located outside this state, if the applicant pays the required license fee and the board determines either of the following: 69097
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(a) That the applicant possesses a current and valid manufacturer, outsourcing facility, third-party logistics 69102
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provider, repackager, or wholesale distributor license, or its equivalent, issued by another state in which that person's business operations are physically located, but only if that state has qualifications for licensure comparable to the licensure requirements in this state;

(b) That the applicant meets the requirements set forth by the board for issuance of a nonresident license, as verified by a state, federal, or other entity recognized by the board to perform such verification.

(E) All licenses issued or renewed pursuant to this section are effective for a period specified by the board in rules adopted under this section ~~4729.26 of the Revised Code~~. The effective period for an initial or renewed license shall not exceed twenty-four months unless the board extends the period in rules to adjust license renewal schedules. A license shall be renewed by the board pursuant to this section, the standard renewal procedure of Chapter 4745. of the Revised Code, and rules adopted by the board under this section ~~4729.26 of the Revised Code~~. A person seeking to renew a license shall submit an application for renewal and pay the required renewal fee before the date specified in the rules adopted by the board.

(F) Each license issued under this section shall describe not more than one establishment or place where the license holder may engage in the activities authorized by the license. No license shall authorize or permit the person named therein to engage in the sale or distribution of drugs at wholesale or to maintain possession, custody, or control of dangerous drugs for any purpose other than for the licensee's own use and consumption at any establishment or place other than that described in the license.

(G) (1) The category II license fee is one thousand nine hundred dollars and shall accompany each application for licensure. The license renewal fee is one thousand nine hundred dollars and shall accompany each renewal application.

(2) The category III license fee is two thousand dollars and shall accompany each application for licensure. The license renewal fee is two thousand dollars and shall accompany each renewal application.

(3) The nonresident license fee is two thousand dollars and shall accompany each application for licensure. The license renewal fee is two thousand dollars and shall accompany each renewal application.

(H) (1) Subject to division (H) (2) of this section, a license issued pursuant to this section that has not been renewed by the date specified in rules adopted by the board may be reinstated upon payment of the renewal fee and a penalty of three hundred dollars.

(2) If a complete application for renewal has not been submitted by the sixty-first day after the renewal date specified in rules adopted by the board, the license is considered void and cannot be renewed, but the license holder may reapply for licensure.

(I) Renewal fees and penalties assessed under division (G) or (H) of this section shall not be returned if the applicant fails to qualify for renewal.

(J) A person licensed pursuant to this section that fails to renew licensure in accordance with this section and rules adopted by the board is prohibited from engaging in manufacturing, repackaging, or compounding drugs, or

distributing drugs as a third-party logistics provider or 69163
wholesale distributor, until a valid license is issued by the 69164
board. 69165

(K) Holding a license issued pursuant to this section 69166
subjects the holder and the holder's agents and employees to the 69167
jurisdiction of the board and to the laws of this state for the 69168
purpose of the enforcement of this chapter and the rules of the 69169
board. However, the filing of an application for licensure under 69170
this section by or on behalf of any person, or the issuance of a 69171
license pursuant to this section to or on behalf of any person, 69172
shall not of itself constitute evidence that the person is doing 69173
business within this state. 69174

(L) A person holding a license issued under this section 69175
shall designate, and shall have available at all times, a person 69176
to serve for the licensed location in a position to be known as 69177
"responsible person." A person may be designated and serve as a 69178
responsible person only if the person meets the requirements 69179
established in rules the board shall adopt under this section 69180
~~4729.26 of the Revised Code~~. Along with the license holder, a 69181
responsible person shall accept responsibility for the operation 69182
of the licensed location in accordance with all applicable state 69183
and federal laws and rules. 69184

A license holder shall notify the board of the person who 69185
is designated to serve as the responsible person and, 69186
thereafter, shall notify the board each time a change is made in 69187
the designation. Notice to the board shall be provided in 69188
accordance with procedures established in rules that the board 69189
shall adopt under this section ~~4729.26 of the Revised Code~~. For 69190
any change of responsible person, the board shall assess a fee 69191
of fifteen dollars. 69192

(M) The board may enter into agreements with other states, 69193
federal agencies, and other entities to exchange information 69194
concerning licensing and inspection of any manufacturer, 69195
outsourcing facility, third-party logistics provider, 69196
repackager, or wholesale distributor located within or outside 69197
this state and to investigate alleged violations of the laws and 69198
rules governing distribution of drugs by such persons. Any 69199
information received pursuant to such an agreement is subject to 69200
the same confidentiality requirements applicable to the agency 69201
or entity from which it was received and shall not be released 69202
without prior authorization from that agency or entity. Any 69203
information received is also subject to section 4729.23 of the 69204
Revised Code. 69205

(N) In accordance with Chapter 119. of the Revised Code, 69206
the board shall adopt rules to implement and administer 69207
divisions (E) and (L) of this section. 69208

Sec. 4729.53. (A) The state board of pharmacy shall not 69209
license any person as a manufacturer of dangerous drugs, 69210
outsourcing facility, third-party logistics provider, repackager 69211
of dangerous drugs, or wholesale distributor of dangerous drugs 69212
unless the applicant for licensure furnishes satisfactory proof 69213
to the board that all of the following conditions are met: 69214

(1) If the applicant has committed acts that the board 69215
finds violate any federal, state, or local law, regulation, or 69216
rule relating to drug samples, manufacturing, compounding, 69217
repackaging, wholesale or retail drug distribution, or 69218
distribution of dangerous drugs, including controlled 69219
substances, or if the applicant has committed acts that the 69220
board finds constitute a felony, or if a federal, state, or 69221
local governmental entity has suspended or revoked any current 69222

or prior license of the applicant for the manufacture, 69223
compounding, repackaging, distribution, or sale of any dangerous 69224
drugs, including controlled substances, the applicant, to the 69225
satisfaction of the board, assures that the applicant has in 69226
place adequate safeguards to prevent the recurrence of any such 69227
violations, felonies, or license suspensions or revocations. 69228

(2) The applicant's past experience in the manufacture, 69229
compounding, repackaging, or distribution of dangerous drugs, 69230
including controlled substances, is acceptable to the board. 69231

(3) The applicant is properly equipped as to land, 69232
buildings, equipment, and personnel to properly carry on its 69233
business, including providing adequate security for and proper 69234
storage conditions and handling for dangerous drugs, and is 69235
complying with the requirements under this chapter and the rules 69236
adopted pursuant thereto for maintaining and making available 69237
records to properly identified board officials and federal, 69238
state, and local law enforcement agencies. 69239

(4) Personnel employed by the applicant have the 69240
appropriate education or experience, as determined by the board, 69241
to assume responsibility for positions related to compliance 69242
with this chapter and the rules adopted pursuant thereto. 69243

(5) The applicant has designated the name and address of a 69244
person to whom communications from the board may be directed and 69245
upon whom the notices and citations provided for in section 69246
4729.56 of the Revised Code may be served. 69247

(6) Adequate safeguards are assured to prevent the sale of 69248
dangerous drugs other than in accordance with section 4729.51 of 69249
the Revised Code. 69250

(7) With respect to criminal records checks, the applicant 69251

has done both of the following, and the board has decided that
the results of the criminal records checks do not make the
applicant ineligible for a license issued pursuant to section
4729.52 of the Revised Code:

(a) The applicant has complied with sections 4776.01 to
4776.04 of the Revised Code.

(b) The applicant has required each of the following to
submit to a criminal records check in accordance with section
4776.02 of the Revised Code and send the results of the criminal
records check directly to the board:

(i) Any person who is seeking to serve as the responsible
person on the license, as required by section 4729.52 of the
Revised Code;

~~(2)~~ (ii) Any person who has an ownership interest or who is
a corporate officer, as set forth in rules adopted under
division (C) of this section.

(8) The applicant meets any other requirement or
qualification the board, by rule adopted under division (C) of
this section, considers relevant to and consistent with the
public safety and health.

(B) In addition to the causes described in section 4729.56
of the Revised Code for refusing to grant or renew a license,
the board may refuse to grant or renew a license if the board
determines that the granting of the license or its renewal is
not in the public interest.

(C) The board shall adopt rules in accordance with Chapter
119. of the Revised Code that do ~~all~~ both of the following:

(1) For purposes of division (A) (7) (b) of this section,

specify the persons with ownership interests and the corporate officers who are required to submit to criminal records checks; 69280
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(2) For purposes of division (A)(8) of this section, 69282
specify other requirements or qualifications, if any, that an 69283
applicant must meet to receive a license. 69284

~~(3) Address any other matter the board considers 69285
appropriate to implement this section. 69286~~

Sec. 4729.531. (A) The state board of pharmacy may issue a 69287
limited license to an animal shelter or county dog warden solely 69288
for the purpose of purchasing, possessing, and administering 69289
drugs that are distributed in a manufactured dosage form as 69290
described in section 4729.532 of the Revised Code. Unless 69291
otherwise approved by the board, no such license shall authorize 69292
or permit the distribution of these drugs to any person other 69293
than the originating wholesale distributor of the drugs. An 69294
application for licensure shall include the information the 69295
board requires by rule under this section. If the application 69296
meets the requirements of the rules adopted under this section, 69297
the board shall issue the license. 69298

(B) The board, in accordance with Chapter 119. of the 69299
Revised Code, shall adopt ~~any rules necessary to administer and 69300
enforce this section. The rules shall that do all both of the 69301
following: 69302~~

(1) Require as a condition of licensure that an agent or 69303
employee of an animal shelter or an agent or employee of a 69304
county dog warden, other than a registered veterinary technician 69305
as defined in section 4741.01 of the Revised Code, has 69306
successfully completed a euthanasia technician certification 69307
course described in section 4729.532 of the Revised Code; 69308

(2) Specify the information the animal shelter or county dog warden must provide the board for issuance or renewal of a license. 69309
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~~(3) Address any other matters the board considers necessary or appropriate for the administration and enforcement of this section. 69312
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Sec. 4729.54. (A) As used in this section: 69315

(1) "Category II" means any dangerous drug that is not included in category III. 69316
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(2) "Category III" means any controlled substance that is contained in schedule I, II, III, IV, or V. 69318
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(3) "Emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code. 69320
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(4) "Emergency medical service organization satellite" means a location where dangerous drugs are stored that is separate from, but associated with, the headquarters of an emergency medical service organization. "Emergency medical service organization satellite" does not include the units under the control of the emergency medical service organization. 69322
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(5) "Person" includes an emergency medical service organization or an emergency medical service organization satellite. 69328
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(6) "Schedule I," "schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code. 69331
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(B) (1) The state board of pharmacy shall license persons seeking to operate as terminal distributors of dangerous drugs, whether located within or outside this state. 69334
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A person seeking to be licensed as a terminal distributor of dangerous drugs shall file with the executive director of the board a verified application. After it is filed, the application may not be withdrawn without approval of the board.

(2) An application shall contain all the following that apply in the applicant's case:

(a) Information that the board requires relative to the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code;

(b) A statement as to the category of licensure, identified under division (E) of this section, that the person is seeking;

(c) If the person is seeking to be licensed as a limited category II or limited category III terminal distributor of dangerous drugs, a list of the dangerous drugs described in category II or the controlled substances described in category III that the person is seeking to possess, have custody or control of, and distribute, which list shall also specify the purpose for which those drugs will be used and their source;

(d) If the person is an emergency medical service organization, the information that is specified in divisions (C) (1) and (2) of this section, and if the person is an emergency medical service organization satellite, the information required under division (D) of this section;

(e) Except with respect to the units under the control of an emergency medical service organization, the identity of the one establishment or place at which the person intends to engage in the sale or other distribution of dangerous drugs at retail, and maintain possession, custody, or control of dangerous drugs

for purposes other than the person's own use or consumption; 69366

(f) If the application pertains to a pain management 69367
clinic, information that demonstrates, to the satisfaction of 69368
the board, compliance with division (A) of section 4729.552 of 69369
the Revised Code. 69370

(C) (1) Each emergency medical service organization that 69371
applies for a terminal distributor of dangerous drugs license 69372
shall submit with its application all of the following: 69373

(a) A copy of its standing orders or protocol, which 69374
orders or protocol shall be signed by a physician; 69375

(b) A list of the dangerous drugs that the units under its 69376
control may carry, expressed in standard dose units, which shall 69377
be signed by a physician; 69378

(c) A list of the personnel employed or used by the 69379
organization to provide emergency medical services in accordance 69380
with Chapter 4765. of the Revised Code. 69381

In accordance with Chapter 119. of the Revised Code, the 69382
board shall adopt rules specifying when an emergency medical 69383
service organization that is licensed as a terminal distributor 69384
must notify the board of any changes in its documentation 69385
submitted pursuant to division (C) (1) of this section. 69386

(2) An emergency medical service organization seeking to 69387
be licensed as a terminal distributor of dangerous drugs shall 69388
list in its application for licensure the following additional 69389
information: 69390

(a) The units under its control that the organization 69391
determines will possess dangerous drugs for the purpose of 69392
administering emergency medical services in accordance with 69393

Chapter 4765. of the Revised Code; 69394

(b) With respect to each such unit, whether the dangerous 69395
drugs that the organization determines the unit will possess are 69396
in category II or III. 69397

(3) An emergency medical service organization that is 69398
licensed as a terminal distributor of dangerous drugs shall file 69399
a new application for such licensure if there is any change in 69400
the number or location of any of its units or if there is any 69401
change in the category of the dangerous drugs that any unit will 69402
possess. 69403

(4) A unit listed in an application for licensure pursuant 69404
to division (C) (2) of this section may obtain the dangerous 69405
drugs it is authorized to possess from its emergency medical 69406
service organization or, on a replacement basis, from a hospital 69407
pharmacy. If units will obtain dangerous drugs from a hospital 69408
pharmacy, the organization shall file, and maintain in current 69409
form, the following items with the pharmacist who is responsible 69410
for the hospital's terminal distributor of dangerous drugs 69411
license: 69412

(a) A copy of its standing orders or protocol; 69413

(b) A list of the personnel employed or used by the 69414
organization to provide emergency medical services in accordance 69415
with Chapter 4765. of the Revised Code, who are authorized to 69416
possess the drugs, which list also shall indicate the personnel 69417
who are authorized to administer the drugs. 69418

(D) Each emergency medical service organization satellite 69419
that applies for a terminal distributor of dangerous drugs 69420
license shall submit with its application all of the information 69421
that the board requires to be submitted with the application, as 69422

specified in rules the board shall adopt in accordance with 69423
Chapter 119. of the Revised Code. 69424

(E) When the board issues a license to a person seeking to 69425
operate as a terminal distributor of dangerous drugs, the board 69426
shall issue the license according to one of the following 69427
categories, as the case may be for the person's business 69428
operations: 69429

(1) Category II license. A category II license applies to 69430
a person whose business operations are located within this 69431
state. A person who obtains this license may possess, have 69432
custody or control of, and distribute only the dangerous drugs 69433
described in category II. 69434

(2) Limited category II license. A limited category II 69435
license applies to a person whose business operations are 69436
located within this state. A person who obtains this license may 69437
possess, have custody or control of, and distribute only the 69438
dangerous drugs described in category II that were listed in the 69439
application for licensure. 69440

(3) Category III license, which may include a pain 69441
management clinic classification issued under section 4729.552 69442
of the Revised Code. A category III license applies to a person 69443
whose business operations are located within this state. A 69444
person who obtains this license may possess, have custody or 69445
control of, and distribute the dangerous drugs described in 69446
category II and category III. If the license includes a pain 69447
management clinic classification, the person may operate a pain 69448
management clinic. 69449

(4) Limited category III license. A limited category III 69450
license applies to a person whose business operations are 69451

located within this state. A person who obtains this license may 69452
possess, have custody or control of, and distribute only the 69453
dangerous drugs described in category II or the controlled 69454
substances described in category III that were listed in the 69455
application for licensure. 69456

(5) Nonresident license. A nonresident license applies to 69457
a person whose business operations are located outside this 69458
state. A person who obtains a nonresident license may possess, 69459
have custody or control of, and distribute the dangerous drugs 69460
described in category II and the controlled substances described 69461
in category III. 69462

(F) Except for an application made by a county dog warden 69463
or on behalf of an animal shelter, if an applicant for a limited 69464
category II license or limited category III license intends to 69465
administer dangerous drugs to a person or animal, the applicant 69466
shall submit, with the application, a copy of its protocol or 69467
standing orders. The protocol or orders shall be signed by a 69468
licensed health professional authorized to prescribe drugs, 69469
specify the dangerous drugs to be administered, and list 69470
personnel who are authorized to administer the dangerous drugs 69471
in accordance with federal law or the law of this state. 69472

An application made by a county dog warden or on behalf of 69473
an animal shelter shall include a list of the dangerous drugs to 69474
be administered to animals and the personnel who are authorized 69475
to administer the drugs to animals in accordance with section 69476
4729.532 of the Revised Code. 69477

In accordance with Chapter 119. of the Revised Code, the 69478
board shall adopt rules specifying when a licensee must notify 69479
the board of any changes in its documentation submitted pursuant 69480
to this division. 69481

(G) (1) Except as provided in division (G) (3) of this section, each applicant for licensure as a terminal distributor of dangerous drugs shall submit, with the application, a license fee in the amount that applies to the category of licensure being sought. The amount assessed shall not be returned to the applicant if the applicant fails to qualify for the license.

(2) The following fees apply under division (G) (1) of this section:

(a) Except as provided in division (G) (2) (b) of this section:

(i) Three hundred sixty dollars for a category II or limited category II license;

(ii) Four hundred sixty dollars for a category III license, including a license with a pain management clinic classification issued under section 4729.552 of the Revised Code, or a limited category III license;

(iii) Five hundred dollars for a nonresident license.

(b) One hundred sixty dollars for all of the following whose business operations are located within this state:

(i) A person who is required to hold a license as a terminal distributor of dangerous drugs pursuant to division (C) of section 4729.541 of the Revised Code;

(ii) A professional association, corporation, partnership, or limited liability company organized for the purpose of practicing veterinary medicine that is not included in division (G) (2) (b) (i) of this section;

(iii) An emergency medical service organization satellite.

(3) No fee applies for a license issued to a charitable pharmacy, as defined in section 3719.811 of the Revised Code, if the charitable pharmacy is participating in the drug repository program established under section 3715.87 of the Revised Code.

(H) (1) The board shall issue a terminal distributor of dangerous drugs license, in the appropriate category, to each person who submits an application for such licensure in accordance with this section, pays the required license fee, is determined by the board to meet the requirements set forth in section 4729.55 of the Revised Code, and satisfies any other applicable requirements of this section.

(2) Except for the license of a county dog warden, the license shall describe the one establishment or place at which the licensee may engage in the sale or other distribution of dangerous drugs at retail and maintain possession, custody, or control of dangerous drugs for purposes other than the licensee's own use or consumption. The one establishment or place shall be that which is identified in the application for licensure.

No such license shall authorize or permit the terminal distributor of dangerous drugs named in it to engage in the sale or other distribution of dangerous drugs at retail or to maintain possession, custody, or control of dangerous drugs for any purpose other than the distributor's own use or consumption, at any establishment or place other than that described in the license, except that an agent or employee of an animal shelter or county dog warden may possess and use dangerous drugs in the course of business as provided in section 4729.532 of the Revised Code.

(3) The license of an emergency medical service

organization shall cover the organization's headquarters and, in 69539
addition, shall cover and describe all the units of the 69540
organization listed in its application for licensure. 69541

(I) (1) All licenses issued or renewed pursuant to this 69542
section shall be effective for a period specified by the board 69543
in rules adopted under this section ~~4729.26 of the Revised Code~~. 69544
The effective period for an initial or renewed license shall not 69545
exceed twenty-four months unless the board extends the period in 69546
rules to adjust license renewal schedules. A license shall be 69547
renewed by the board according to the provisions of this 69548
section, the standard renewal procedure of Chapter 4745. of the 69549
Revised Code, and rules adopted by the board under this section ~~4729.26 of the Revised Code~~. A person seeking to renew a license 69550
shall submit an application for renewal and pay the required fee 69551
on or before the date specified in the rules adopted by the 69552
board. The fee required for the renewal of a license shall be 69553
the same as the license fee that applies under division (G) (2) 69554
of this section. 69555
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(2) (a) Subject to division (I) (2) (b) of this section, a 69557
license that has not been renewed by the date specified in rules 69558
adopted by the board may be reinstated only upon payment of the 69559
required renewal fee and a penalty fee of one hundred ten 69560
dollars. 69561

(b) If an application for renewal has not been submitted 69562
by the sixty-first day after the renewal date specified in rules 69563
adopted by the board, the license is considered void and cannot 69564
be renewed, but the license holder may reapply for licensure. 69565

(3) A terminal distributor of dangerous drugs that fails 69566
to renew licensure in accordance with this section and rules 69567
adopted by the board is prohibited from engaging in the retail 69568

sale, possession, or distribution of dangerous drugs until a valid license is issued by the board.

(J) (1) No emergency medical service organization that is licensed as a terminal distributor of dangerous drugs shall fail to comply with division (C) (1), (3), or (4) of this section.

(2) No licensed terminal distributor of dangerous drugs shall possess, have custody or control of, or distribute dangerous drugs that the terminal distributor is not entitled to possess, have custody or control of, or distribute by virtue of its category of licensure.

(3) No licensee that is required by division (F) of this section to notify the board of changes in its protocol or standing orders, or in personnel, shall fail to comply with that division.

(K) A person holding a license issued under this section shall designate, and shall have available at all times, a person to serve for the licensed location in a position to be known as "responsible person." A person may be designated and serve as a responsible person only if the person meets the requirements established in rules that the board shall adopt under this section ~~4729.26 of the Revised Code~~. Along with the license holder, a responsible person shall accept responsibility for the operation of the licensed location in accordance with all applicable state and federal laws and rules.

A license holder shall notify the board of the person who is designated to serve as the responsible person and, thereafter, shall notify the board each time a change is made in the designation. Notice to the board shall be provided in accordance with procedures established in rules that the board

shall adopt under this section ~~4729.26~~ of the Revised Code. For 69598
any change of responsible person, the board shall assess a fee 69599
of fifteen dollars. 69600

(L) The board may enter into agreements with other states, 69601
federal agencies, and other entities to exchange information 69602
concerning licensing and inspection of terminal distributors of 69603
dangerous drugs located within or outside this state and to 69604
investigate alleged violations of the laws and rules governing 69605
distribution of drugs by terminal distributors. Any information 69606
received pursuant to such an agreement is subject to the same 69607
confidentiality requirements applicable to the agency or entity 69608
from which it was received and shall not be released without 69609
prior authorization from that agency or entity. Any information 69610
received is also subject to section 4729.23 of the Revised Code. 69611

(M) In accordance with Chapter 119. of the Revised Code, 69612
the board shall adopt rules to implement and administer 69613
divisions (I) (1) and (K) of this section. 69614

Sec. 4729.552. (A) To be eligible to receive a license as 69615
a category III terminal distributor of dangerous drugs with a 69616
pain management clinic classification, an applicant shall submit 69617
evidence satisfactory to the state board of pharmacy that the 69618
applicant's pain management clinic will be operated in 69619
accordance with the requirements specified in division (B) of 69620
this section and that the applicant meets any other applicable 69621
requirements of this chapter. 69622

If the board determines that an applicant meets all of the 69623
requirements, the board shall issue to the applicant a license 69624
as a category III terminal distributor of dangerous drugs and 69625
specify on the license that the terminal distributor is 69626
classified as a pain management clinic. 69627

(B) The holder of a terminal distributor license with a pain management clinic classification shall do all of the following:

(1) Be in control of a facility that is owned and operated solely by one or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) Comply with the requirements for the operation of a pain management clinic, as established by the state medical board in rules adopted under section 4731.054 of the Revised Code;

(3) Ensure that any person employed by the facility complies with the requirements for the operation of a pain management clinic established by the state medical board in rules adopted under section 4731.054 of the Revised Code;

(4) Require any person with ownership of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and send the results of the criminal records check directly to the state board of pharmacy for review and decision under section 4729.071 of the Revised Code;

(5) Require all employees of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and ensure that no person is employed who has previously been convicted of, or pleaded guilty to, either of the following:

(a) A theft offense, described in division (K) (3) of section 2913.01 of the Revised Code, that would constitute a felony under the laws of this state, any other state, or the United States;

(b) A felony drug abuse offense, as defined in section 69657
2925.01 of the Revised Code. 69658

(6) Maintain a list of each person with ownership of the 69659
facility and notify the state board of pharmacy of any change to 69660
that list. 69661

(C) No person shall operate a facility that under this 69662
chapter is subject to licensure as a category III terminal 69663
distributor of dangerous drugs with a pain management clinic 69664
classification without obtaining and maintaining the license 69665
with the classification. 69666

No person who holds a category III license with a pain 69667
management clinic classification shall fail to remain in 69668
compliance with the requirements of division (B) of this section 69669
and any other applicable requirements of this chapter. 69670

(D) The state board of pharmacy may impose a fine of not 69671
more than five thousand dollars on a person who violates 69672
division (C) of this section. A separate fine may be imposed for 69673
each day the violation continues. In imposing the fine, the 69674
board's actions shall be taken in accordance with Chapter 119. 69675
of the Revised Code. 69676

~~(E) The state board of pharmacy shall adopt rules as it 69677
considers necessary to implement and administer this section. 69678
The rules shall be adopted in accordance with Chapter 119. of 69679
the Revised Code. 69680~~

Sec. 4729.554. (A) As used in this section: 69681

(1) "Remote dispensing pharmacy" means a pharmacy where 69682
the dispensing of drugs, patient counseling, and other 69683
pharmacist care is provided through a telepharmacy system. The 69684
dispensing of drugs at a remote dispensing pharmacy may include 69685

the dispensing of drug therapy related devices. 69686

(2) "Telepharmacy system" means a system that monitors the 69687
dispensing of drugs and provides for related drug utilization 69688
review and patient counseling services by an electronic method. 69689

(B) The state board of pharmacy shall regulate remote 69690
dispensing pharmacies in accordance with this section. A remote 69691
dispensing pharmacy may operate only by using a telepharmacy 69692
system that meets standards established in rules adopted under 69693
this section and by complying with all other requirements of 69694
this section and the rules adopted under it for operating a 69695
remote dispensing pharmacy. 69696

(C) (1) To be eligible to operate as a remote dispensing 69697
pharmacy, a pharmacy shall meet all of the following conditions: 69698

(a) Be licensed under this chapter as a terminal 69699
distributor of dangerous drugs; 69700

(b) Be located in this state, in a building that is zoned 69701
for commercial use, and in an area that meets the conditions of 69702
division (C) (2) of this section; 69703

(c) Have a supervising pharmacy that meets the 69704
requirements of division (D) of this section and a supervising 69705
pharmacist that meets the requirements of division (E) of this 69706
section; 69707

(d) Be staffed by two or more pharmacy interns or 69708
certified pharmacy technicians who meet qualifications and 69709
training requirements established in rules adopted under this 69710
section. 69711

(2) (a) Except as provided in division (C) (2) (b) of this 69712
section, a remote dispensing pharmacy shall not be located 69713

within a ten-mile radius of a pharmacy that serves the public as an outpatient pharmacy. 69714
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(b) A remote dispensing pharmacy may be located within the ten-mile radius that constitutes an excluded area for location, as described in division (C) (2) (a) of this section, if either of the following is the case: 69716
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(i) The remote dispensing pharmacy is part of a federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code, and the remote dispensing pharmacy is located on the same property as, or on a campus contiguous to, the health center or look-alike. 69720
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(ii) The board, based on a demonstration of need that meets the standards established in rules adopted under this section, approves a request submitted to the board to allow the remote dispensing pharmacy to be located within the ten-mile radius. 69726
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(c) As part of the process the board uses to consider requests received under division (C) (2) (b) (ii) of this section, the board shall establish a method by which persons may register to receive notice from the board of requests received under that division. The board also shall establish a system for accepting comments from the public regarding the requests. 69731
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When the board receives a request under division (C) (2) (b) (ii) of this section, it shall electronically notify any person who has registered to be notified. During the sixty-day period that begins on the date that the board sends the electronic notices, a pharmacy may submit a request to the board for approval as a location for operation of a remote dispensing 69737
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pharmacy. 69743

On the same date that the electronic notices are sent, the 69744
board shall post notice on its internet web site that comments 69745
from the public will be accepted regarding the request received 69746
under division (C) (2) (b) (ii) of this section. The board shall 69747
accept the comments only during the sixty-day period that begins 69748
on the date the electronic notices are sent. 69749

At the board's next regularly scheduled meeting that 69750
occurs on or after the date that is ninety days after the 69751
electronic notices are sent, the board shall review all of the 69752
requests received and make its determination of whether any 69753
should be approved. As part of the board's determination, the 69754
board shall consider the following: 69755

(i) Any comments received from the public; 69756

(ii) The geographic proximity of a supervising pharmacy to 69757
a proposed remote dispensing pharmacy; 69758

(iii) Any other standards specified in rules adopted under 69759
division (H) of this section. 69760

(D) (1) To be eligible to serve as the supervising pharmacy 69761
of a remote dispensing pharmacy, a pharmacy shall meet all of 69762
the following conditions: 69763

(a) Be licensed under this chapter as a terminal 69764
distributor of dangerous drugs; 69765

(b) Be physically located in this state; 69766

(c) Be under common ownership and control with the remote 69767
dispensing pharmacy or, pursuant to a contract that meets 69768
requirements specified in rules adopted under this section, 69769
operate under contract with the remote dispensing pharmacy. 69770

(2) In serving as a supervising pharmacy, the supervising pharmacy shall control the telepharmacy system used by the remote dispensing pharmacy and shall employ or contract with the supervising pharmacist of the remote dispensing pharmacy.

(E) (1) To be eligible to serve as the supervising pharmacist of a remote dispensing pharmacy, a pharmacist shall meet all of the following conditions:

(a) Be licensed under this chapter as a pharmacist;

(b) Be physically located in this state when acting as the supervising pharmacist;

(c) Be employed by or under contract with the supervising pharmacy.

(2) In serving as a supervising pharmacist, the supervising pharmacist shall do all of the following:

(a) Be in full and actual charge of the remote dispensing pharmacy by using the pharmacy's telepharmacy system and by using a surveillance system that meets standards established in rules adopted under this section;

(b) Through the telepharmacy system and surveillance system, oversee the pharmacy interns and certified pharmacy technicians who are staffing the remote dispensing pharmacy;

(c) Verify each prescription and drug dispensed pursuant to the prescription before the drug leaves the remote dispensing pharmacy and provide the verification through visual review and the use of barcoding and any other technology required in rules adopted under this section;

(d) Offer to provide the service of counseling for each drug dispensed pursuant to a new prescription for a patient at

the remote dispensing pharmacy. 69799

(3) Unless otherwise approved by the board in accordance 69800
with standards established in rules adopted under this section, 69801
a supervising pharmacist shall not simultaneously oversee the 69802
activities of more than one remote dispensing pharmacy. 69803

(F) All of the following apply to the operation of a 69804
remote dispensing pharmacy: 69805

(1) Unless otherwise approved by the board, a remote 69806
dispensing pharmacy shall not dispense drugs pursuant to more 69807
than an average of one hundred fifty prescriptions per day 69808
during a ninety-day period. 69809

(2) A remote dispensing pharmacy shall implement a quality 69810
assurance plan to ensure that there is a planned and systematic 69811
process for monitoring and evaluating the quality and 69812
appropriateness of the pharmacy services being provided and for 69813
identifying and resolving problems. 69814

(3) A remote dispensing pharmacy that holds a category III 69815
terminal distributor of dangerous drugs license shall maintain a 69816
perpetual controlled substance inventory, as specified in rules 69817
adopted under this section. 69818

(G) Notwithstanding section 4729.91 of the Revised Code or 69819
any other section of this chapter to the contrary, both of the 69820
following apply to a pharmacy intern or certified pharmacy 69821
technician staffing a remote dispensing pharmacy: 69822

(1) The intern or technician may assist in the process of 69823
dispensing drugs at the pharmacy. 69824

(2) The intern or technician shall not do any of the 69825
following: 69826

(a) Counsel an individual regarding drugs that are 69827
dispensed, recommend drugs and drug therapy related devices or 69828
otherwise provide advice regarding drug therapy, or assist with 69829
selecting drugs and drug therapy related devices for treatment 69830
of common diseases and injuries or assist with providing 69831
instruction on their use; 69832

(b) Perform compounding of sterile or nonsterile drugs, 69833
except for the reconstitution of prepackaged dangerous drugs; 69834

(c) Engage in the repackaging of dangerous drugs; 69835

(d) Administer immunizations or perform diagnostic 69836
testing, unless a pharmacist is onsite to provide direct 69837
supervision; 69838

(e) Perform any other activity prohibited by rules adopted 69839
under this section. 69840

(H) ~~The board shall adopt rules for purposes of its~~ 69841
~~regulation of remote dispensing pharmacies. The rules shall be~~ 69842
~~adopted in accordance with Chapter 119. of the Revised Code and~~ 69843
~~include establishing all of the following standards and~~ 69844
procedures for the operation of remote dispensing pharmacies: 69845

(1) Standards for a system of continuous video 69846
surveillance and recording of remote dispensing pharmacies, 69847
including standards for both of the following: 69848

(a) An adequate number of views of the entire remote 69849
dispensing pharmacy to ensure that the supervising pharmacist 69850
can maintain oversight; 69851

(b) Retention of each recording made by the system for at 69852
least sixty days after the date of the recording. 69853

(2) Standards for telepharmacy systems and surveillance 69854

systems used by remote dispensing pharmacies, supervising 69855
pharmacies, and supervising pharmacists, including standards to 69856
ensure that the systems are capable of all of the following: 69857

(a) Facilitating a safe and secured method for appropriate 69858
pharmacist supervision; 69859

(b) Allowing an appropriate exchange of visual, verbal, 69860
and written communications for patient counseling and other 69861
pharmacy services; 69862

(c) Being secure and compliant with the "Health Insurance 69863
Portability and Accountability Act of 1996," 42 U.S.C. 1320d et 69864
seq. 69865

(3) Requirements for any contract between a supervising 69866
pharmacy and a remote dispensing pharmacy; 69867

(4) Standards that must be met to make a demonstration of 69868
need for purposes of division (C) (2) (b) (ii) of this section; 69869

(5) Requirements for the implementation of a quality 69870
assurance plan by a remote dispensing pharmacy; 69871

(6) The qualifications and training necessary for pharmacy 69872
interns and certified pharmacy technicians who staff remote 69873
dispensing pharmacies, including the number of experiential 69874
hours required; 69875

(7) Any additional activities that pharmacy interns and 69876
certified pharmacy technicians staffing remote dispensing 69877
pharmacies are prohibited from performing; 69878

(8) The number of pharmacy interns and certified pharmacy 69879
technicians that a supervising pharmacist may supervise at any 69880
given time; 69881

(9) The maximum distance a supervising pharmacist may be physically located from the remote dispensing pharmacy; 69882
69883

(10) Standards for remote patient counseling by a supervising pharmacist, including the counseling that is required to be offered for each drug dispensed pursuant to a new prescription for a patient by the remote dispensing pharmacy; 69884
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(11) Standards for and frequency of inspection of a remote dispensing pharmacy by the supervising pharmacist; 69888
69889

(12) Requirements for the closure of a remote dispensing pharmacy if the required telepharmacy system or surveillance system, or any related security system used by or for the pharmacy, is malfunctioning; 69890
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(13) Requirements related to perpetual controlled substance inventories; 69894
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(14) Security requirements for remote dispensing pharmacies that include methods for supervising pharmacists to determine who has accessed the pharmacy; 69896
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69898

(15) Standards by which a supervising pharmacist may be approved by the board to oversee simultaneously more than one remote dispensing pharmacy; 69899
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69901

(16) Requirements for a remote dispensing pharmacy's responsible person, as that term is defined in rules adopted by the board; 69902
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~~(17) Any other standards or procedures the board considers necessary to implement this section. 69905
69906~~

Sec. 4729.56. (A) (1) The state board of pharmacy, in accordance with Chapter 119. of the Revised Code, may impose any one or more of the following sanctions on a person licensed 69907
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69909

under section 4729.52 of the Revised Code for any of the causes 69910
set forth in division (A) (2) of this section: 69911

(a) Suspend, revoke, restrict, limit, or refuse to grant 69912
or renew a license; 69913

(b) Reprimand or place the license holder on probation; 69914

(c) Impose a monetary penalty or forfeiture not to exceed 69915
in severity any fine designated under the Revised Code for a 69916
similar offense or two thousand five hundred dollars if the acts 69917
committed are not classified as an offense by the Revised Code~~+~~. 69918

(2) The board may impose the sanctions set forth in 69919
division (A) (1) of this section for any of the following: 69920

(a) Making any false material statements in an application 69921
for licensure under section 4729.52 of the Revised Code; 69922

(b) Violating any federal, state, or local drug law; any 69923
provision of this chapter or Chapter 2925., 3715., or 3719. of 69924
the Revised Code; or any rule of the board; 69925

(c) A conviction of a felony; 69926

(d) Failing to satisfy the qualifications for licensure 69927
under section 4729.53 of the Revised Code or the rules of the 69928
board or ceasing to satisfy the qualifications after the 69929
registration is granted or renewed; 69930

(e) Falsely or fraudulently promoting to the public a drug 69931
that is a controlled substance included in schedule I, II, III, 69932
IV, or V, except that nothing in this division prohibits a 69933
manufacturer, outsourcing facility, third-party logistics 69934
provider, repackager, or wholesale distributor of dangerous 69935
drugs from furnishing information concerning a controlled 69936
substance to a health care provider or licensed terminal 69937

distributor; 69938

(f) Violating any provision of the "Federal Food, Drug, 69939
and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C. 301, or 69940
Chapter 3715. of the Revised Code; 69941

(g) Any other cause for which the board may impose 69942
sanctions as set forth in rules adopted under this section- 69943
~~4729.26 of the Revised Code.~~ 69944

(B) Upon the suspension or revocation of any license 69945
issued under section 4729.52 of the Revised Code, the licensee 69946
shall immediately surrender the license to the board. 69947

(C) If the board suspends, revokes, or refuses to renew 69948
any license issued under section 4729.52 of the Revised Code and 69949
determines that there is clear and convincing evidence of a 69950
danger of immediate and serious harm to any person, the board 69951
may place under seal all dangerous drugs owned by or in the 69952
possession, custody, or control of the affected licensee. Except 69953
as provided in this division, the board shall not dispose of the 69954
dangerous drugs sealed under this division until the licensee 69955
exhausts all of the licensee's appeal rights under Chapter 119. 69956
of the Revised Code. The court involved in such an appeal may 69957
order the board, during the pendency of the appeal, to sell 69958
sealed dangerous drugs that are perishable. The board shall 69959
deposit the proceeds of the sale with the court. 69960

(D) If the board is required under Chapter 119. of the 69961
Revised Code to give notice of an opportunity for a hearing and 69962
the license holder does not make a timely request for a hearing 69963
in accordance with section 119.07 of the Revised Code, the board 69964
is not required to hold a hearing, but may adopt a final order 69965
that contains the board's findings. In the final order, the 69966

board may impose any of the sanctions listed in division (A) of
this section. 69967
69968

(E) Notwithstanding division (D) (2) of section 2953.32 or 69969
division (F) (1) of section 2953.39 of the Revised Code 69970
specifying that if records pertaining to a criminal case are 69971
sealed or expunged under that section the proceedings in the 69972
case must be deemed not to have occurred, sealing or expungement 69973
of the following records on which the board has based an action 69974
under this section shall have no effect on the board's action or 69975
any sanction imposed by the board under this section: records of 69976
any conviction, guilty plea, judicial finding of guilt resulting 69977
from a plea of no contest, or a judicial finding of eligibility 69978
for a pretrial diversion program or intervention in lieu of 69979
conviction. The board is not required to seal, destroy, redact, 69980
or otherwise modify its records to reflect the court's sealing 69981
or expungement of conviction records. 69982

(F) In accordance with Chapter 119. of the Revised Code, 69983
the board shall adopt rules establishing causes for which the 69984
board may impose sanctions on a license holder under division 69985
(A) (2) (g) of this section. 69986

Sec. 4729.57. (A) The state board of pharmacy may after 69987
notice and a hearing in accordance with Chapter 119. of the 69988
Revised Code, impose any one or more of the following sanctions 69989
on a terminal distributor of dangerous drugs for any of the 69990
causes set forth in division (B) of this section: 69991

(1) Suspend, revoke, restrict, limit, or refuse to grant 69992
or renew any license; 69993

(2) Reprimand or place the license holder on probation; 69994

(3) Impose a monetary penalty or forfeiture not to exceed 69995

in severity any fine designated under the Revised Code for a	69996
similar offense or one thousand dollars if the acts committed	69997
have not been classified as an offense by the Revised Code.	69998
(B) The board may impose the sanctions listed in division	69999
(A) of this section for any of the following:	70000
(1) Making any false material statements in an application	70001
for a license as a terminal distributor of dangerous drugs;	70002
(2) Violating any rule of the board;	70003
(3) Violating any provision of this chapter;	70004
(4) Except as provided in section 4729.89 of the Revised	70005
Code, violating any provision of the "Federal Food, Drug, and	70006
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter	70007
3715. of the Revised Code;	70008
(5) Violating any provision of the federal drug abuse	70009
control laws or Chapter 2925. or 3719. of the Revised Code;	70010
(6) Falsely or fraudulently promoting to the public a	70011
dangerous drug, except that nothing in this division prohibits a	70012
terminal distributor of dangerous drugs from furnishing	70013
information concerning a dangerous drug to a health care	70014
provider or another licensed terminal distributor;	70015
(7) Ceasing to satisfy the qualifications of a terminal	70016
distributor of dangerous drugs set forth in section 4729.55 of	70017
the Revised Code;	70018
(8) Except as provided in division (C) of this section:	70019
(a) Waiving the payment of all or any part of a deductible	70020
or copayment that an individual, pursuant to a health insurance	70021
or health care policy, contract, or plan that covers the	70022

services provided by a terminal distributor of dangerous drugs, 70023
would otherwise be required to pay for the services if the 70024
waiver is used as an enticement to a patient or group of 70025
patients to receive pharmacy services from that terminal 70026
distributor; 70027

(b) Advertising that the terminal distributor will waive 70028
the payment of all or any part of a deductible or copayment that 70029
an individual, pursuant to a health insurance or health care 70030
policy, contract, or plan that covers the pharmaceutical 70031
services, would otherwise be required to pay for the services. 70032

(9) Conviction of a felony; 70033

(10) Any other cause for which the board may impose 70034
discipline as set forth in rules adopted under this section- 70035
~~4729.26 of the Revised Code.~~ 70036

(C) Sanctions shall not be imposed under division (B) (8) 70037
of this section against any terminal distributor of dangerous 70038
drugs that waives deductibles and copayments as follows: 70039

(1) In compliance with a health benefit plan that 70040
expressly allows such a practice. Waiver of the deductibles or 70041
copayments shall be made only with the full knowledge and 70042
consent of the plan purchaser, payer, and third-party 70043
administrator. Documentation of the consent shall be made 70044
available to the board on request. 70045

(2) For professional services rendered to any other person 70046
licensed pursuant to this chapter to the extent allowed by this 70047
chapter and the rules of the board. 70048

(D) (1) Upon the suspension or revocation of a license 70049
issued to a terminal distributor of dangerous drugs or the 70050
refusal by the board to renew such a license, the distributor 70051

shall immediately surrender the license to the board. 70052

(2) (a) The board may place under seal all dangerous drugs 70053
that are owned by or in the possession, custody, or control of a 70054
terminal distributor at the time the license is suspended or 70055
revoked or at the time the board refuses to renew the license. 70056
Except as provided in division (D) (2) (b) of this section, 70057
dangerous drugs so sealed shall not be disposed of until appeal 70058
rights under Chapter 119. of the Revised Code have expired or an 70059
appeal filed pursuant to that chapter has been determined. 70060

(b) The court involved in an appeal filed pursuant to 70061
Chapter 119. of the Revised Code may order the board, during the 70062
pendency of the appeal, to sell sealed dangerous drugs that are 70063
perishable. The proceeds of such a sale shall be deposited with 70064
that court. 70065

(E) If the board is required under Chapter 119. of the 70066
Revised Code to give notice of an opportunity for a hearing and 70067
the license holder does not make a timely request for a hearing 70068
in accordance with section 119.07 of the Revised Code, the board 70069
is not required to hold a hearing, but may adopt a final order 70070
that contains the board's findings. In the final order, the 70071
board may impose any of the sanctions listed in division (A) of 70072
this section. 70073

(F) Notwithstanding division (D) (2) of section 2953.32 or 70074
division (F) (1) of section 2953.39 of the Revised Code 70075
specifying that if records pertaining to a criminal case are 70076
sealed or expunged under that section the proceedings in the 70077
case must be deemed not to have occurred, sealing or expungement 70078
of the following records on which the board has based an action 70079
under this section shall have no effect on the board's action or 70080
any sanction imposed by the board under this section: records of 70081

any conviction, guilty plea, judicial finding of guilt resulting 70082
from a plea of no contest, or a judicial finding of eligibility 70083
for a pretrial diversion program or intervention in lieu of 70084
conviction. The board is not required to seal, destroy, redact, 70085
or otherwise modify its records to reflect the court's sealing 70086
or expungement of conviction records. 70087

(G) In accordance with Chapter 119. of the Revised Code, 70088
the board shall adopt rules establishing causes for which the 70089
board may impose sanctions on a license holder as described in 70090
division (B) (10) of this section. 70091

Sec. 4729.62. If a person licensed under section 4729.52 70092
or 4729.54 of the Revised Code ceases to engage in the 70093
activities for which the license was issued, the person shall 70094
notify the state board of pharmacy of such fact and shall 70095
surrender such license to the board within a time frame 70096
specified by the board in rules adopted under this section- 70097
~~4729.26 of the Revised Code~~; provided, that on dissolution of a 70098
partnership by death, the surviving partner may operate under a 70099
license issued to the partnership until expiration, revocation, 70100
or suspension of such license, and the heirs or legal 70101
representatives of deceased persons, and receivers and trustees 70102
in bankruptcy appointed by any competent authority, may operate 70103
under the license issued to the persons succeeded in possession 70104
by such heir, representative, receiver, or trustee in bankruptcy 70105
until expiration, revocation, or suspension of such license. 70106

The board shall adopt rules in accordance with Chapter 70107
119. of the Revised Code specifying the time frame within which 70108
a license shall be surrendered under this section. 70109

Sec. 4729.69. (A) (1) The state board of pharmacy, in 70110
collaboration with the director of mental health and addiction 70111

services and attorney general, shall establish and administer a 70112
drug take-back program under which drugs are collected from the 70113
community by participating entities for the purpose of 70114
destruction or disposal of the drugs. 70115

(2) Each of the following may participate in the program: 70116

(a) A law enforcement agency; 70117

(b) Any registrant authorized by the federal drug 70118
enforcement administration to be a collector pursuant to 21 70119
C.F.R. 1317.40; 70120

(c) Any other entity specified by the board in rule. 70121

(B) The program shall be established and administered in 70122
such a manner that it does both of the following: 70123

(1) Complies with any state or federal laws regarding the 70124
collection, destruction, or disposal of drugs; 70125

(2) Maintains the confidentiality of individuals who 70126
submit or otherwise provide drugs under the program. 70127

(C) In consultation with the director of mental health and 70128
addiction services and attorney general, the board shall adopt 70129
rules governing the program. The rules shall be adopted in 70130
accordance with Chapter 119. of the Revised Code. In adopting 70131
the rules, the board shall specify all of the following: 70132

(1) The entities that may participate; 70133

(2) Guidelines and responsibilities for accepting drugs by 70134
participating entities; 70135

(3) Drugs that may be collected; 70136

(4) Record-keeping requirements; 70137

(5) Proper methods to destroy unused drugs;	70138
(6) Privacy protocols and security standards;	70139
(7) Drug transportation procedures;	70140
(8) The schedule, duration, and frequency of the collections of drugs;	70141 70142
(9) Any other standards and procedures the board considers necessary for purposes of governing the program.	70143 70144
(D) In accordance with state and federal law, the board may adopt rules to allow an entity participating in the program to return any unused drugs to the pharmacy that originally dispensed the drug. The rules shall include procedures to be followed to maintain the confidentiality of the person for whom the drug was dispensed.	70145 70146 70147 70148 70149 70150
(E) Rules adopted under this section may not do any of the following:	70151 70152
(1) Require any entity to establish, fund, or operate a drug take-back program;	70153 70154
(2) Establish any new licensing requirement or fee to participate in the program;	70155 70156
(3) Require any entity to compile data on drugs collected;	70157
(4) Limit the authority of an entity to collect controlled substances in accordance with federal law.	70158 70159
(F) The board may compile data on the amount and type of drugs collected under the program. For purposes of this division, the board may cooperate with a public or private entity in obtaining assistance in the compilation of data. An entity providing the assistance shall not be reimbursed under	70160 70161 70162 70163 70164

the program for any costs incurred in providing the assistance. 70165

(G) If the board compiles data under division (F) of this 70166
section, the board shall submit a report to the governor and, in 70167
accordance with section 101.68 of the Revised Code, the general 70168
assembly. The report, to the extent possible, shall include the 70169
total weight of drugs collected. 70170

(H) No entity is required to participate in a drug take- 70171
back program established under this section, and no entity shall 70172
be subject to civil liability or professional disciplinary 70173
action for declining to participate. 70174

(I) The board may accept grants, gifts, or donations for 70175
purposes of the program. Money received under this division 70176
shall be deposited into the drug take-back program fund 70177
established under section 109.90 of the Revised Code. 70178

(J) An ordinance, resolution, or other law that is adopted 70179
by a municipal corporation or other political subdivision on or 70180
after ~~the effective date of this amendment~~ March 22, 2019, and 70181
regulates the collection of drugs for destruction or disposal 70182
shall comply with division (E) of this section. 70183

Sec. 4729.70. (A) As used in this section, "cryogenic 70184
vessel" means an insulated metal container in the form of a 70185
cylinder or other design used to hold gases that have been 70186
liquefied by extreme reductions in temperature. 70187

(B) The state board of pharmacy shall establish and 70188
implement a medical gases safety program to ensure that 70189
cryogenic vessels containing medical gases meet the requirements 70190
of this section and are properly handled. The program applies 70191
only to cryogenic vessels that are portable and contain medical 70192
gases in a volume intended for use in administering direct 70193

treatment to one or more individuals. The program does not apply 70194
to cylinders or containers of other designs that contain medical 70195
gases that are only compressed. 70196

(C) Each cryogenic vessel subject to this section shall 70197
meet the following requirements: 70198

(1) The vessel shall be properly labeled according to the 70199
medical gas contained in the vessel. 70200

(2) The vessel shall be color coded as follows: 70201

(a) Air - yellow; 70202

(b) Carbon dioxide - gray; 70203

(c) Cyclopropane - orange; 70204

(d) Helium - brown; 70205

(e) Nitrogen - black; 70206

(f) Nitrous oxide - blue; 70207

(g) Oxygen - green. 70208

The colors specified in this division shall not be used 70209
for any medical gas other than those specified in this division. 70210

(3) The color coding specified in division (C)(2) of this 70211
section shall be applied to the vessel by doing either of the 70212
following: 70213

(a) Applying the appropriate color to the top six inches 70214
of the body of the vessel; 70215

(b) Affixing a wrap to the vessel that encircles the 70216
vessel completely, has the identity of the contained gas printed 70217
completely or continuously around the wrap, and uses the 70218
appropriate color as the print or background for the identity of 70219

the gas. 70220

(4) The vessel shall not have previously contained a gas 70221
that is not a medical gas. 70222

(5) When the vessel is being reused for a medical gas 70223
other than the medical gas it previously contained, new labeling 70224
and color coding shall be applied to the vessel and all old 70225
labeling and color coding shall be completely removed. 70226

(6) The connector between the vessel and the valve through 70227
which the medical gas is delivered shall be either of the 70228
following: 70229

(a) A threaded or socket connection that is silver brazed 70230
or welded to the valve; 70231

(b) A permanent and integral part of the valve. 70232

(D) No person shall remove a connector between a cryogenic 70233
vessel subject to this section and the valve through which the 70234
medical gas is delivered from the vessel, replace the connector 70235
with another connector, or attach an adapter to the vessel or 70236
connector unless the person meets standards established by the 70237
board in rules adopted under this section. A person who violates 70238
this division is guilty of tampering with drugs pursuant to 70239
section 2925.24 of the Revised Code. 70240

(E) All employees who are responsible for installing or 70241
changing the cryogenic vessels subject to this section shall be 70242
trained in the proper handling of medical gases and cryogenic 70243
vessels, including training in understanding the labeling of the 70244
vessels and recognizing the color coding required by this 70245
section. 70246

(F) The board shall adopt rules ~~to implement the medical~~ 70247

~~gases safety program established pursuant to this section. The~~ 70248
~~rules shall be adopted, in accordance with Chapter 119. of the~~ 70249
~~Revised Code.~~ 70250

~~The board's rules shall specify, specifying~~ standards and 70251
procedures to be followed in ensuring that the individuals who 70252
modify existing cryogenic vessels for purposes of bringing the 70253
vessels into compliance with this section are qualified 70254
individuals. The board's standards for being considered 70255
qualified shall include requirements for knowledge in proper 70256
safety precautions concerning medical gases, cryogenic vessels 70257
that contain medical gases, and devices through which medical 70258
gases are delivered from cryogenic vessels. 70259

Sec. 4729.84. For purposes of establishing and maintaining 70260
a drug database pursuant to section 4729.75 of the Revised Code, 70261
the state board of pharmacy shall adopt rules in accordance with 70262
Chapter 119. of the Revised Code ~~to carry out and enforce~~ 70263
~~sections 4729.75 to 4729.83 of the Revised Code. The rules shall~~ 70264
~~specify~~ specifying all of the following: 70265

(A) A means of identifying each patient, each terminal 70266
distributor of dangerous drugs, each purchase at wholesale of 70267
dangerous drugs, and each retail dispensary licensed under 70268
Chapter 3796. of the Revised Code about which information is 70269
entered into the drug database; 70270

(B) Requirements for the transmission of information from 70271
terminal distributors of dangerous drugs, manufacturers of 70272
dangerous drugs, outsourcing facilities, repackagers of 70273
dangerous drugs, wholesale distributors of dangerous drugs, 70274
prescribers, and retail dispensaries; 70275

(C) An electronic format for the submission of information 70276

from persons identified in division (B) of this section; 70277

(D) A procedure whereby a person unable to submit 70278
information electronically may obtain a waiver to submit 70279
information in another format; 70280

(E) A procedure whereby the board may grant a request from 70281
a law enforcement agency or a government entity responsible for 70282
the licensure, regulation, or discipline of licensed health 70283
professionals authorized to prescribe drugs that information 70284
that has been stored for three years be retained when the 70285
information pertains to an open investigation being conducted by 70286
the agency or entity; 70287

(F) A procedure whereby a person identified in division 70288
(B) of this section may apply for an extension to the time by 70289
which information must be transmitted to the board; 70290

(G) A procedure whereby a person or government entity to 70291
which the board is authorized to provide information may submit 70292
a request to the board for the information and the board may 70293
verify the identity of the requestor; 70294

(H) Standards for determining what information is 70295
appropriate to be provided under division (A) (21) of section 70296
4729.80 of the Revised Code; 70297

(I) A procedure whereby the board can use the database 70298
request records required by division (B) of section 4729.80 of 70299
the Revised Code to document and report statistics and law 70300
enforcement outcomes; 70301

(J) A procedure whereby an individual may request the 70302
individual's own database information and the board may verify 70303
the identity of the requestor; 70304

(K) A reasonable fee that the board may charge under 70305
section 4729.83 of the Revised Code for providing an individual 70306
with the individual's own database information pursuant to 70307
section 4729.80 of the Revised Code; 70308

(L) The other specific dangerous drugs that, in addition 70309
to controlled substances, must be included in the database; 70310

(M) The types of pharmacies licensed as terminal 70311
distributors of dangerous drugs that are required to submit 70312
prescription information to the board pursuant to section 70313
4729.77 of the Revised Code; 70314

(N) Additional data fields, recognized by the American 70315
society for automation in pharmacy, that licensed terminal 70316
distributors of dangerous drugs must submit to the board 70317
pursuant to section 4729.77 of the Revised Code; 70318

(O) The information regarding medical marijuana dispensed 70319
to a patient that a retail dispensary is required to submit to 70320
the board pursuant to section 4729.771 of the Revised Code; 70321

(P) Requirements for the transmission of information 70322
pursuant to section 4729.772 of the Revised Code and 70323
requirements for the release of such information by the board. 70324

Sec. 4729.94. The state board of pharmacy shall adopt 70325
rules ~~under section 4729.26 of the Revised Code~~ governing 70326
registration of registered pharmacy technicians, certified 70327
pharmacy technicians, and pharmacy technician trainees. The 70328
rules shall include all of the following: 70329

(A) Application and renewal forms and procedures; 70330

(B) Reapplication forms and procedures for individuals 70331
whose registration has lapsed more than ninety days; 70332

(C) Education and training requirements, requirements for employer-administered training programs, and other requirements considered appropriate by the board;

(D) Additional activities permitted by divisions (A) (7) and (B) (4) of section 4729.91 of the Revised Code;

(E) Requirements for sterile and non-sterile drug compounding;

(F) Continuing education requirements;

(G) Conduct that constitutes dishonesty or unprofessional conduct by a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

(H) Additional conduct for which the board may impose discipline under section 4729.96 of the Revised Code on a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

~~(I) Any other rules the board considers appropriate to implement sections 4729.90 to 4729.96 of the Revised Code.~~

Sec. 4730.141. (A) An individual who holds a current, valid license issued under this chapter to practice as a physician assistant and who retires voluntarily from practice may request that the state medical board place the individual's license on retired status.

(B) An individual seeking to have the individual's license placed on retired status shall file with the board an application in the form and manner prescribed by the board. The application shall be submitted before the end of a biennial renewal period and include all of the following:

(1) The applicant's full name, license number, mailing

address, and electronic mail address; 70361

(2) An attestation that the information included in the 70362
application is accurate and truthful and that the applicant 70363
meets the following qualifications: 70364

(a) That the applicant holds a current, valid license 70365
issued under this chapter; 70366

(b) That the applicant has retired voluntarily from 70367
practice as a physician assistant; 70368

(c) That the applicant does not hold an active 70369
registration with the federal drug enforcement administration; 70370

(d) That the applicant does not have any criminal charges 70371
pending against the applicant; 70372

(e) That the applicant is not the subject of discipline 70373
by, or an investigation pending with, a regulatory agency of 70374
this state, another state, or the United States; 70375

(f) That the applicant does not have any complaints 70376
pending with the board; 70377

(g) That the applicant is not, at the time of application, 70378
subject to the board's hearing, disciplinary, or compliance 70379
processes under the terms of a citation, notice of opportunity 70380
for hearing, board order, or consent agreement. 70381

(3) A fee in an amount equal to the sum of the biennial 70382
renewal fee and restoration penalty described in section 4730.14 70383
of the Revised Code. 70384

The board shall not consider an application for retired 70385
status complete until the board receives the fee described in 70386
this division. On receipt of a fee, the board shall deposit the 70387

fee in accordance with section 4731.24 of the Revised Code. 70388

(C) If the board determines that an applicant meets the 70389
requirements of division (B) of this section, the board shall 70390
place the applicant's license on retired status. The license 70391
remains on retired status for the life of the license holder, 70392
unless suspended, revoked, or reactivated, and does not require 70393
renewal. 70394

(D) During the period in which a license is on retired 70395
status, all of the following apply: 70396

(1) The license holder is prohibited from practicing as a 70397
physician assistant under any circumstance. 70398

(2) The license holder is not required to complete the 70399
continuing education described in sections 4730.14 and 4730.49 70400
of the Revised Code. 70401

(3) The license holder is prohibited from using the 70402
license to obtain a license to practice as a physician assistant 70403
in another state, whether by endorsement or reciprocity or 70404
through a licensure compact. 70405

(4) The license holder may use a title authorized for the 70406
holder's license, but only if "retired" also is included in the 70407
title. 70408

(5) In the case of a license holder who was issued a 70409
prescriber number by the board as part of the holder's 70410
physician-delegated prescriptive authority, the number, like the 70411
license, is placed on retired status. 70412

(E) If a license has been placed on retired status 70413
pursuant to this section, it may be reactivated. Subject to 70414
section 4730.28 of the Revised Code, the board may reactivate a 70415

license placed on retired status if all of the following 70416
conditions are satisfied: 70417

(1) The individual seeking to reactivate the license 70418
applies to the board in the form and manner prescribed by the 70419
board. 70420

(2) The applicant certifies completion of, within the two- 70421
year period that ends on the date of the application's 70422
submission, the continuing education requirements that must be 70423
met for renewal of a license. 70424

(3) The applicant complies with sections 4776.01 to 70425
4776.04 of the Revised Code. 70426

(4) The applicant pays a reactivation fee in an amount 70427
equal to the sum of the biennial renewal fee and restoration 70428
penalty described in section 4730.14 of the Revised Code. 70429

The board shall not consider an application to reactivate 70430
a license complete until the board receives the fee described in 70431
this division. On receipt of a fee, the board shall deposit the 70432
fee in accordance with section 4731.24 of the Revised Code. 70433

(F) The board shall reactivate a license placed on retired 70434
status if the conditions of division (E) of this section have 70435
been satisfied and the board, in its discretion, determines that 70436
the results of the criminal records check conducted pursuant to 70437
sections 4776.01 to 4776.04 of the Revised Code do not make the 70438
applicant ineligible for active status. 70439

(G) The board may take disciplinary action against an 70440
applicant who is seeking to place a license on retired status or 70441
to reactivate the license if the applicant commits fraud, 70442
misrepresentation, or deception in applying for or securing the 70443
retired status or reactivation. 70444

The board also may take disciplinary action against the holder of a license placed on retired status if the holder practices under the license, uses the license to obtain licensure as a physician assistant in another state, or uses a title that does not reflect the holder's retired status.

In taking disciplinary action under this section, the board may impose on the applicant or holder any sanction described in section 4730.25 of the Revised Code, but shall do so in accordance with the procedures described in that section.

~~(H) The board may adopt rules to implement and enforce this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4730.39. (A) The state medical board shall adopt rules governing physician-delegated prescriptive authority for physician assistants. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The board's rules governing physician-delegated prescriptive authority shall establish all of the following:

(1) Requirements regarding the pharmacology courses that a physician assistant is required to complete;

(2) A specific prohibition against prescribing any drug or device to perform or induce an abortion;

(3) Standards and procedures to be followed by a physician assistant in personally furnishing samples of drugs or complete or partial supplies of drugs to patients under section 4730.43 of the Revised Code;

~~(4) Any other requirements the board considers necessary to implement the provisions of this chapter regarding physician-~~

~~delegated prescriptive authority.~~ 70473

Sec. 4730.49. (A) To be eligible for renewal of a license 70474
to practice as a physician assistant, an applicant who has been 70475
granted physician-delegated prescriptive authority is subject to 70476
both of the following: 70477

(1) The applicant shall complete every two years at least 70478
twelve hours of continuing education in pharmacology obtained 70479
through a program or course approved by the state medical board 70480
or a person the board has authorized to approve continuing 70481
pharmacology education programs and courses. Except as provided 70482
in section 5903.12 of the Revised Code, the continuing education 70483
shall be completed not later than the date on which the 70484
applicant's license expires. 70485

(2) (a) Except as provided in division (A) (2) (b) of this 70486
section, in the case of an applicant who prescribes opioid 70487
analgesics or benzodiazepines, as defined in section 3719.01 of 70488
the Revised Code, the applicant shall certify to the board 70489
whether the applicant has been granted access to the drug 70490
database established and maintained by the state board of 70491
pharmacy pursuant to section 4729.75 of the Revised Code. 70492

(b) The requirement described in division (A) (2) (a) of 70493
this section does not apply if any of the following is the case: 70494

(i) The state board of pharmacy notifies the state medical 70495
board pursuant to section 4729.861 of the Revised Code that the 70496
applicant has been restricted from obtaining further information 70497
from the drug database. 70498

(ii) The state board of pharmacy no longer maintains the 70499
drug database. 70500

(iii) The applicant does not practice as a physician 70501

assistant in this state. 70502

(c) If an applicant certifies to the state medical board 70503
that the applicant has been granted access to the drug database 70504
and the board finds through an audit or other means that the 70505
applicant has not been granted access, the board may take action 70506
under section 4730.25 of the Revised Code. 70507

(B) The state medical board shall provide for pro rata 70508
reductions by month of the number of hours of continuing 70509
education in pharmacology that is required to be completed for 70510
physician assistants who have been disabled due to illness or 70511
accident or have been absent from the country. The board shall 70512
adopt rules, in accordance with Chapter 119. of the Revised 70513
Code, ~~as necessary~~ to implement this division. 70514

(C) The continuing education required by this section is 70515
in addition to the continuing education required under section 70516
4730.14 of the Revised Code. 70517

(D) If the board chooses to authorize persons to approve 70518
continuing pharmacology education programs and courses, it shall 70519
establish standards for granting that authority and grant the 70520
authority in accordance with the standards. 70521

Sec. 4731.05. (A) ~~The state medical board shall adopt~~ 70522
~~rules in accordance with Chapter 119. of the Revised Code to~~ 70523
~~carry out the purposes of this chapter.~~ All adjudicative 70524
proceedings of the state medical board shall be conducted in 70525
accordance with Chapter 119. of the Revised Code. 70526

(B) The state medical board shall appoint an executive 70527
director who shall be in the unclassified service of the state. 70528
The board may appoint other employees of the board as are 70529
necessary and shall prescribe their titles and duties. 70530

(C) The state medical board shall develop requirements for 70531
and provide appropriate initial and continuing training for 70532
investigators employed by the board to carry out its duties 70533
under Chapter 4731. of the Revised Code. The training and 70534
continuing education may include enrollment in courses operated 70535
or approved by the Ohio peace officer training commission that 70536
the board considers appropriate under conditions set forth in 70537
section 109.79 of the Revised Code. 70538

(D) (1) The state medical board shall adopt internal 70539
management rules pursuant to section 111.15 of the Revised Code. 70540
The rules shall set forth criteria for assessing the board's 70541
accomplishments, activities, and performance data, including 70542
metrics detailing the board's revenues and reimbursements; 70543
budget distribution; investigation and licensing activity, 70544
including issuance of licenses and processing time frames; and 70545
enforcement data, including processing time frames. The board 70546
shall include the assessment in the annual report required by 70547
section 149.01 of the Revised Code. 70548

(2) The state medical board shall cause the internal 70549
management rules and annual report described in division (D) (1) 70550
of this section to be publicly accessible on the state medical 70551
board's web site. 70552

Sec. 4731.053. (A) As used in this section, "physician" 70553
means an individual authorized by this chapter to practice 70554
medicine and surgery, osteopathic medicine and surgery, or 70555
podiatric medicine and surgery. 70556

(B) The state medical board shall adopt rules that 70557
establish standards to be met and procedures to be followed by a 70558
physician with respect to the physician's delegation of the 70559
performance of a medical task to a person who is not licensed or 70560

otherwise specifically authorized by the Revised Code to perform 70561
the task. The rules shall be adopted in accordance with Chapter 70562
119. of the Revised Code and shall include a coroner's 70563
investigator among the individuals who are competent to recite 70564
the facts of a deceased person's medical condition to a 70565
physician so that the physician may pronounce the person dead 70566
without personally examining the body. 70567

(C) To the extent that delegation applies to the 70568
administration of drugs, the rules adopted under this section 70569
shall provide for all of the following: 70570

(1) On-site supervision when the delegation occurs in an 70571
institution or other facility that is used primarily for the 70572
purpose of providing health care, unless the board establishes a 70573
specific exception to the on-site supervision requirement with 70574
respect to routine administration of a topical drug, such as the 70575
use of a medicated shampoo; 70576

(2) Evaluation of whether delegation is appropriate 70577
according to the acuity of the patient involved; 70578

(3) Training and competency requirements that must be met 70579
by the person administering the drugs; 70580

~~(4) Other standards and procedures the board considers 70581
relevant. 70582~~

(D) The board shall not adopt rules that do any of the 70583
following: 70584

(1) Authorize a physician to transfer the physician's 70585
responsibility for supervising a person who is performing a 70586
delegated medical task to a health professional other than 70587
another physician; 70588

(2) Authorize an individual to whom a medical task is delegated to delegate the performance of that task to another individual;

(3) Except as provided in divisions (D)(4) to (7) of this section, authorize a physician to delegate the administration of anesthesia, controlled substances, drugs administered intravenously, or any other drug or category of drug the board considers to be inappropriate for delegation;

(4) Prevent an individual from engaging in an activity performed for a child with a disability as a service needed to meet the educational needs of the child, as identified in the individualized education program developed for the child under Chapter 3323. of the Revised Code;

(5) Conflict with any provision of the Revised Code that specifically authorizes an individual to perform a particular task;

(6) Conflict with any rule adopted pursuant to the Revised Code that is in effect on April 10, 2001, as long as the rule remains in effect, specifically authorizing an individual to perform a particular task;

(7) Prohibit a perfusionist from administering drugs intravenously while practicing as a perfusionist;

(8) Authorize a physician assistant, anesthesiologist assistant, or any other professional regulated by the board to delegate tasks pursuant to this section.

Sec. 4731.151. (A) Naprapaths who received a certificate to practice from the state medical board prior to March 2, 1992, may continue to practice naprapathy, as defined in rules adopted by the board under this section. Such naprapaths shall practice

in accordance with those ~~rules adopted by the board.~~ 70618

(B) (1) As used in this division: 70619

(a) "Mechanotherapy" means all of the following: 70620

(i) Examining patients by verbal inquiry; 70621

(ii) Examination of the musculoskeletal system by hand; 70622

(iii) Visual inspection and observation; 70623

(iv) Diagnosing a patient's condition only as to whether 70624
the patient has a disorder of the musculoskeletal system; 70625

(v) In the treatment of patients, employing the techniques 70626
of advised or supervised exercise; electrical neuromuscular 70627
stimulation; massage or manipulation; or air, water, heat, cold, 70628
sound, or infrared ray therapy only to those disorders of the 70629
musculoskeletal system that are amenable to treatment by such 70630
techniques and that are identifiable by examination performed in 70631
accordance with division (B) (1) (a) (i) of this section and 70632
diagnosable in accordance with division (B) (1) (a) (ii) of this 70633
section. 70634

(b) "Educational requirements" means the completion of a 70635
course of study appropriate for certification to practice 70636
mechanotherapy on or before November 3, 1985, as determined by 70637
rules adopted under this ~~chapter~~ section. 70638

(2) Mechanotherapists who received a certificate to 70639
practice from the board prior to March 2, 1992, may continue to 70640
practice mechanotherapy, as defined in rules adopted by the 70641
board under this section. Such mechanotherapists shall practice 70642
in accordance with those ~~rules adopted by the board.~~ 70643

A person authorized by this division to practice as a 70644

mechanotherapist may examine, diagnose, and assume 70645
responsibility for the care of patients with due regard for 70646
first aid and the hygienic and nutritional care of the patients. 70647
Roentgen rays shall be used by a mechanotherapist only for 70648
diagnostic purposes. 70649

(3) A person who holds a certificate to practice 70650
mechanotherapy and completed educational requirements in 70651
mechanotherapy on or before November 3, 1985, is entitled to use 70652
the title "doctor of mechanotherapy" and is a "physician" who 70653
performs "medical services" for the purposes of Chapters 4121. 70654
and 4123. of the Revised Code and the medicaid program, and 70655
shall receive payment or reimbursement as provided under those 70656
chapters and that program. 70657

(C) Chapter 4796. of the Revised Code does not apply to a 70658
certificate to practice naprapathy or mechanotherapy issued 70659
under this section. 70660

(D) In accordance with Chapter 119. of the Revised Code, 70661
the state medical board shall adopt rules to define the practice 70662
of naprapathy, as described in division (A) of this section and 70663
the practice of mechanotherapy, as described in division (B)(2) 70664
of this section. 70665

Sec. 4731.16. (A) The state medical board shall determine 70666
the standing of the schools, colleges, or institutions giving 70667
instruction in the limited branch of medicine of massage 70668
therapy. 70669

(B) The board may administer an examination of competency 70670
to practice the limited branch of medicine of massage therapy. 70671
If it administers an examination, the board shall establish by 70672
rule a fee to cover the cost of administering the examination. 70673

If it does not administer an examination, the board shall,
in accordance with Chapter 119. of the Revised Code, adopt rules
under this section ~~4731.05 of the Revised Code~~ that specify both
of the following:

(1) An examination acceptable to the board as an
examination of competency to practice the limited branch of
medicine of massage therapy;

(2) The score that constitutes evidence of passing the
examination.

Sec. 4731.19. (A) Except as provided in division (E) of
this section, a person seeking a license to practice the limited
branch of medicine of massage therapy shall file with the state
medical board an application in a manner prescribed by the
board. The application shall include or be accompanied by all of
the following:

(1) Evidence that the applicant is at least eighteen years
of age;

(2) Evidence that the applicant has attained high school
graduation or its equivalent;

(3) Evidence that the applicant holds one of the
following:

(a) A diploma or certificate from a school, college, or
institution in good standing as determined by the board in
accordance with rules adopted under this section ~~4731.05 of the
Revised Code~~, showing the completion of a course of instruction
in massage therapy of at least six hundred clock hours.

(b) A diploma or certificate from a school, college, or
institution in another state or jurisdiction meeting standards

determined by the board through rules adopted under this section 70702
~~4731.05 of the Revised Code~~, that require the completion of a 70703
course of instruction in massage therapy of at least six hundred 70704
clock hours. 70705

(4) Evidence that the applicant has successfully passed an 70706
examination, prescribed in rules described in section 4731.16 of 70707
the Revised Code, to determine competency to practice massage 70708
therapy; 70709

(5) An attestation that the information submitted under 70710
this section is accurate and truthful and that the applicant 70711
consents to release of information; 70712

(6) Any other information the board requires. 70713

(B) An applicant for a license to practice massage therapy 70714
shall comply with the requirements of section 4731.171 of the 70715
Revised Code. 70716

(C) At the time of making application for a license to 70717
practice massage therapy, the applicant shall pay to the board a 70718
fee of one hundred fifty dollars, no part of which shall be 70719
returned. No application shall be considered filed until the 70720
board receives the appropriate fee. 70721

(D) The board may investigate the application materials 70722
received under this section and contact any agency or 70723
organization for recommendations or other information about the 70724
applicant. 70725

(E) The board shall issue a certificate to practice a 70726
limited branch of medicine in accordance with Chapter 4796. of 70727
the Revised Code to an applicant if either of the following 70728
applies: 70729

(1) The applicant holds a license or certificate in another state. 70730
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(2) As described in that chapter, the applicant has satisfactory work experience in practicing, or a government certification or private certification to practice, a limited branch of medicine in a state that does not issue that license or certificate. 70732
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(F) In accordance with Chapter 119. of the Revised Code,
the board shall adopt rules establishing standards and
procedures for determining each of the following: 70737
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(1) Whether a school, college, or institution is in good standing as described in division (A) (3) (a) of this section; 70740
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(2) Whether a school, college, or institution in another state or jurisdiction meets standards as described in division (A) (3) (b) of this section. 70742
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Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to grant a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate if the individual applying for or holding the license or certificate is found by the board to have committed fraud during the administration of the examination for a license or certificate to practice or to have committed fraud, misrepresentation, or deception in applying for, renewing, or securing any license or certificate to practice or certificate to recommend issued by the board. 70745
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(B) Except as provided in division (P) of this section, 70759
the board, by an affirmative vote of not fewer than six members, 70760
shall, to the extent permitted by law, limit, revoke, or suspend 70761
a license or certificate to practice or certificate to 70762
recommend, refuse to issue a license or certificate, refuse to 70763
renew a license or certificate, refuse to reinstate a license or 70764
certificate, or reprimand or place on probation the holder of a 70765
license or certificate for one or more of the following reasons: 70766

(1) Permitting one's name or one's license or certificate 70767
to practice to be used by a person, group, or corporation when 70768
the individual concerned is not actually directing the treatment 70769
given; 70770

(2) Failure to maintain minimal standards applicable to 70771
the selection or administration of drugs, or failure to employ 70772
acceptable scientific methods in the selection of drugs or other 70773
modalities for treatment of disease; 70774

(3) Except as provided in section 4731.97 of the Revised 70775
Code, selling, giving away, personally furnishing, prescribing, 70776
or administering drugs for other than legal and legitimate 70777
therapeutic purposes or a plea of guilty to, a judicial finding 70778
of guilt of, or a judicial finding of eligibility for 70779
intervention in lieu of conviction of, a violation of any 70780
federal or state law regulating the possession, distribution, or 70781
use of any drug; 70782

(4) Willfully betraying a professional confidence. 70783

For purposes of this division, "willfully betraying a 70784
professional confidence" does not include providing any 70785
information, documents, or reports under sections 307.621 to 70786
307.629 of the Revised Code to a child fatality review board; 70787

does not include providing any information, documents, or 70788
reports under sections 307.631 to 307.6410 of the Revised Code 70789
to a drug overdose fatality review committee, a suicide fatality 70790
review committee, or hybrid drug overdose fatality and suicide 70791
fatality review committee; does not include providing any 70792
information, documents, or reports under sections 307.651 to 70793
307.659 of the Revised Code to a domestic violence fatality 70794
review board; does not include providing any information, 70795
documents, or reports to the director of health pursuant to 70796
guidelines established under section 3701.70 of the Revised 70797
Code; does not include written notice to a mental health 70798
professional under section 4731.62 of the Revised Code; does not 70799
include making a report as described in division (F) of section 70800
2921.22 and section 4731.224 of the Revised Code; and does not 70801
include the making of a report of an employee's use of a drug of 70802
abuse, or a report of a condition of an employee other than one 70803
involving the use of a drug of abuse, to the employer of the 70804
employee as described in division (B) of section 2305.33 of the 70805
Revised Code. Nothing in this division affects the immunity from 70806
civil liability conferred by section 2305.33 or 4731.62 of the 70807
Revised Code upon a physician who makes a report in accordance 70808
with section 2305.33 or notifies a mental health professional in 70809
accordance with section 4731.62 of the Revised Code. As used in 70810
this division, "employee," "employer," and "physician" have the 70811
same meanings as in section 2305.33 of the Revised Code. 70812

(5) Making a false, fraudulent, deceptive, or misleading 70813
statement in the solicitation of or advertising for patients; in 70814
relation to the practice of medicine and surgery, osteopathic 70815
medicine and surgery, podiatric medicine and surgery, or a 70816
limited branch of medicine; or in securing or attempting to 70817
secure any license or certificate to practice issued by the 70818

board. 70819

As used in this division, "false, fraudulent, deceptive, 70820
or misleading statement" means a statement that includes a 70821
misrepresentation of fact, is likely to mislead or deceive 70822
because of a failure to disclose material facts, is intended or 70823
is likely to create false or unjustified expectations of 70824
favorable results, or includes representations or implications 70825
that in reasonable probability will cause an ordinarily prudent 70826
person to misunderstand or be deceived. 70827

(6) A departure from, or the failure to conform to, 70828
minimal standards of care of similar practitioners under the 70829
same or similar circumstances, whether or not actual injury to a 70830
patient is established; 70831

(7) Representing, with the purpose of obtaining 70832
compensation or other advantage as personal gain or for any 70833
other person, that an incurable disease or injury, or other 70834
incurable condition, can be permanently cured; 70835

(8) The obtaining of, or attempting to obtain, money or 70836
anything of value by fraudulent misrepresentations in the course 70837
of practice; 70838

(9) A plea of guilty to, a judicial finding of guilt of, 70839
or a judicial finding of eligibility for intervention in lieu of 70840
conviction for, a felony; 70841

(10) Commission of an act that constitutes a felony in 70842
this state, regardless of the jurisdiction in which the act was 70843
committed; 70844

(11) A plea of guilty to, a judicial finding of guilt of, 70845
or a judicial finding of eligibility for intervention in lieu of 70846
conviction for, a misdemeanor committed in the course of 70847

practice; 70848

(12) Commission of an act in the course of practice that 70849
constitutes a misdemeanor in this state, regardless of the 70850
jurisdiction in which the act was committed; 70851

(13) A plea of guilty to, a judicial finding of guilt of, 70852
or a judicial finding of eligibility for intervention in lieu of 70853
conviction for, a misdemeanor involving moral turpitude; 70854

(14) Commission of an act involving moral turpitude that 70855
constitutes a misdemeanor in this state, regardless of the 70856
jurisdiction in which the act was committed; 70857

(15) Violation of the conditions of limitation placed by 70858
the board upon a license or certificate to practice; 70859

(16) Failure to pay license renewal fees specified in this 70860
chapter; 70861

(17) Except as authorized in section 4731.31 of the 70862
Revised Code, engaging in the division of fees for referral of 70863
patients, or the receiving of a thing of value in return for a 70864
specific referral of a patient to utilize a particular service 70865
or business; 70866

(18) Subject to section 4731.226 of the Revised Code, 70867
violation of any provision of a code of ethics of the American 70868
medical association, the American osteopathic association, the 70869
American podiatric medical association, or any other national 70870
professional organizations that the board specifies by rule. The 70871
state medical board shall obtain and keep on file current copies 70872
of the codes of ethics of the various national professional 70873
organizations. The individual whose license or certificate is 70874
being suspended or revoked shall not be found to have violated 70875
any provision of a code of ethics of an organization not 70876

appropriate to the individual's profession. 70877

For purposes of this division, a "provision of a code of 70878
ethics of a national professional organization" does not include 70879
any provision that would preclude the making of a report by a 70880
physician of an employee's use of a drug of abuse, or of a 70881
condition of an employee other than one involving the use of a 70882
drug of abuse, to the employer of the employee as described in 70883
division (B) of section 2305.33 of the Revised Code. Nothing in 70884
this division affects the immunity from civil liability 70885
conferred by that section upon a physician who makes either type 70886
of report in accordance with division (B) of that section. As 70887
used in this division, "employee," "employer," and "physician" 70888
have the same meanings as in section 2305.33 of the Revised 70889
Code. 70890

(19) Inability to practice according to acceptable and 70891
prevailing standards of care by reason of mental illness or 70892
physical illness, including, but not limited to, physical 70893
deterioration that adversely affects cognitive, motor, or 70894
perceptive skills. 70895

In enforcing this division, the board, upon a showing of a 70896
possible violation, shall refer any individual who is authorized 70897
to practice by this chapter or who has submitted an application 70898
pursuant to this chapter to the monitoring organization that 70899
conducts the confidential monitoring program established under 70900
section 4731.25 of the Revised Code. The board also may compel 70901
the individual to submit to a mental examination, physical 70902
examination, including an HIV test, or both a mental and a 70903
physical examination. The expense of the examination is the 70904
responsibility of the individual compelled to be examined. 70905
Failure to submit to a mental or physical examination or consent 70906

to an HIV test ordered by the board constitutes an admission of 70907
the allegations against the individual unless the failure is due 70908
to circumstances beyond the individual's control, and a default 70909
and final order may be entered without the taking of testimony 70910
or presentation of evidence. If the board finds an individual 70911
unable to practice because of the reasons set forth in this 70912
division, the board shall require the individual to submit to 70913
care, counseling, or treatment by physicians approved or 70914
designated by the board, as a condition for initial, continued, 70915
reinstated, or renewed authority to practice. An individual 70916
affected under this division shall be afforded an opportunity to 70917
demonstrate to the board the ability to resume practice in 70918
compliance with acceptable and prevailing standards under the 70919
provisions of the individual's license or certificate. For the 70920
purpose of this division, any individual who applies for or 70921
receives a license or certificate to practice under this chapter 70922
accepts the privilege of practicing in this state and, by so 70923
doing, shall be deemed to have given consent to submit to a 70924
mental or physical examination when directed to do so in writing 70925
by the board, and to have waived all objections to the 70926
admissibility of testimony or examination reports that 70927
constitute a privileged communication. 70928

(20) Except as provided in division (F) (1) (b) of section 70929
4731.282 of the Revised Code or when civil penalties are imposed 70930
under section 4731.225 of the Revised Code, and subject to 70931
section 4731.226 of the Revised Code, violating or attempting to 70932
violate, directly or indirectly, or assisting in or abetting the 70933
violation of, or conspiring to violate, any provisions of this 70934
chapter or any rule promulgated by the board. 70935

This division does not apply to a violation or attempted 70936
violation of, assisting in or abetting the violation of, or a 70937

conspiracy to violate, any provision of this chapter or any rule 70938
adopted by the board that would preclude the making of a report 70939
by a physician of an employee's use of a drug of abuse, or of a 70940
condition of an employee other than one involving the use of a 70941
drug of abuse, to the employer of the employee as described in 70942
division (B) of section 2305.33 of the Revised Code. Nothing in 70943
this division affects the immunity from civil liability 70944
conferred by that section upon a physician who makes either type 70945
of report in accordance with division (B) of that section. As 70946
used in this division, "employee," "employer," and "physician" 70947
have the same meanings as in section 2305.33 of the Revised 70948
Code. 70949

(21) The violation of section 3701.79 of the Revised Code 70950
or of any abortion rule adopted by the director of health 70951
pursuant to section 3701.341 of the Revised Code; 70952

(22) Any of the following actions taken by an agency 70953
responsible for authorizing, certifying, or regulating an 70954
individual to practice a health care occupation or provide 70955
health care services in this state or another jurisdiction, for 70956
any reason other than the nonpayment of fees: the limitation, 70957
revocation, or suspension of an individual's license to 70958
practice; acceptance of an individual's license surrender; 70959
denial of a license; refusal to renew or reinstate a license; 70960
imposition of probation; or issuance of an order of censure or 70961
other reprimand; 70962

(23) The violation of section 2919.12 of the Revised Code 70963
or the performance or inducement of an abortion upon a pregnant 70964
woman with actual knowledge that the conditions specified in 70965
division (B) of section 2317.56 of the Revised Code have not 70966
been satisfied or with a heedless indifference as to whether 70967

those conditions have been satisfied, unless an affirmative 70968
defense as specified in division (H) (2) of that section would 70969
apply in a civil action authorized by division (H) (1) of that 70970
section; 70971

(24) The revocation, suspension, restriction, reduction, 70972
or termination of clinical privileges by the United States 70973
department of defense or department of veterans affairs or the 70974
termination or suspension of a certificate of registration to 70975
prescribe drugs by the drug enforcement administration of the 70976
United States department of justice; 70977

(25) Termination or suspension from participation in the 70978
medicare or medicaid programs by the department of health and 70979
human services or other responsible agency; 70980

(26) Impairment of ability to practice according to 70981
acceptable and prevailing standards of care because of substance 70982
use disorder or excessive use or abuse of drugs, alcohol, or 70983
other substances that may impair ability to practice. 70984

For the purposes of this division, any individual 70985
authorized to practice by this chapter accepts the privilege of 70986
practicing in this state subject to supervision by the board. By 70987
filing an application for or holding a license or certificate to 70988
practice under this chapter, an individual shall be deemed to 70989
have given consent to submit to a mental or physical examination 70990
when ordered to do so by the board in writing, and to have 70991
waived all objections to the admissibility of testimony or 70992
examination reports that constitute privileged communications. 70993

If it has reason to believe that any individual authorized 70994
to practice by this chapter or any applicant for licensure or 70995
certification to practice suffers such impairment, the board 70996

shall refer the individual to the monitoring organization that 70997
conducts the confidential monitoring program established under 70998
section 4731.25 of the Revised Code. The board also may compel 70999
the individual to submit to a mental or physical examination, or 71000
both. The expense of the examination is the responsibility of 71001
the individual compelled to be examined. Any mental or physical 71002
examination required under this division shall be undertaken by 71003
a treatment provider or physician who is qualified to conduct 71004
the examination and who is approved under section 4731.251 of 71005
the Revised Code. 71006

Failure to submit to a mental or physical examination 71007
ordered by the board constitutes an admission of the allegations 71008
against the individual unless the failure is due to 71009
circumstances beyond the individual's control, and a default and 71010
final order may be entered without the taking of testimony or 71011
presentation of evidence. If the board determines that the 71012
individual's ability to practice is impaired, the board shall 71013
suspend the individual's license or certificate or deny the 71014
individual's application and shall require the individual, as a 71015
condition for initial, continued, reinstated, or renewed 71016
licensure or certification to practice, to submit to treatment. 71017

Before being eligible to apply for reinstatement of a 71018
license or certificate suspended under this division, the 71019
impaired practitioner shall demonstrate to the board the ability 71020
to resume practice in compliance with acceptable and prevailing 71021
standards of care under the provisions of the practitioner's 71022
license or certificate. The demonstration shall include, but 71023
shall not be limited to, the following: 71024

(a) Certification from a treatment provider approved under 71025
section 4731.251 of the Revised Code that the individual has 71026

successfully completed any required inpatient treatment; 71027

(b) Evidence of continuing full compliance with an 71028
aftercare contract or consent agreement; 71029

(c) Two written reports indicating that the individual's 71030
ability to practice has been assessed and that the individual 71031
has been found capable of practicing according to acceptable and 71032
prevailing standards of care. The reports shall be made by 71033
individuals or providers approved by the board for making the 71034
assessments and shall describe the basis for their 71035
determination. 71036

The board may reinstate a license or certificate suspended 71037
under this division after that demonstration and after the 71038
individual has entered into a written consent agreement. 71039

When the impaired practitioner resumes practice, the board 71040
shall require continued monitoring of the individual. The 71041
monitoring shall include, but not be limited to, compliance with 71042
the written consent agreement entered into before reinstatement 71043
or with conditions imposed by board order after a hearing, and, 71044
upon termination of the consent agreement, submission to the 71045
board for at least two years of annual written progress reports 71046
made under penalty of perjury stating whether the individual has 71047
maintained sobriety. 71048

(27) A second or subsequent violation of section 4731.66 71049
or 4731.69 of the Revised Code; 71050

(28) Except as provided in division (N) of this section: 71051

(a) Waiving the payment of all or any part of a deductible 71052
or copayment that a patient, pursuant to a health insurance or 71053
health care policy, contract, or plan that covers the 71054
individual's services, otherwise would be required to pay if the 71055

waiver is used as an enticement to a patient or group of patients to receive health care services from that individual; 71056
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(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay. 71058
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(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code; 71063
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(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's medical record; 71066
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(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code ~~and the rules adopted under that chapter;~~ 71071
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(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement; 71075
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(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code; 71082
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(34) Failure to cooperate in an investigation conducted by	71085
the board under division (F) of this section, including failure	71086
to comply with a subpoena or order issued by the board or	71087
failure to answer truthfully a question presented by the board	71088
in an investigative interview, an investigative office	71089
conference, at a deposition, or in written interrogatories,	71090
except that failure to cooperate with an investigation shall not	71091
constitute grounds for discipline under this section if a court	71092
of competent jurisdiction has issued an order that either	71093
quashes a subpoena or permits the individual to withhold the	71094
testimony or evidence in issue;	71095
(35) Failure to supervise an anesthesiologist assistant in	71096
accordance with Chapter 4760. of the Revised Code and the	71097
board's rules for supervision of an anesthesiologist assistant;	71098
(36) Assisting suicide, as defined in section 3795.01 of	71099
the Revised Code;	71100
(37) Failure to comply with the requirements of section	71101
2317.561 of the Revised Code;	71102
(38) Failure to supervise a radiologist assistant in	71103
accordance with Chapter 4774. of the Revised Code and the	71104
board's rules for supervision of radiologist assistants;	71105
(39) Performing or inducing an abortion at an office or	71106
facility with knowledge that the office or facility fails to	71107
post the notice required under section 3701.791 of the Revised	71108
Code;	71109
(40) Failure to comply with the standards and procedures	71110
established in rules under section 4731.054 of the Revised Code	71111
for the operation of or the provision of care at a pain	71112
management clinic;	71113

(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	71114 71115 71116 71117
(42) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	71118 71119 71120 71121
(43) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or 2919.202 of the Revised Code;	71122 71123 71124 71125 71126
(44) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;	71127 71128 71129 71130 71131
(45) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;	71132 71133 71134 71135
(46) Failure to comply with any of the requirements regarding making or maintaining medical records or documents described in division (A) of section 2919.192, division (C) of section 2919.193, division (B) of section 2919.195, or division (A) of section 2919.196 of the Revised Code;	71136 71137 71138 71139 71140
(47) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a	71141 71142

prescription for an opioid analgesic, as defined in section 71143
3719.01 of the Revised Code; 71144

(48) Failure to comply with the requirements of section 71145
4731.30 of the Revised Code or rules adopted under section 71146
4731.301 of the Revised Code when recommending treatment with 71147
medical marijuana; 71148

(49) A pattern of continuous or repeated violations of 71149
division (E) (2) or (3) of section 3963.02 of the Revised Code; 71150

(50) Failure to fulfill the responsibilities of a 71151
collaboration agreement entered into with an athletic trainer as 71152
described in section 4755.621 of the Revised Code; 71153

(51) Failure to take the steps specified in section 71154
4731.911 of the Revised Code following an abortion or attempted 71155
abortion in an ambulatory surgical facility or other location 71156
that is not a hospital when a child is born alive; 71157

(52) Violation of section 4731.77 of the Revised Code; 71158

(53) Failure of a physician supervising a certified mental 71159
health assistant to maintain supervision in accordance with the 71160
requirements of Chapter 4772. of the Revised Code ~~and the rules~~ 71161
~~adopted under that chapter;~~ 71162

(54) Failure to comply with the requirements of section 71163
3705.16 of the Revised Code when certifying a decedent's cause 71164
of death and completing and signing the medical certificate of 71165
death. 71166

(C) Disciplinary actions taken by the board under 71167
divisions (A) and (B) of this section shall be taken pursuant to 71168
an adjudication under Chapter 119. of the Revised Code, except 71169
that in lieu of an adjudication, the board may enter into a 71170

consent agreement with an individual to resolve an allegation of 71171
a violation of this chapter or any rule adopted under it. A 71172
consent agreement, when ratified by an affirmative vote of not 71173
fewer than six members of the board, shall constitute the 71174
findings and order of the board with respect to the matter 71175
addressed in the agreement. If the board refuses to ratify a 71176
consent agreement, the admissions and findings contained in the 71177
consent agreement shall be of no force or effect. 71178

A telephone conference call may be utilized for 71179
ratification of a consent agreement that revokes or suspends an 71180
individual's license or certificate to practice or certificate 71181
to recommend. The telephone conference call shall be considered 71182
a special meeting under division (F) of section 121.22 of the 71183
Revised Code. 71184

If the board takes disciplinary action against an 71185
individual under division (B) of this section for a second or 71186
subsequent plea of guilty to, or judicial finding of guilt of, a 71187
violation of section 2919.123 or 2919.124 of the Revised Code, 71188
the disciplinary action shall consist of a suspension of the 71189
individual's license or certificate to practice for a period of 71190
at least one year or, if determined appropriate by the board, a 71191
more serious sanction involving the individual's license or 71192
certificate to practice. Any consent agreement entered into 71193
under this division with an individual that pertains to a second 71194
or subsequent plea of guilty to, or judicial finding of guilt 71195
of, a violation of that section shall provide for a suspension 71196
of the individual's license or certificate to practice for a 71197
period of at least one year or, if determined appropriate by the 71198
board, a more serious sanction involving the individual's 71199
license or certificate to practice. 71200

(D) For purposes of divisions (B) (10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing or expungement of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal or expunge the records. The board shall not be required to seal, expunge, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) (1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board

shall be assigned a case number and shall be recorded by the board. 71232
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(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. Upon a vote of the majority of the board to authorize the addition of a consumer member in the supervision of any part of any investigation, the president shall designate a consumer member for supervision of investigations as determined by the president. The authorization of consumer member participation in investigation supervision may be rescinded by a majority vote of the board. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case. 71234
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(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, or in conducting an inspection under division (E) of section 4731.054 of the Revised Code, the board may question witnesses, conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board. 71250
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(a) Before issuance of a subpoena for patient record 71261

information, the secretary shall determine whether there is 71262
probable cause to believe that the complaint filed alleges a 71263
violation of this chapter or any rule adopted under it and that 71264
the records sought are relevant to the alleged violation and 71265
material to the investigation. The subpoena may apply only to 71266
records that cover a reasonable period of time surrounding the 71267
alleged violation. 71268

(b) On failure to comply with any subpoena issued by the 71269
board and after reasonable notice to the person being 71270
subpoenaed, the board may move for an order compelling the 71271
production of persons or records pursuant to the Rules of Civil 71272
Procedure. 71273

(c) A subpoena issued by the board may be served by a 71274
sheriff, the sheriff's deputy, or a board employee or agent 71275
designated by the board. Service of a subpoena issued by the 71276
board may be made by delivering a copy of the subpoena to the 71277
person named therein, reading it to the person, or leaving it at 71278
the person's usual place of residence, usual place of business, 71279
or address on file with the board. When serving a subpoena to an 71280
applicant for or the holder of a license or certificate issued 71281
under this chapter, service of the subpoena may be made by 71282
certified mail, return receipt requested, and the subpoena shall 71283
be deemed served on the date delivery is made or the date the 71284
person refuses to accept delivery. If the person being served 71285
refuses to accept the subpoena or is not located, service may be 71286
made to an attorney who notifies the board that the attorney is 71287
representing the person. 71288

(d) A sheriff's deputy who serves a subpoena shall receive 71289
the same fees as a sheriff. Each witness who appears before the 71290
board in obedience to a subpoena shall receive the fees and 71291

mileage provided for under section 119.094 of the Revised Code. 71292

(4) All hearings, investigations, and inspections of the 71293
board shall be considered civil actions for the purposes of 71294
section 2305.252 of the Revised Code. 71295

(5) A report required to be submitted to the board under 71296
this chapter, a complaint, or information received by the board 71297
pursuant to an investigation or pursuant to an inspection under 71298
division (E) of section 4731.054 of the Revised Code is 71299
confidential and not subject to discovery in any civil action. 71300

The board shall conduct all investigations or inspections 71301
and proceedings in a manner that protects the confidentiality of 71302
patients and persons who file complaints with the board. The 71303
board shall not make public the names or any other identifying 71304
information about patients or complainants unless proper consent 71305
is given or, in the case of a patient, a waiver of the patient 71306
privilege exists under division (B) of section 2317.02 of the 71307
Revised Code, except that consent or a waiver of that nature is 71308
not required if the board possesses reliable and substantial 71309
evidence that no bona fide physician-patient relationship 71310
exists. 71311

The board may share any information it receives pursuant 71312
to an investigation or inspection, including patient records and 71313
patient record information, with law enforcement agencies, other 71314
licensing boards, and other governmental agencies that are 71315
prosecuting, adjudicating, or investigating alleged violations 71316
of statutes or administrative rules. An agency or board that 71317
receives the information shall comply with the same requirements 71318
regarding confidentiality as those with which the state medical 71319
board must comply, notwithstanding any conflicting provision of 71320
the Revised Code or procedure of the agency or board that 71321

applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

No person shall knowingly access, use, or disclose confidential investigatory information in a manner prohibited by law.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

(a) The case number assigned to the complaint or alleged violation;

(b) The type of license or certificate to practice, if any, held by the individual against whom the complaint is directed;

(c) A description of the allegations contained in the complaint;

(d) Whether witnesses were interviewed;

(e) Whether the individual against whom the complaint is directed is the subject of any pending complaints;

(f) The disposition of the case. 71351

The report shall state how many cases are still pending 71352
and shall be prepared in a manner that protects the identity of 71353
each person involved in each case. The report shall be a public 71354
record under section 149.43 of the Revised Code. 71355

(7) The board may provide a status update regarding an 71356
investigation to a complainant on request if the board verifies 71357
the complainant's identity. 71358

(G) (1) If either of the following circumstances occur, the 71359
secretary and supervising member may recommend that the board 71360
suspend an individual's license or certificate to practice or 71361
certificate to recommend without a prior hearing: 71362

(a) The secretary and supervising member determine both of 71363
the following: 71364

(i) That there is clear and convincing evidence that an 71365
individual has violated division (B) of this section; 71366

(ii) That the individual's continued practice presents a 71367
danger of immediate and serious harm to the public. 71368

(b) The board receives verifiable information that a 71369
licensee has been charged in any state or federal court with a 71370
crime classified as a felony under the charging court's law and 71371
the conduct constitutes a violation of division (B) of this 71372
section. 71373

(2) If a recommendation is made to suspend without a prior 71374
hearing pursuant to division (G) (1) of this section, written 71375
allegations shall be prepared for consideration by the board. 71376
The board, upon review of those allegations and by an 71377
affirmative vote of not fewer than six of its members, excluding 71378

the secretary and supervising member, may suspend a license or 71379
certificate without a prior hearing. A telephone conference call 71380
may be utilized for reviewing the allegations and taking the 71381
vote on the summary suspension. 71382

The board shall serve a written order of suspension in 71383
accordance with sections 119.05 and 119.07 of the Revised Code. 71384
If the individual subject to the summary suspension requests an 71385
adjudicatory hearing by the board, the date set for the hearing 71386
shall be within fifteen days, but not earlier than seven days, 71387
after the individual requests the hearing, unless otherwise 71388
agreed to by both the board and the individual. 71389

(3) Any summary suspension imposed under division (G) (2) 71390
of this section is not a final appealable order and is not an 71391
adjudication that may be appealed under section 119.12 of the 71392
Revised Code. The summary suspension shall remain in effect 71393
until a final adjudicative order issued by the board pursuant to 71394
this section and Chapter 119. of the Revised Code becomes 71395
effective. Once a final adjudicative order has been issued by 71396
the board, any party adversely affected by it may file an appeal 71397
in accordance with the requirements of Chapter 119. of the 71398
Revised Code. 71399

The board shall issue its final adjudicative order within 71400
seventy-five days after completion of its hearing. A failure to 71401
issue the order within seventy-five days shall result in 71402
dissolution of the summary suspension order but shall not 71403
invalidate any subsequent, final adjudicative order. 71404

(H) If the board takes action under division (B) (9), (11), 71405
or (13) of this section and the judicial finding of guilt, 71406
guilty plea, or judicial finding of eligibility for intervention 71407
in lieu of conviction is overturned on appeal, upon exhaustion 71408

of the criminal appeal, a petition for reconsideration of the 71409
order may be filed with the board along with appropriate court 71410
documents. Upon receipt of a petition of that nature and 71411
supporting court documents, the board shall reinstate the 71412
individual's license or certificate to practice. The board may 71413
then hold an adjudication under Chapter 119. of the Revised Code 71414
to determine whether the individual committed the act in 71415
question. Notice of an opportunity for a hearing shall be given 71416
in accordance with Chapter 119. of the Revised Code. If the 71417
board finds, pursuant to an adjudication held under this 71418
division, that the individual committed the act or if no hearing 71419
is requested, the board may order any of the sanctions 71420
identified under division (B) of this section. 71421

(I) The license or certificate to practice issued to an 71422
individual under this chapter and the individual's practice in 71423
this state are automatically suspended as of the date of the 71424
individual's second or subsequent plea of guilty to, or judicial 71425
finding of guilt of, a violation of section 2919.123 or 2919.124 71426
of the Revised Code. In addition, the license or certificate to 71427
practice or certificate to recommend issued to an individual 71428
under this chapter and the individual's practice in this state 71429
are automatically suspended as of the date the individual pleads 71430
guilty to, is found by a judge or jury to be guilty of, or is 71431
subject to a judicial finding of eligibility for intervention in 71432
lieu of conviction in this state or treatment or intervention in 71433
lieu of conviction in another jurisdiction for any of the 71434
following criminal offenses in this state or a substantially 71435
equivalent criminal offense in another jurisdiction: aggravated 71436
murder, murder, voluntary manslaughter, felonious assault, 71437
trafficking in persons, kidnapping, rape, sexual battery, gross 71438
sexual imposition, aggravated arson, aggravated robbery, or 71439

aggravated burglary. Continued practice after suspension shall 71440
be considered practicing without a license or certificate. 71441

The board shall notify the individual subject to the 71442
suspension in accordance with sections 119.05 and 119.07 of the 71443
Revised Code. If an individual whose license or certificate is 71444
automatically suspended under this division fails to make a 71445
timely request for an adjudication under Chapter 119. of the 71446
Revised Code, the board shall do whichever of the following is 71447
applicable: 71448

(1) If the automatic suspension under this division is for 71449
a second or subsequent plea of guilty to, or judicial finding of 71450
guilt of, a violation of section 2919.123 or 2919.124 of the 71451
Revised Code, the board shall enter an order suspending the 71452
individual's license or certificate to practice for a period of 71453
at least one year or, if determined appropriate by the board, 71454
imposing a more serious sanction involving the individual's 71455
license or certificate to practice. 71456

(2) In all circumstances in which division (I)(1) of this 71457
section does not apply, enter a final order permanently revoking 71458
the individual's license or certificate to practice. 71459

(J) If the board is required by Chapter 119. of the 71460
Revised Code to give notice of an opportunity for a hearing and 71461
if the individual subject to the notice does not timely request 71462
a hearing in accordance with section 119.07 of the Revised Code, 71463
the board is not required to hold a hearing, but may adopt, by 71464
an affirmative vote of not fewer than six of its members, a 71465
final order that contains the board's findings. In that final 71466
order, the board may order any of the sanctions identified under 71467
division (A) or (B) of this section. 71468

(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's license or certificate to practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a license or certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant or issue a license or certificate to practice to an applicant, revokes an individual's license or certificate to practice, refuses to renew an individual's license or certificate to practice, or refuses to reinstate an individual's license or certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or certificate to practice and the board shall not accept an application for reinstatement of the license or certificate or for issuance of a new license or certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license or certificate issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license or certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license or certificate surrendered to the board requires an affirmative

vote of not fewer than six members of the board. 71499

(2) An application for a license or certificate made under 71500
the provisions of this chapter may not be withdrawn without 71501
approval of the board. 71502

(3) Failure by an individual to renew a license or 71503
certificate to practice in accordance with this chapter or a 71504
certificate to recommend in accordance with rules adopted under 71505
section 4731.301 of the Revised Code does not remove or limit 71506
the board's jurisdiction to take any disciplinary action under 71507
this section against the individual. 71508

(4) The placement of an individual's license on retired 71509
status, as described in section 4731.283 of the Revised Code, 71510
does not remove or limit the board's jurisdiction to take any 71511
disciplinary action against the individual with regard to the 71512
license as it existed before being placed on retired status. 71513

(5) At the request of the board, a license or certificate 71514
holder shall immediately surrender to the board a license or 71515
certificate that the board has suspended, revoked, or 71516
permanently revoked. 71517

(N) Sanctions shall not be imposed under division (B) (28) 71518
of this section against any person who waives deductibles and 71519
copayments as follows: 71520

(1) In compliance with the health benefit plan that 71521
expressly allows such a practice. Waiver of the deductibles or 71522
copayments shall be made only with the full knowledge and 71523
consent of the plan purchaser, payer, and third-party 71524
administrator. Documentation of the consent shall be made 71525
available to the board upon request. 71526

(2) For professional services rendered to any other person 71527

authorized to practice pursuant to this chapter, to the extent 71528
allowed by this chapter ~~and rules adopted by the board.~~ 71529

(O) Under the board's investigative duties described in 71530
this section and subject to division (F) of this section, the 71531
board shall develop and implement a quality intervention program 71532
designed to improve through remedial education the clinical and 71533
communication skills of individuals authorized under this 71534
chapter to practice medicine and surgery, osteopathic medicine 71535
and surgery, and podiatric medicine and surgery. In developing 71536
and implementing the quality intervention program, the board may 71537
do all of the following: 71538

(1) Offer in appropriate cases as determined by the board 71539
an educational and assessment program pursuant to an 71540
investigation the board conducts under this section; 71541

(2) Select providers of educational and assessment 71542
services, including a quality intervention program panel of case 71543
reviewers; 71544

(3) Make referrals to educational and assessment service 71545
providers and approve individual educational programs 71546
recommended by those providers. The board shall monitor the 71547
progress of each individual undertaking a recommended individual 71548
educational program. 71549

(4) Determine what constitutes successful completion of an 71550
individual educational program and require further monitoring of 71551
the individual who completed the program or other action that 71552
the board determines to be appropriate; 71553

~~(5) Adopt rules in accordance with Chapter 119. of the 71554
Revised Code to further implement the quality intervention 71555
program. 71556~~

An individual who participates in an individual 71557
educational program pursuant to this division shall pay the 71558
financial obligations arising from that educational program. 71559

(P) The board shall not refuse to issue a license to an 71560
applicant because of a conviction, plea of guilty, judicial 71561
finding of guilt, judicial finding of eligibility for 71562
intervention in lieu of conviction, or the commission of an act 71563
that constitutes a criminal offense, unless the refusal is in 71564
accordance with section 9.79 of the Revised Code. 71565

(Q) A license or certificate to practice or certificate to 71566
recommend issued to an individual under this chapter and an 71567
individual's practice under this chapter in this state are 71568
automatically suspended if the individual's license or 71569
certificate to practice a health care occupation or provide 71570
health care services is suspended, revoked, or surrendered or 71571
relinquished in lieu of discipline by an agency responsible for 71572
authorizing, certifying, or regulating an individual to practice 71573
a health care occupation or provide health care services in this 71574
state or another jurisdiction. The automatic suspension begins 71575
immediately upon entry of the order by the agency and lasts for 71576
ninety days to permit the board to investigate the basis for the 71577
action under this chapter. Continued practice during the 71578
automatic suspension shall be considered practicing without a 71579
license or certificate. 71580

The board shall notify the individual subject to the 71581
automatic suspension by certified mail or in person in 71582
accordance with section 119.07 of the Revised Code. If an 71583
individual subject to an automatic suspension under this 71584
division fails to make a timely request for an adjudication 71585
under Chapter 119. of the Revised Code, the board is not 71586

required to hold a hearing, but may adopt, by an affirmative 71587
vote of not fewer than six of its members, a final order that 71588
contains the board's findings. In that final order, the board 71589
may order any of the sanctions identified under division (A) or 71590
(B) of this section. 71591

Sec. 4731.228. (A) As used in this section: 71592

(1) "Federally qualified health center" has the same 71593
meaning as in section 3701.047 of the Revised Code. 71594

(2) "Federally qualified health center look-alike" has the 71595
same meaning as in section 3701.047 of the Revised Code. 71596

(3) "Health care entity" means any of the following that 71597
employs a physician to provide physician services: 71598

(a) A hospital registered with the department of health 71599
under section 3701.07 of the Revised Code; 71600

(b) A corporation formed under division (B) of section 71601
1701.03 of the Revised Code; 71602

(c) A corporation formed under Chapter 1702. of the 71603
Revised Code; 71604

(d) A limited liability company formed under Chapter 1705. 71605
or 1706. of the Revised Code; 71606

(e) A health insuring corporation holding a certificate of 71607
authority under Chapter 1751. of the Revised Code; 71608

(f) A partnership; 71609

(g) A professional association formed under Chapter 1785. 71610
of the Revised Code. 71611

(4) "Physician" means an individual authorized under this 71612
chapter to practice medicine and surgery, osteopathic medicine 71613

and surgery, or podiatric medicine and surgery. 71614

(5) "Physician services" means direct patient care 71615
services provided by a physician. 71616

(6) "Termination" means the end of a physician's 71617
employment with a health care entity for any reason. 71618

(B) This section applies when a physician's employment 71619
with a health care entity to provide physician services is 71620
terminated for any reason, unless the physician continues to 71621
provide medical services for patients of the health care entity 71622
on an independent contractor basis. 71623

(C) (1) Except as provided in division (C) (2) of this 71624
section, a health care entity shall send notice of the 71625
termination of a physician's employment to each patient who 71626
received physician services from the physician in the two-year 71627
period immediately preceding the date of employment termination. 71628
Only patients of the health care entity who received services 71629
from the physician are to receive the notice. 71630

(2) If the health care entity provides to the physician a 71631
list of patients treated and patient contact information, the 71632
health care entity may require the physician to send the notice 71633
required by this section. 71634

(D) The notice provided under division (C) of this section 71635
shall be provided not later than the date of termination or 71636
thirty days after the health care entity has actual knowledge of 71637
termination or resignation of the physician, whichever is later. 71638
~~The notice shall be provided in accordance with rules adopted by~~ 71639
~~the state medical board under section 4731.05 of the Revised~~ 71640
~~Code.~~The notice shall include at least all of the following: 71641

(1) A notice to the patient that the physician will no 71642

longer be practicing medicine as an employee of the health care entity; 71643
71644

(2) Except in situations in which the health care entity has a good faith concern that the physician's conduct or the medical care provided by the physician would jeopardize the health and safety of patients, the physician's name and, if known by the health care entity, information provided by the physician that the patient may use to contact the physician; 71645
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(3) The date on which the physician ceased or will cease to practice as an employee of the health care entity; 71651
71652

(4) Contact information for an alternative physician or physicians employed by the health care entity or contact information for a group practice that can provide care for the patient; 71653
71654
71655
71656

(5) Contact information that enables the patient to obtain information on the patient's medical records. 71657
71658

In accordance with Chapter 119. of the Revised Code, the state medical board shall adopt rules establishing standards and procedures for the provision of notice required by division (C) of this section. 71659
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71661
71662

(E) The requirements of this section do not apply to any of the following: 71663
71664

(1) A physician rendering services to a patient on an episodic basis or in an emergency department or urgent care center, when it should not be reasonably expected that related medical services will be rendered by the physician to the patient in the future; 71665
71666
71667
71668
71669

(2) A medical director or other physician providing 71670

services in a similar capacity to a medical director to patients 71671
through a hospice care program licensed pursuant to section 71672
3712.04 of the Revised Code. 71673

(3) Medical residents, interns, and fellows who work in 71674
hospitals, health systems, federally qualified health centers, 71675
and federally qualified health center look-alikes as part of 71676
their medical education and training. 71677

(4) A physician providing services to a patient through a 71678
community mental health services provider certified by the 71679
director of mental health and addiction services under section 71680
5119.36 of the Revised Code or a community addiction services 71681
provider certified by the director under that section. 71682

(5) A physician providing services to a patient through a 71683
federally qualified health center or a federally qualified 71684
health center look-alike. 71685

Sec. 4731.255. The state medical board ~~may adopt any rules~~ 71686
~~it considers necessary to implement sections 4731.25 to 4731.254~~ 71687
~~of the Revised Code, except that the board shall adopt rules~~ 71688
establishing standards for evaluating, treating, and monitoring 71689
practitioners and applicants who are or may be impaired, 71690
including standards for the approval of evaluators and treatment 71691
providers. Any such rules shall be adopted in accordance with 71692
Chapter 119. of the Revised Code. 71693

Sec. 4731.283. (A) An individual who holds a current, 71694
valid license issued under this chapter and who retires 71695
voluntarily from the practice of medicine and surgery, 71696
osteopathic medicine and surgery, or podiatric medicine and 71697
surgery or a limited branch of medicine may request that the 71698
state medical board place the individual's license on retired 71699

status. 71700

This section does not authorize an individual who holds a 71701
training certificate issued under section 4731.291 or 4731.573 71702
of the Revised Code to request that the board place the 71703
individual's certificate on retired status. 71704

(B) An individual seeking to have the individual's license 71705
placed on retired status shall file with the board an 71706
application in the form and manner prescribed by the board. The 71707
application shall be submitted before the end of a biennial 71708
renewal period and include all of the following: 71709

(1) The applicant's full name, license number, mailing 71710
address, and electronic mail address; 71711

(2) An attestation that the information included in the 71712
application is accurate and truthful and that the applicant 71713
meets the following qualifications: 71714

(a) That the applicant holds a current, valid license 71715
issued under this chapter; 71716

(b) That the applicant has retired voluntarily from the 71717
practice of medicine and surgery, osteopathic medicine and 71718
surgery, or podiatric medicine and surgery or a limited branch 71719
of medicine; 71720

(c) In the case of an applicant who holds a current, valid 71721
license to practice medicine and surgery, osteopathic medicine 71722
and surgery, or podiatric medicine and surgery, that the 71723
applicant does not hold an active registration with the federal 71724
drug enforcement administration; 71725

(d) That the applicant does not have any criminal charges 71726
pending against the applicant; 71727

(e) That the applicant is not the subject of discipline 71728
by, or an investigation pending with, a regulatory agency of 71729
this state, another state, or the United States; 71730

(f) That the applicant does not have any complaints 71731
pending with the board; 71732

(g) That the applicant is not, at the time of application, 71733
subject to the board's hearing, disciplinary, or compliance 71734
processes under the terms of a citation, notice of opportunity 71735
for hearing, board order, or consent agreement. 71736

(3) In the case of an applicant who holds a current, valid 71737
license to practice medicine and surgery, osteopathic medicine 71738
and surgery, or podiatric medicine and surgery, a fee in an 71739
amount equal to the restoration fee amount described in section 71740
4731.281 of the Revised Code; 71741

(4) In the case of an applicant who holds a current, valid 71742
license to practice a limited branch of medicine, a fee in an 71743
amount equal to the restoration fee amount described in section 71744
4731.15 of the Revised Code. 71745

The board shall not consider an application for retired 71746
status complete until the board receives the fee described in 71747
this division. On receipt of a fee, the board shall deposit the 71748
fee in accordance with section 4731.24 of the Revised Code. 71749

(C) If the board determines that an applicant meets the 71750
requirements of division (B) of this section, the board shall 71751
place the applicant's license on retired status. The license 71752
remains on retired status for the life of the license holder, 71753
unless suspended, revoked, or reactivated, and does not require 71754
renewal. 71755

(D) During the period in which a license is on retired 71756

status, all of the following apply: 71757

(1) The license holder is prohibited under any 71758
circumstance from practicing medicine and surgery, osteopathic 71759
medicine and surgery, or podiatric medicine and surgery or a 71760
limited branch of medicine. 71761

(2) In the case of a license holder whose license to 71762
practice medicine and surgery, osteopathic medicine and surgery, 71763
or podiatric medicine and surgery is on retired status, the 71764
holder is not required to complete the continuing education 71765
required by section 4731.282 of the Revised Code. 71766

(3) The license holder is prohibited from using the 71767
license to obtain a license in another state, whether by 71768
endorsement or reciprocity or through a licensure compact. 71769

(4) The license holder may use a title authorized for the 71770
holder's license as described in section 4731.14, 4731.151, or 71771
4731.56 of the Revised Code, but only if "retired" also is 71772
included in the title. 71773

(5) In the case of a license holder who also holds a 71774
certificate to recommend issued under section 4731.30 of the 71775
Revised Code, the certificate, like the license, is on retired 71776
status. 71777

(6) The license holder is prohibited from holding or 71778
practicing under a volunteer's certificate issued under section 71779
4731.295 of the Revised Code. 71780

(E) If a license has been placed on retired status 71781
pursuant to this section, it may be reactivated. Subject to 71782
section 4731.222 of the Revised Code, the board may reactivate a 71783
license placed on retired status if all of the following 71784
conditions are satisfied: 71785

(1) The individual seeking to reactivate the license 71786
applies to the board in the form and manner prescribed by the 71787
board. 71788

(2) In the case of an applicant whose license to practice 71789
medicine and surgery, osteopathic medicine and surgery, or 71790
podiatric medicine and surgery is on retired status, the 71791
applicant certifies completion of, within the two-year period 71792
that ends on the date of the application's submission, the 71793
continuing education requirements that must be met for renewal 71794
of a license. 71795

(3) The applicant complies with sections 4776.01 to 71796
4776.04 of the Revised Code. 71797

(4) In the case of an applicant whose license to practice 71798
medicine and surgery, osteopathic medicine and surgery, or 71799
podiatric medicine and surgery is on retired status, the 71800
applicant pays a reactivation fee in an amount equal to the 71801
restoration fee amount described in section 4731.281 of the 71802
Revised Code. 71803

(5) In the case of an applicant whose license to practice 71804
a limited branch of medicine is on retired status, the applicant 71805
pays a reactivation fee in an amount equal to the restoration 71806
fee amount described in section 4731.15 of the Revised Code. 71807

The board shall not consider an application to reactivate 71808
a license complete until the board receives the fee described in 71809
this division. On receipt of a fee, the board shall deposit the 71810
fee in accordance with section 4731.24 of the Revised Code. 71811

(F) The board shall reactivate a license placed on retired 71812
status if the conditions of division (E) of this section have 71813
been satisfied and the board, in its discretion, determines that 71814

the results of the criminal records check conducted pursuant to 71815
sections 4776.01 to 4776.04 of the Revised Code do not make the 71816
applicant ineligible for active status. 71817

(G) The board may take disciplinary action against an 71818
applicant who is seeking to place a license on retired status or 71819
to reactivate the license if the applicant commits fraud, 71820
misrepresentation, or deception in applying for or securing the 71821
retired status or reactivation. 71822

The board also may take disciplinary action against the 71823
holder of a license placed on retired status if the holder 71824
practices under the license, uses the license to obtain 71825
licensure in another state, or uses a title that does not 71826
reflect the holder's retired status. 71827

In taking disciplinary action under this section, the 71828
board may impose on the applicant or holder any sanction 71829
described in section 4731.22 of the Revised Code, but shall do 71830
so in accordance with the procedures described in that section. 71831

~~(H) The board may adopt rules to implement and enforce~~ 71832
~~this section. The rules shall be adopted in accordance with~~ 71833
~~Chapter 119. of the Revised Code.~~ 71834

Sec. 4731.291. (A) An individual seeking to pursue an 71835
internship, residency, clinical fellowship program, or elective 71836
clinical rotation in this state, who does not hold a license to 71837
practice medicine and surgery or osteopathic medicine or surgery 71838
issued under this chapter, shall apply to the state medical 71839
board for a training certificate. The application shall be made 71840
on forms that the board shall furnish and shall be accompanied 71841
by an application fee of one hundred thirty dollars. 71842

An applicant for a training certificate shall furnish to 71843

the board all of the following: 71844

(1) Evidence satisfactory to the board that the applicant 71845
is at least eighteen years of age; 71846

(2) Evidence satisfactory to the board that the applicant 71847
has been accepted or appointed to participate in this state in 71848
one of the following: 71849

(a) An internship, residency, or clinical fellowship 71850
program accredited by either the accreditation council for 71851
graduate medical education of the American medical association 71852
or the American osteopathic association; 71853

(b) A clinical fellowship program that is not accredited 71854
as described in division (A) (2) (a) of this section, but is 71855
conducted at an institution with a residency program that is 71856
accredited as described in that division and is in a clinical 71857
field the same as or related to the clinical field of the 71858
fellowship program; 71859

(c) An elective clinical rotation that lasts not more than 71860
one year and is offered to interns, residents, or clinical 71861
fellows participating in programs that are located outside this 71862
state and meet the requirements of division (A) (2) (a) or (b) of 71863
this section. 71864

(3) Information identifying the beginning and ending dates 71865
of the period for which the applicant has been accepted or 71866
appointed to participate in the internship, residency, or 71867
clinical fellowship program; 71868

(4) Any other information that the board requires. 71869

(B) If no grounds for denying a license or certificate 71870
under section 4731.22 of the Revised Code apply, and the 71871

applicant meets the requirements of division (A) of this 71872
section, the board shall issue a training certificate to the 71873
applicant. The board shall not require an examination as a 71874
condition of receiving a training certificate. 71875

A training certificate issued pursuant to this section 71876
shall be valid only for three years, but may be renewed by the 71877
board for one additional three-year period. To renew a training 71878
certificate, the holder shall apply to the board on or before 71879
the certificate's expiration date. 71880

The fee for renewal of a training certificate shall be one 71881
hundred dollars. A late application may be submitted not more 71882
than thirty days after the certificate's expiration date. In 71883
such a case, the holder shall include with the application a 71884
one-hundred-fifty-dollar reinstatement fee. 71885

(C) The holder of a valid training certificate shall be 71886
entitled to perform such acts as may be prescribed by or 71887
incidental to the holder's internship, residency, or clinical 71888
fellowship program, but the holder shall not be entitled 71889
otherwise to engage in the practice of medicine and surgery or 71890
osteopathic medicine and surgery in this state. The holder shall 71891
limit activities under the certificate to the programs of the 71892
hospitals or facilities for which the training certificate is 71893
issued. The holder shall train only under the supervision of the 71894
physicians responsible for supervision as part of the 71895
internship, residency, or clinical fellowship program. 71896

A training certificate may be revoked by the board upon 71897
proof, satisfactory to the board, that the holder thereof has 71898
engaged in practice in this state outside the scope of the 71899
internship, residency, or clinical fellowship program for which 71900
the training certificate has been issued, or upon proof, 71901

satisfactory to the board, that the holder thereof has engaged 71902
in unethical conduct or that there are grounds for action 71903
against the holder under section 4731.22 of the Revised Code. 71904

~~(D) The board may adopt rules as the board finds necessary 71905
to effect the purpose of this section. 71906~~

Sec. 4731.293. (A) The state medical board shall issue, 71907
without examination, a clinical research faculty certificate to 71908
practice medicine and surgery, osteopathic medicine and surgery, 71909
or podiatric medicine and surgery to any person who applies for 71910
the certificate and provides to the board satisfactory evidence 71911
of both of the following: 71912

(1) That the applicant holds a current, unrestricted 71913
license to practice medicine and surgery, osteopathic medicine 71914
and surgery, or podiatric medicine and surgery issued by another 71915
state or country; 71916

(2) That the applicant has been appointed to serve in this 71917
state on the academic staff of a medical school accredited by 71918
the liaison committee on medical education, an osteopathic 71919
medical school accredited by the American osteopathic 71920
association, or a college of podiatric medicine and surgery in 71921
good standing with the board. 71922

(B) The holder of a clinical research faculty certificate 71923
may do one of the following, as applicable: 71924

(1) Practice medicine and surgery or osteopathic medicine 71925
and surgery only as is incidental to the certificate holder's 71926
teaching or research duties at the medical school or a teaching 71927
hospital affiliated with the school; 71928

(2) Practice podiatric medicine and surgery only as is 71929
incidental to the certificate holder's teaching or research 71930

duties at the college of podiatric medicine and surgery or a 71931
teaching hospital affiliated with the college. 71932

(C) The board may revoke a certificate on receiving proof 71933
satisfactory to the board that the certificate holder has 71934
engaged in practice in this state outside the scope of the 71935
certificate or that there are grounds for action against the 71936
certificate holder under section 4731.22 of the Revised Code. 71937

(D) A clinical research faculty certificate is valid for 71938
three years, except that the certificate ceases to be valid if 71939
the holder's academic staff appointment described in division 71940
(A) (2) of this section is no longer valid or the certificate is 71941
revoked pursuant to division (C) of this section. 71942

(E) (1) The board shall provide a renewal notice to the 71943
certificate holder at least one month before the certificate 71944
expires. Failure of a certificate holder to receive a notice of 71945
renewal from the board shall not excuse the certificate holder 71946
from the requirements contained in this section. The notice 71947
shall inform the certificate holder of the renewal procedure. 71948
The notice also shall inform the certificate holder of the 71949
reporting requirement established by division (H) of section 71950
3701.79 of the Revised Code. At the discretion of the board, the 71951
information may be included on the application for renewal or on 71952
an accompanying page. 71953

(2) A clinical research faculty certificate may be renewed 71954
for an additional three-year period. There is no limit on the 71955
number of times a certificate may be renewed. A person seeking 71956
renewal of a certificate shall apply to the board. The board 71957
shall provide the application for renewal in a form determined 71958
by the board. 71959

- (3) An applicant is eligible for renewal if the applicant does all of the following:
- (a) Reports any criminal offense to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last filing an application for a clinical research faculty certificate;
 - (b) Provides evidence satisfactory to the board of both of the following:
 - (i) That the applicant continues to maintain a current, unrestricted license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery issued by another state or country;
 - (ii) That the applicant's initial appointment to serve in this state on the academic staff of a school or college is still valid or has been renewed.
- (4) Regardless of whether the certificate has expired, a person who was granted a visiting medical faculty certificate under this section as it existed immediately prior to June 6, 2012, may apply for a clinical research faculty certificate as a renewal. The board may issue the clinical research faculty certificate if the applicant meets the requirements of division (E) (3) of this section. The board may not issue a clinical research faculty certificate if the visiting medical faculty certificate was revoked.
- (F) A person holding a clinical research faculty certificate issued under this section shall not be required to obtain a certificate under Chapter 4796. of the Revised Code.
- ~~(G) The board may adopt any rules it considers necessary~~

~~to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~ 71989
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Sec. 4731.295. (A) (1) As used in this section: 71991

(a) "Free clinic" has the same meaning as in section 71992
3701.071 of the Revised Code. 71993

(b) "Indigent and uninsured person" and "operation" have 71994
the same meanings as in section 2305.234 of the Revised Code. 71995

(2) For the purposes of this section, a person shall be 71996
considered retired from practice if the person's license has 71997
expired with the person's intention of ceasing to practice 71998
medicine and surgery or osteopathic medicine and surgery for 71999
remuneration. 72000

(B) The state medical board may issue, without 72001
examination, a volunteer's certificate to a person who is 72002
retired from practice so that the person may provide medical 72003
services to indigent and uninsured persons at any location, 72004
including a free clinic. The board shall deny issuance of a 72005
volunteer's certificate to a person who is not qualified under 72006
this section to hold a volunteer's certificate. 72007

(C) An application for a volunteer's certificate shall 72008
include all of the following: 72009

(1) A copy of the applicant's degree of medicine or 72010
osteopathic medicine. 72011

(2) One of the following, as applicable: 72012

(a) A copy of the applicant's most recent license 72013
authorizing the practice of medicine and surgery or osteopathic 72014
medicine and surgery issued by a jurisdiction in the United 72015
States that licenses persons to practice medicine and surgery or 72016

osteopathic medicine and surgery. 72017

(b) A copy of the applicant's most recent license 72018
equivalent to a license to practice medicine and surgery or 72019
osteopathic medicine and surgery in one or more branches of the 72020
United States armed services that the United States government 72021
issued. 72022

(3) Evidence of one of the following, as applicable: 72023

(a) That the applicant has maintained for at least ten 72024
years prior to retirement full licensure in good standing in any 72025
jurisdiction in the United States that licenses persons to 72026
practice medicine and surgery or osteopathic medicine and 72027
surgery. 72028

(b) That the applicant has practiced for at least ten 72029
years prior to retirement in good standing as a doctor of 72030
medicine and surgery or osteopathic medicine and surgery in one 72031
or more of the branches of the United States armed services. 72032

(4) An attestation that the applicant will not accept any 72033
form of remuneration for any medical services rendered while in 72034
possession of a volunteer's certificate. 72035

(D) The holder of a volunteer's certificate may provide 72036
medical services only to indigent and uninsured persons, but may 72037
do so at any location, including a free clinic. The holder shall 72038
not accept any form of remuneration for providing medical 72039
services while in possession of the certificate. Except in a 72040
medical emergency, the holder shall not perform any operation or 72041
deliver babies. The board may revoke a volunteer's certificate 72042
on receiving proof satisfactory to the board that the holder has 72043
engaged in practice in this state outside the scope of the 72044
certificate. 72045

(E) (1) A volunteer's certificate shall be valid for a 72046
period of three years, unless earlier revoked under division (D) 72047
of this section or pursuant to section 4731.22 of the Revised 72048
Code. A volunteer's certificate may be renewed upon the 72049
application of the holder. The board shall maintain a register 72050
of all persons who hold volunteer's certificates. The board 72051
shall not charge a fee for issuing or renewing a certificate 72052
pursuant to this section. 72053

(2) To be eligible for renewal of a volunteer's 72054
certificate the holder of the certificate shall certify to the 72055
board completion of one hundred fifty hours of continuing 72056
medical education that meets the requirements of section 72057
4731.282 of the Revised Code regarding certification by private 72058
associations and approval by the board. The board may not renew 72059
a certificate if the holder has not complied with the continuing 72060
medical education requirements. Any entity for which the holder 72061
provides medical services may pay for or reimburse the holder 72062
for any costs incurred in obtaining the required continuing 72063
medical education credits. 72064

(3) The board shall issue a volunteer's certificate to 72065
each person who qualifies under this section for the 72066
certificate. The certificate shall state that the certificate 72067
holder is authorized to provide medical services pursuant to the 72068
laws of this state. The holder shall display the certificate 72069
prominently at the location where the holder primarily 72070
practices. 72071

(4) The holder of a volunteer's certificate issued 72072
pursuant to this section is subject to the immunity provisions 72073
regarding the provision of services to indigent and uninsured 72074
persons in section 2305.234 of the Revised Code. 72075

(F) The holder of a volunteer's certificate issued under this section is not required to obtain a license under Chapter 4796. of the Revised Code. 72076
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~~(G) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this section.~~ 72079
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Sec. 4731.297. (A) As used in this section: 72081

(1) "Academic medical center" means a medical school and its affiliated teaching hospitals and clinics partnering to do all of the following: 72082
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(a) Provide the highest quality of patient care from expert physicians; 72085
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(b) Conduct groundbreaking research leading to medical advancements for current and future patients; 72087
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(c) Provide medical education and graduate medical education to educate and train physicians. 72089
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(2) "Affiliated physician group practice" means a medical practice that consists of one or more physicians authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and that is affiliated with an academic medical center to further the objectives described in divisions (A) (1) (a) to (c) of this section. 72091
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(B) The state medical board shall issue, without examination, to an applicant who meets the requirements of this section a certificate of conceded eminence authorizing the practice of medicine and surgery or osteopathic medicine and surgery as part of the applicant's employment with an academic medical center in this state or affiliated physician group practice in this state. 72097
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- (C) To be eligible for a certificate of conceded eminence, 72104
an applicant shall provide to the board all of the following: 72105
- (1) Evidence satisfactory to the board of all of the 72106
following: 72107
- (a) That the applicant is an international medical 72108
graduate who holds a medical degree from an educational 72109
institution listed in the international medical education 72110
directory; 72111
- (b) That the applicant has been appointed to serve in this 72112
state as a full-time faculty member of a medical school 72113
accredited by the liaison committee on medical education or an 72114
osteopathic medical school accredited by the American 72115
osteopathic association; 72116
- (c) That the applicant has accepted an offer of employment 72117
with an academic medical center in this state or affiliated 72118
physician group practice in this state; 72119
- (d) That the applicant holds a license in good standing in 72120
another state or country authorizing the practice of medicine 72121
and surgery or osteopathic medicine and surgery; 72122
- (e) That the applicant has unique talents and 72123
extraordinary abilities not generally found within the 72124
applicant's specialty, as demonstrated by satisfying at least 72125
four of the following: 72126
- (i) The applicant has achieved educational qualifications 72127
beyond those that are required for entry into the applicant's 72128
specialty, including advanced degrees, special certifications, 72129
or other academic credentials. 72130
- (ii) The applicant has written multiple articles in 72131

journals listed in the index medicus or an equivalent scholarly publication acceptable to the board.	72132 72133
(iii) The applicant has a sustained record of excellence in original research, at least some of which involves serving as the principal investigator or co-principal investigator for a research project.	72134 72135 72136 72137
(iv) The applicant has received nationally or internationally recognized prizes or awards for excellence.	72138 72139
(v) The applicant has participated in peer review in a field of specialization that is the same as or similar to the applicant's specialty.	72140 72141 72142
(vi) The applicant has developed new procedures or treatments for complex medical problems that are recognized by peers as a significant advancement in the applicable field of medicine.	72143 72144 72145 72146
(vii) The applicant has held previous academic appointments with or been employed by a health care organization that has a distinguished national or international reputation.	72147 72148 72149
(viii) The applicant has been the recipient of a national institutes of health or other competitive grant award.	72150 72151
(f) That the applicant has received staff membership or professional privileges from the academic medical center pursuant to standards adopted under section 3701.351 of the Revised Code on a basis that requires the applicant's medical education and graduate medical education to be at least equivalent to that of a physician educated and trained in the United States;	72152 72153 72154 72155 72156 72157 72158
(g) That the applicant has sufficient written and oral	72159

English skills to communicate effectively and reliably with patients, their families, and other medical professionals; 72160
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(h) That the applicant will have professional liability insurance through the applicant's employment with the academic medical center or affiliated physician group practice. 72162
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(2) An attestation that the applicant agrees to practice only within the clinical setting of the academic medical center or for the affiliated physician group practice; 72165
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(3) Three letters of reference from distinguished experts in the applicant's specialty attesting to the unique capabilities of the applicant, at least one of which must be from outside the academic medical center or affiliated physician group practice; 72168
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(4) An affidavit from the dean of the medical school where the applicant has been appointed to serve as a faculty member stating that the applicant meets all of the requirements of division (C) (1) of this section and that the letters of reference submitted under division (C) (3) of this section are from distinguished experts in the applicant's specialty, and documentation to support the affidavit; 72173
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(5) A fee of one thousand dollars for the certificate. 72180

(D) (1) The holder of a certificate of conceded eminence may practice medicine and surgery or osteopathic medicine and surgery only within the clinical setting of the academic medical center with which the certificate holder is employed or for the affiliated physician group practice with which the certificate holder is employed. 72181
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(2) A certificate holder may supervise medical students, physicians participating in graduate medical education, advanced 72187
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practice nurses, and physician assistants when performing 72189
clinical services in the certificate holder's area of specialty. 72190

(E) The board may revoke a certificate issued under this 72191
section on receiving proof satisfactory to the board that the 72192
certificate holder has engaged in practice in this state outside 72193
the scope of the certificate or that there are grounds for 72194
action against the certificate holder under section 4731.22 of 72195
the Revised Code. 72196

(F) A certificate of conceded eminence is valid for the 72197
shorter of two years or the duration of the certificate holder's 72198
employment with the academic medical center or affiliated 72199
physician group practice. The certificate ceases to be valid if 72200
the holder resigns or is otherwise terminated from the academic 72201
medical center or affiliated physician group practice. 72202

(G) A certificate of conceded eminence may be renewed for 72203
an additional two-year period. There is no limit on the number 72204
of times a certificate may be renewed. A person seeking renewal 72205
of a certificate shall apply to the board and is eligible for 72206
renewal if the applicant does all of the following: 72207

(1) Pays the renewal fee of one thousand dollars; 72208

(2) Provides to the board an affidavit and supporting 72209
documentation from the academic medical center or affiliated 72210
physician group practice of all of the following: 72211

(a) That the applicant's initial appointment to the 72212
medical faculty is still valid or has been renewed; 72213

(b) That the applicant's clinical practice is consistent 72214
with the established standards in the field; 72215

(c) That the applicant has demonstrated continued 72216

scholarly achievement; 72217

(d) That the applicant has demonstrated continued 72218
professional achievement consistent with the academic medical 72219
center's requirements, established pursuant to standards adopted 72220
under section 3701.351 of the Revised Code, for physicians with 72221
staff membership or professional privileges with the academic 72222
medical center. 72223

(3) Satisfies the same continuing medical education 72224
requirements set forth in section 4731.282 of the Revised Code 72225
that apply to a person who holds a certificate to practice 72226
medicine and surgery or osteopathic medicine and surgery issued 72227
under this chapter. 72228

(4) Complies with any other requirements established by 72229
the board. 72230

(H) The board shall not require a person to obtain a 72231
certificate under Chapter 4796. of the Revised Code to practice 72232
medicine and surgery or osteopathic medicine and surgery if the 72233
person holds a certificate of conceded eminence issued under 72234
this section. 72235

~~(I) The board may adopt any rules it considers necessary-~~ 72236
~~to implement this section. The rules shall be adopted in-~~ 72237
~~accordance with Chapter 119. of the Revised Code.~~ 72238

Sec. 4731.298. (A) The state medical board shall issue, 72239
without examination, to an applicant who meets the requirements 72240
of this section a visiting clinical professional development 72241
certificate authorizing the practice of medicine and surgery or 72242
osteopathic medicine and surgery as part of the applicant's 72243
participation in a clinical professional development program. 72244

(B) To be eligible for a visiting clinical professional 72245

development certificate, an applicant shall provide to the board 72246
satisfactory evidence that the applicant meets both of the 72247
following requirements: 72248

(1) Has been accepted for participation in a clinical 72249
professional development program of a medical school or 72250
osteopathic medical school in this state that is accredited by 72251
the liaison committee on medical education or the American 72252
osteopathic association or of a teaching hospital affiliated 72253
with such a medical school; 72254

(2) Holds a current, unrestricted license to practice 72255
medicine and surgery or osteopathic medicine and surgery issued 72256
in another country. 72257

(C) The board shall maintain a register of all persons who 72258
hold visiting clinical professional development certificates. 72259

(D) The holder of a visiting clinical professional 72260
development certificate may practice medicine and surgery or 72261
osteopathic medicine and surgery only as part of the clinical 72262
professional development program in which the certificate holder 72263
participates. The certificate holder's practice must be under 72264
the direct supervision of a qualified faculty member of the 72265
medical school, osteopathic medical school, or teaching hospital 72266
conducting the program who holds a license to practice medicine 72267
and surgery or osteopathic medicine and surgery issued under 72268
this chapter. 72269

The program in which the certificate holder participates 72270
shall ensure that the certificate holder does not do any of the 72271
following: 72272

(1) Write orders or prescribe medication; 72273

(2) Bill for services performed; 72274

(3) Occupy a residency or fellowship position approved by 72275
the accreditation council for graduate medical education; 72276

(4) Attempt to have participation in a clinical 72277
professional development program pursuant to this section 72278
counted toward meeting the graduate medical education 72279
requirements specified in section 4731.09 of the Revised Code. 72280

(E) The board may revoke a certificate issued under this 72281
section on receiving proof satisfactory to the board that the 72282
certificate holder has engaged in practice in this state outside 72283
the scope of the certificate or that there are grounds for 72284
action against the certificate holder under section 4731.22 of 72285
the Revised Code. 72286

(F) A visiting clinical professional development 72287
certificate is valid for the shorter of one year or the duration 72288
of the program in which the holder is participating. The 72289
certificate ceases to be valid if the holder resigns or is 72290
otherwise terminated from the program. The certificate may not 72291
be extended. 72292

(G) The program in which a certificate holder participates 72293
shall obtain from each patient or patient's parent or legal 72294
guardian written consent to any medical or surgical procedure or 72295
course of procedures in which the certificate holder 72296
participates. 72297

~~(H) The board may adopt any rules it considers necessary~~ 72298
~~to implement this section. The rules shall be adopted in~~ 72299
~~accordance with Chapter 119. of the Revised Code.~~ 72300

Sec. 4731.301. (A) Not later than one year after ~~the~~ 72301
~~effective date of this section~~ September 8, 2016, the state 72302
medical board shall adopt rules establishing all of the 72303

following: 72304

(1) The procedures when applying for a certificate to recommend under section 4731.301 of the Revised Code; 72305
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(2) The conditions that must be met to be eligible for a certificate to recommend; 72307
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(3) The schedule and procedures for renewing a certificate to recommend; 72309
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(4) The reasons for which a certificate may be suspended or revoked; 72311
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(5) The standards under which a certificate suspension may be lifted; 72313
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(6) The minimal standards of care when recommending treatment with medical marijuana. 72315
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The rules shall be adopted in accordance with Chapter 119. of the Revised Code. 72317
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(B) In addition to the rules described in division (A) of this section, the board may adopt ~~any other rules it considers necessary to implement sections 4731.30 and 4731.302 of the Revised Code which may include~~ rules specifying the information that must be included in a written recommendation issued under section 4731.30 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. 72319
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(C) The board shall approve one or more continuing medical education courses of study, which may be a course or courses certified by the Ohio state medical association or Ohio osteopathic association, that assist physicians holding certificates to recommend in both of the following: 72326
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(1) Diagnosing qualifying medical conditions as defined in section 3796.01 of the Revised Code; 72331
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(2) Treating qualifying medical conditions with medical marijuana. 72333
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Sec. 4731.573. (A) An individual seeking to pursue an internship, residency, or clinical fellowship program in podiatric medicine and surgery in this state, who does not hold a license to practice podiatric medicine and surgery issued under this chapter, shall apply to the state medical board for a training certificate. The application shall be made on forms that the board shall furnish and shall be accompanied by an application fee of one hundred thirty dollars. 72335
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An applicant for a training certificate shall furnish to the board all of the following: 72343
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(1) Evidence satisfactory to the board that the applicant is at least eighteen years of age; 72345
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(2) Evidence satisfactory to the board that the applicant has been accepted or appointed to participate in this state in one of the following: 72347
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(a) An internship, residency, or clinical fellowship program accredited by either the council on podiatric medical education or the American podiatric medical association; 72350
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(b) A clinical fellowship program that is not accredited as described in division (A) (2) (a) of this section, but is conducted at an institution with a residency program that is accredited as described in that division and is in a clinical field the same as or related to the clinical field of the fellowship program. 72353
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(3) Information identifying the beginning and ending dates of the period for which the applicant has been accepted or appointed to participate in the internship, residency, or clinical fellowship program;

(4) Any other information that the board requires.

(B) If no grounds for denying a license or certificate under section 4731.22 of the Revised Code apply and the applicant meets the requirements of division (A) of this section, the board shall issue a training certificate to the applicant. The board shall not require an examination as a condition of receiving a training certificate.

A training certificate issued pursuant to this section shall be valid only for three years, but may be renewed by the board for one additional three-year period. To renew a training certificate, the holder shall apply to the board on or before the certificate's expiration date.

The fee for renewal of a training certificate shall be one hundred dollars. A late application may be submitted not more than thirty days after the certificate's expiration date. In such a case, the holder shall include with the application a one-hundred-fifty-dollar reinstatement fee.

(C) The holder of a valid training certificate shall be entitled to perform such acts as may be prescribed by or incidental to the holder's internship, residency, or clinical fellowship program, but the holder shall not be entitled otherwise to engage in the practice of podiatric medicine and surgery in this state. The holder shall limit activities under the certificate to the programs of the hospitals or facilities for which the training certificate is issued. The holder shall

train only under the supervision of the podiatrists responsible 72388
for supervision as part of the internship, residency, or 72389
clinical fellowship program. A training certificate may be 72390
revoked by the board upon proof, satisfactory to the board, that 72391
the holder thereof has engaged in practice in this state outside 72392
the scope of the internship, residency, or clinical fellowship 72393
program for which the training certificate has been issued, or 72394
upon proof, satisfactory to the board, that the holder thereof 72395
has engaged in unethical conduct or that there are grounds for 72396
action against the holder under section 4731.22 of the Revised 72397
Code. 72398

~~(D) The board may adopt rules as the board finds necessary 72399
to effect the purpose of this section. 72400~~

Sec. 4732.06. The principal office of the state board of 72401
psychology shall be in Columbus, but it may meet or conduct 72402
business at any place in this state. The board may empower any 72403
one or more of its members to conduct any proceeding, hearing, 72404
or investigation necessary to its purposes, including the 72405
administration and enforcement of Chapter 4783. of the Revised 72406
Code. The board shall meet at least twice annually and at such 72407
other times as it determines. Special meetings may be called by 72408
the president and shall be called by the secretary upon the 72409
written request of two members. The board shall not conduct 72410
business by teleconference except as provided in division (F) (1) 72411
of section 4732.17 of the Revised Code. 72412

~~The board shall make such rules as are necessary to 72413
conduct its business. 72414~~

The board shall employ an executive director, 72415
investigators, and administrative assistants as are necessary to 72416
administer and enforce this chapter and Chapter 4783. of the 72417

Revised Code. 72418

Sec. 4733.07. The state board of registration for 72419
professional engineers and surveyors shall adopt all necessary 72420
rules and bylaws, in accordance with Chapter 119. of the Revised 72421
Code, and not inconsistent with this chapter, and the 72422
constitutions and laws of this state or of the United States, to 72423
govern its times and places of meetings for organization and 72424
reorganization, ~~and for the holding of examinations, and for~~ 72425
~~governing all other matters requisite to the exercise of its~~ 72426
~~powers, the performance of its duties, and the transaction of~~ 72427
~~its business.~~ The board shall adopt and have an official seal. 72428
The board may include among the rules adopted governing the 72429
standards of practice of engineering, requirements regarding 72430
financial responsibility and professional liability insurance. 72431

In carrying this chapter into effect, the board may hold 72432
hearings in accordance with sections 119.01 to 119.13 of the 72433
Revised Code. 72434

Sec. 4734.25. A license to practice chiropractic from the 72435
state chiropractic board expires biennially in accordance with a 72436
schedule the board establishes in rules adopted under this 72437
section. The license may be renewed. The renewal process shall 72438
be conducted in accordance with the standard renewal procedures 72439
of Chapter 4745. of the Revised Code, except that the board's 72440
executive director shall notify each license holder of the 72441
license renewal requirements of this section not later than 72442
sixty days prior to the license's expiration date. 72443

When an application for license renewal is submitted, the 72444
applicant shall provide the information necessary to process the 72445
application and pay a renewal fee in an amount the board 72446
specifies in rules adopted under this section. The board shall 72447

deposit twenty-five dollars of each renewal fee collected into 72448
the state treasury to the credit of the chiropractic loan 72449
repayment fund created by section 3702.9810 of the Revised Code. 72450

Before a renewal of license is issued by the board, the 72451
licensee shall furnish the board with satisfactory evidence that 72452
the licensee has completed during the current licensing period 72453
not less than the number of hours of continuing education that 72454
the board requires in rules adopted under this section. For an 72455
activity to be applied toward the continuing education 72456
requirement, the activity must meet the board's approval as a 72457
continuing education activity, as specified in rules adopted 72458
under this section. Any exception from the continuing education 72459
requirement must be approved by the board. 72460

Failure of a licensee to comply with this section shall 72461
operate as an automatic forfeiture of the right of the licensee 72462
to practice chiropractic in this state. A forfeited license may 72463
be reinstated by the board upon payment of all fees due and a 72464
penalty fee in an amount the board specifies in rules adopted 72465
under this section for reinstatement, in addition to satisfying 72466
the board of having complied with the continuing education 72467
requirements of this section. If an individual's license has 72468
been forfeited for two or more years, the board may also require 72469
as a condition of reinstatement that the individual complete 72470
training or testing as specified by the board. 72471

The board shall adopt ~~any rules it considers necessary to~~ 72472
~~implement this section, including establishing~~ standards for 72473
approval of continuing education in the practice of 72474
chiropractic. All rules adopted under this section shall be 72475
adopted in accordance with Chapter 119. of the Revised Code. 72476

Sec. 4734.27. (A) To the extent it is in the public 72477

interest, the state chiropractic board may issue, without 72478
examination, a special limited license to practice chiropractic 72479
as follows: 72480

(1) To a person who is seeking to participate in an 72481
internship, residency, preceptorship, or clinical fellowship in 72482
this state in preparation for the practice of chiropractic; 72483

(2) To a nonresident person who plans to provide 72484
chiropractic services in connection with a special activity, 72485
program, or event conducted in this state, if the person holds a 72486
current, valid, and unrestricted license to practice 72487
chiropractic in another state or country; 72488

(3) To a person who previously held an unrestricted 72489
license to practice chiropractic in this state who plans to 72490
offer gratuitous chiropractic services as a voluntary public 72491
service; 72492

~~(4) To any other person for any other reason specified as~~ 72493
~~good cause by the board in rules adopted under this section.~~ 72494

(B) An applicant for a special limited license shall 72495
submit to the board a complete application on a form prescribed 72496
by the board, pay an application fee of seventy-five dollars, 72497
and furnish proof satisfactory to the board of being at least 72498
twenty-one years of age and of either holding the degree of 72499
doctor of chiropractic or being enrolled in a program leading to 72500
the degree. The institution from which the applicant received 72501
the degree or in which the applicant is enrolled must be a 72502
school or college that is approved by the board under section 72503
4734.21 of the Revised Code. 72504

(C) The provisions of this chapter that apply to 72505
applicants for and holders of licenses to practice chiropractic 72506

shall apply to applicants for and holders of special limited licenses to the extent the board considers appropriate, including the board's authority to conduct any investigation it considers appropriate to verify an applicant's credentials and fitness to receive a license and the board's authority to take actions under section 4734.31 of the Revised Code.

~~(D) The board shall adopt any rules it considers necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(E)~~ (1) (D) (1) The board shall issue a special limited license to practice chiropractic under division (A) (1) of this section in accordance with Chapter 4796. of the Revised Code to a person if either of the following applies:

(a) The person holds a limited license to practice chiropractic in another state.

(b) The person has satisfactory work experience, a government certification, or a private certification as described in that chapter as a chiropractor in a state that does not issue that limited license.

(2) A nonresident person who holds a special limited license to practice chiropractic under division (A) (2) of this section is not required to obtain a license under Chapter 4796. of the Revised Code to practice under the special limited license.

(3) Chapter 4796. of the Revised Code does not apply to a special limited license issued under division (A) (3) ~~or (4)~~ of this section.

Sec. 4734.282. (A) A chiropractor licensed under this

chapter seeking a certificate to practice acupuncture shall file 72536
with the state chiropractic board a written application on a 72537
form prescribed and supplied by the board. The application shall 72538
include all of the following: 72539

(1) Evidence satisfactory to the board that the 72540
applicant's license is current and valid and that the applicant 72541
is in good standing with the board; 72542

(2) Evidence satisfactory to the board that the applicant 72543
has completed a course of study in acupuncture approved by the 72544
board in accordance with section 4734.211 of the Revised Code+; 72545

(3) Evidence satisfactory to the board that the applicant 72546
has passed the acupuncture examination administered by the 72547
national board of chiropractic examiners or a person that 72548
administers the examinations on the national board's behalf. 72549

(B) The board shall review all applications received under 72550
this section. The board shall determine whether an applicant 72551
meets the requirements to receive a certificate to practice 72552
acupuncture not later than sixty days after receiving a complete 72553
application. The affirmative vote of not fewer than three 72554
members of the board is required to determine that an applicant 72555
meets the requirements for a certificate. 72556

(C) At the time of making application for a certificate to 72557
practice acupuncture, the applicant shall pay the board a fee in 72558
an amount determined by the board pursuant to rules adopted 72559
under ~~section 4734.10~~ Chapter 119. of the Revised Code, no part 72560
of which shall be returned. 72561

Sec. 4734.284. A chiropractor seeking to renew a 72562
certificate to practice acupuncture shall follow the standard 72563
renewal procedures of Chapter 4745. of the Revised Code and do 72564

all of the following: 72565

(A) Furnish the state chiropractic board with satisfactory 72566
evidence that the chiropractor completed, during the twenty-four 72567
months immediately preceding renewal, at least twelve hours of 72568
acupuncture continuing education provided by an entity that 72569
administers a course of study approved under section 4734.211 of 72570
the Revised Code; 72571

(B) Certify to the board that the chiropractor remains in 72572
good standing with the board and has not engaged in any conduct 72573
for which the board may take action under division (C) of 72574
section 4734.31 of the Revised Code; 72575

(C) Pay a renewal fee in an amount determined by the board 72576
pursuant to rules adopted under ~~section 4734.10~~ Chapter 119. of 72577
the Revised Code. 72578

Sec. 4734.42. Pursuant to the state chiropractic board's 72579
investigative authority established under this chapter, the 72580
board shall develop and implement a quality intervention program 72581
designed to improve the practice and communication skills of 72582
individuals authorized to practice chiropractic under this 72583
chapter. In developing and implementing the quality intervention 72584
program, the board shall do all of the following: 72585

(A) Offer in appropriate cases as determined by the board 72586
an educational and assessment program pursuant to an 72587
investigation the board conducts under this section; 72588

(B) Select providers of educational and assessment 72589
services, including a quality intervention program panel of case 72590
reviewers; 72591

(C) Make referrals to educational and assessment service 72592
providers and approve individual educational programs 72593

recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual education program;

(D) Determine what constitutes successful completion of an individual education program and require further monitoring of the individual who completed the program or other action the board determines to be appropriate;

~~(E) Adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for implementing the quality intervention program.~~

Sec. 4735.10. (A) (1) The Ohio real estate commission may adopt ~~reasonable~~ rules in accordance with Chapter 119. of the Revised Code, ~~necessary for implementing the provisions of this chapter relating, but not limited to,~~ establish the following:

(a) The form and manner of filing applications for licensure;

(b) Times and form of examination for license;

(c) Placing an existing broker's license on deposit or a salesperson's license on an inactive status for an indefinite period;

(d) Specifying the process by which a licensee may resign the licensee's license;

(e) Defining any additional license status that the commission determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts;

(f) Clarification of the activities that require a license

under this chapter; 72622

(g) Permitting a broker to act as principal broker for 72623
more than one brokerage. 72624

(2) The commission shall adopt reasonable rules in 72625
accordance with Chapter 119. of the Revised Code, for 72626
implementing the provisions of this chapter relating to the 72627
following: 72628

(a) The issuance, renewal, suspension, and revocation of 72629
licenses, other sanctions that may be imposed for violations of 72630
this chapter, the conduct of hearings related to these actions, 72631
and the process of reactivating a license; 72632

(b) A three-year license and a three-year license renewal 72633
system; 72634

(c) Standards for the approval of the postlicensure 72635
courses as required by division (G) of section 4735.07 and 72636
division (J) of section 4735.09 of the Revised Code, courses of 72637
study required for licenses, courses offered in preparation for 72638
license examinations, or courses required as continuing 72639
education for licenses. 72640

(d) Guidelines to ensure that continuing education classes 72641
are open to all persons licensed under this chapter. The rules 72642
shall specify that an organization that sponsors a continuing 72643
education class may offer its members a reasonable reduction in 72644
the fees charged for the class. 72645

(e) Requirements for trust accounts and property 72646
management accounts. The rules shall specify that: 72647

(i) Brokerages engaged in the management of property for 72648
another may, pursuant to a written contract with the property 72649

owner, exercise signatory authority for withdrawals from 72650
property management accounts maintained in the name of the 72651
property owner. The exercise of authority for withdrawals does 72652
not constitute a violation of any provision of division (A) of 72653
section 4735.18 of the Revised Code. 72654

(ii) The interest earned on property management trust 72655
accounts maintained in the name of the property owner or the 72656
broker shall be payable to the property owner unless otherwise 72657
specified in a written contract. 72658

(f) Notice of renewal forms and filing deadlines; 72659

(g) Special assessments under division (A) of section 72660
4735.12 of the Revised Code. 72661

(B) The commission may adopt rules in accordance with 72662
Chapter 119. of the Revised Code establishing standards and 72663
guidelines with which the superintendent of real estate shall 72664
comply in the exercise of the following powers: 72665

(1) Appointment and recommendation of ancillary trustees 72666
under section 4735.05 of the Revised Code; 72667

(2) Rejection of names proposed to be used by 72668
partnerships, associations, limited liability companies, limited 72669
liability partnerships, and corporations, under division (B) of 72670
section 4735.06 of the Revised Code, including procedures for 72671
the application and approval of more than one trade name for a 72672
brokerage; 72673

(3) Acceptance and rejection of applications to take the 72674
broker and salesperson examinations and licensure; 72675

(4) Approval of applications of brokers to place their 72676
licenses in an inactive status and to become salespersons under 72677

section 4735.13 of the Revised Code;	72678
(5) Appointment of hearing examiners under section 119.09 of the Revised Code;	72679 72680
(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of examination, under sections 4735.27 and 4735.28 of the Revised Code;	72681 72682 72683 72684
(7) Qualification of foreign real estate under section 4735.25 of the Revised Code.	72685 72686
If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose.	72687 72688 72689 72690
(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or superintendent may require other proof of the honesty and truthfulness of any person named in an application for a real estate broker's or real estate salesperson's license before admitting the applicant to the examination or issuing a license.	72691 72692 72693 72694 72695 72696 72697 72698
Sec. 4737.045. (A) To register as a scrap metal dealer or a bulk merchandise container dealer with the director of public safety as required by division (B) of section 4737.04 of the Revised Code, a person shall do all of the following:	72699 72700 72701 72702
(1) Provide the name and street address of the dealer's place of business;	72703 72704
(2) Provide the name of the primary owner of the business,	72705

and of the manager of the business, if the manager is not the primary owner; 72706
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(3) Provide the electronic mail address of the business; 72708

(4) Provide confirmation that the dealer has the capabilities to electronically connect with the department of public safety for the purpose of sending and receiving information; 72709
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~~(5) Provide any other information required by the director in rules the director adopts pursuant to sections 4737.01 to 4737.045 of the Revised Code;~~ 72713
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~~(6) Pay an initial registration fee of two hundred dollars.~~ 72716
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(B) A person engaging in the business of a scrap metal dealer or a bulk merchandise container dealer in this state on or before September 28, 2012, shall register with the director not later than January 1, 2013. With respect to a person who commences engaging in the business of a scrap metal dealer or a bulk merchandise container dealer after September 28, 2012, the person shall register with the director pursuant to this section prior to commencing business as a scrap metal dealer or a bulk merchandise container dealer. 72718
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(C) A registration issued to a scrap metal dealer or a bulk merchandise container dealer pursuant to this section is valid for a period of one year. A dealer shall renew the registration in accordance with the rules adopted by the director and pay a renewal fee of one hundred fifty dollars to cover the costs of operating and maintaining the registry created pursuant to division (E) of this section. 72727
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(D) A scrap metal dealer or a bulk merchandise container 72734

dealer registered under this section shall prominently display a 72735
copy of the annual registration certificate received from the 72736
director pursuant to division (E) (2) of this section. 72737

(E) The director shall do all of the following: 72738

(1) Develop and implement, by January 1, 2014, and 72739
maintain as a registry a secure database for use by law 72740
enforcement agencies that is capable of all of the following: 72741

(a) Receiving and securely storing all of the information 72742
required by division (A) of this section and the daily 72743
transaction data that scrap metal dealers and bulk merchandise 72744
dealers are required to send pursuant to division (E) (1) of 72745
section 4737.04 of the Revised Code; 72746

(b) Providing secure search capabilities to law 72747
enforcement agencies for enforcement purposes; 72748

(c) Creating a link and retransmission capability for 72749
receipt of routine scrap theft alerts published by the institute 72750
of scrap recycling industries for transmission to dealers and 72751
law enforcement agencies in the state; 72752

(d) Making the electronic lists prepared pursuant to 72753
division (F) (2) of section 4737.04 of the Revised Code available 72754
through an electronic searchable format for individual law 72755
enforcement agencies and for dealers in the state; 72756

(e) Providing, without charge, interlink programming 72757
enabling the transfer of information to dealers. 72758

(2) Issue, reissue, or deny registration to dealers; 72759

(3) Adopt rules ~~to enforce sections 4737.01 to 4737.045 of~~ 72760
~~the Revised Code, rules establishing procedures to renew a~~ 72761
registration issued under this section, rules for the format and 72762

maintenance for the records required under division (A) of 72763
section 4737.012 of the Revised Code or division (C) of section 72764
4737.04 of the Revised Code, and rules regarding the delivery of 72765
the report required by division (E) (1) of section 4737.04 of the 72766
Revised Code to the registry, which shall be used exclusively by 72767
law enforcement agencies. 72768

(F) A scrap metal dealer or bulk merchandise container 72769
dealer may search, modify, or update only the dealer's own 72770
business data contained within the registry established in 72771
division (E) of this section. 72772

(G) All fees received by the director pursuant to this 72773
section and division (F) of section 4737.99 of the Revised Code 72774
shall be used to develop and maintain the registry required 72775
under this section and for the department of public safety's 72776
operating expenses. The fees shall be deposited into the 72777
infrastructure protection fund which is hereby created in the 72778
state treasury. 72779

Sec. 4738.11. (A) The motor vehicle salvage dealer's 72780
licensing board shall adopt rules prescribing the physical 72781
characteristics of facilities used by motor vehicle salvage 72782
dealers, salvage motor vehicle auctions, and salvage motor 72783
vehicle pools, which shall include requirements for fencing or 72784
otherwise screening the view of the facilities to at least the 72785
extent required for junkyards by sections 4737.07 and 4737.09 of 72786
the Revised Code. Such rules shall be consistent with the 72787
standards adopted by the director of transportation pursuant to 72788
the "Highway Beautification Act of 1965," 79 Stat. 1030, 23 72789
U.S.C.A. 361, as amended. Enforcement of the screening 72790
regulations of this division shall be subject to approval, 72791
supervision, and action of the director of transportation. The 72792

director may enforce the screening regulations of this section 72793
if he considers that such regulations are not adequately 72794
enforced. 72795

(B) The board may make ~~such other reasonable rules as are~~ 72796
~~necessary to carry out and effect sections 4738.01 to 4738.12 of~~ 72797
~~the Revised Code, and further rules as are necessary~~ relating to 72798
the time, place, and manner of conducting hearings on the 72799
issuance, suspension, or revocation of licenses. The board may 72800
hear testimony in matters relating to the duties imposed upon it 72801
and the president and the secretary of the board may administer 72802
oaths. The board may require any proof it deems advisable and 72803
may require the attendance of witnesses and the production of 72804
books, records, and papers as it desires at any hearing before 72805
it or relating to any matter which it has authority to 72806
investigate. The board may, through its secretary, issue a 72807
subpoena for any witness, or a subpoena duces tecum for the 72808
production of any books, records, and papers, directed to the 72809
sheriff of the county where a witness resides or is found, which 72810
subpoena shall be served and returned in the same manner as a 72811
subpoena in a criminal case. 72812

The fees of the sheriff shall be the same as that allowed 72813
in the court of common pleas in criminal cases. Witnesses shall 72814
be paid the fees and mileage provided for under section 119.094 72815
of the Revised Code. The fees and mileage shall be paid in the 72816
same manner as other expenses of the board. 72817

Depositions of witnesses residing within or without the 72818
state may be taken by the board in the manner prescribed for 72819
like depositions in civil actions in the court of common pleas. 72820
In any case of disobedience to or neglect of any subpoena served 72821
on any person, or the refusal of any witness to testify to any 72822

matter regarding which he may lawfully be interrogated, the 72823
court of common pleas of any county where disobedience, neglect, 72824
or refusal occurs, or any judge thereof on application of the 72825
secretary of the board, shall compel obedience by attachment 72826
proceedings for contempt as in the case of disobedience of a 72827
subpoena issued from the court or a refusal to testify therein. 72828

Sec. 4740.04. The administrative section of the Ohio 72829
construction industry licensing board is responsible for the 72830
administration of this chapter and shall do all of the 72831
following: 72832

(A) Schedule the contractor examinations each of the other 72833
sections of the board directs. Each type of examination shall be 72834
held at least four times per year. 72835

(B) Select and contract with one or more persons to do all 72836
of the following relative to the examinations: 72837

(1) Prepare, administer, score, and maintain the 72838
confidentiality of the examinations; 72839

(2) Be responsible for all the expenses required to 72840
fulfill division (B)(1) of this section; 72841

(3) Charge an applicant a fee in an amount the 72842
administrative section of the board authorizes for administering 72843
the examination. 72844

(C) Issue and renew licenses as follows: 72845

(1) Issue a license to any individual who the appropriate 72846
specialty section of the board determines is qualified pursuant 72847
to section 4740.06 of the Revised Code to hold a license and has 72848
attained, within the twelve months preceding the individual's 72849
application for licensure, a score on the examination that the 72850

appropriate specialty section authorizes for the licensed trade. 72851

(a) Each license shall include the contractor's name, 72852
license number, expiration date, and the name of the contracting 72853
company associated with the individual, as applicable. 72854

(b) Each license issued to an individual who holds more 72855
than one valid license shall contain the same license number and 72856
expiration date as the original license issued to that 72857
individual. 72858

(2) Renew licenses for individuals who meet the renewal 72859
requirements of section 4740.06 of the Revised Code. 72860

(D) Make an annual written report to the director of 72861
commerce on proceedings had by or before the board for the 72862
previous year and make an annual statement of all money received 72863
and expended by the board during the year; 72864

(E) Keep a record containing the name, address, the date 72865
on which the board issues or renews a license to, and the 72866
license number of, every heating, ventilating, and air 72867
conditioning contractor, refrigeration contractor, electrical 72868
contractor, plumbing contractor, and hydronics contractor issued 72869
a license pursuant to this chapter; 72870

(F) Regulate a contractor's use and display of a license 72871
issued pursuant to this chapter and of any information contained 72872
in that license; 72873

(G) Adopt rules in accordance with Chapter 119. of the 72874
Revised Code ~~as necessary to properly discharge the~~ 72875
~~administrative section's duties under this chapter. The rules~~ 72876
~~shall include, but not be limited to, establish the following:~~ 72877

(1) Application procedures for examinations; 72878

(2) Specifications for continuing education requirements for license renewal that address all of the following:	72879 72880
(a) A requirement that an individual who holds any number of valid and unexpired licenses accrue a total of ten hours of continuing education courses per year;	72881 72882 72883
(b) Fees the board charges to persons who provide continuing education courses, in an amount of twenty-five dollars annually for each person approved to provide courses, not more than ten dollars plus one dollar per credit hour for each course submitted to a specialty section of the board for approval according to division (F) of section 4740.05 of the Revised Code, and one dollar per credit hour of instruction per attendee;	72884 72885 72886 72887 72888 72889 72890 72891
(c) A provision limiting approval of continuing education courses to one year.	72892 72893
(3) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.	72894 72895
(H) Adopt any continuing education curriculum as the other sections of the board establish or approve pursuant to division (F) of section 4740.05 of the Revised Code;	72896 72897 72898
(I) Keep a record of its proceedings and do all things necessary to carry out this chapter.	72899 72900
Sec. 4741.03. (A) The state veterinary medical licensing board shall meet at least once in each calendar year and may hold additional meetings as often as it considers necessary to conduct the business of the board. The president of the board may call special meetings, and the executive director shall call special meetings upon the written request of three members of the board. The board shall organize by electing a president and	72901 72902 72903 72904 72905 72906 72907

vice-president from its veterinarian members and such other 72908
officers as the board prescribes by rule. Each officer shall 72909
serve for a term specified by board rule or until a successor is 72910
elected and qualified. A quorum of the board consists of four 72911
members of which at least three are members who are 72912
veterinarians. The concurrence of four members is necessary for 72913
the board to take any action. 72914

(B) The board may appoint a person, not one of its 72915
members, to serve as its executive director. The executive 72916
director is in the unclassified service and serves at the 72917
pleasure of the board. The executive director shall serve as the 72918
board's secretary-treasurer ex officio. The board may employ 72919
additional employees for professional, technical, clerical, and 72920
special work as it considers necessary. The executive director 72921
shall give a surety bond to the state in the sum the board 72922
requires, conditioned upon the faithful performance of the 72923
executive director's duties. The board shall pay the cost of the 72924
bond. The executive director shall keep a complete accounting of 72925
all funds received and of all vouchers presented by the board to 72926
the director of budget and management for the disbursement of 72927
funds. The president or executive director shall approve all 72928
vouchers of the board. All money received by the board shall be 72929
credited to the occupational licensing and regulatory fund. 72930

(C) In addition to any other duty required under this 72931
chapter, the board shall do all of the following: 72932

(1) Prescribe a seal; 72933

(2) Review the results of ~~board-approved~~ board-approved, 72934
nationally recognized examinations taken by applicants in 72935
accordance with rules adopted by the board. 72936

- (3) Keep a record of all of its meetings and proceedings; 72937
- (4) Maintain a register that records all applicants for a certificate of license or a temporary permit, all persons who have been denied a license or permit, all persons who have been granted or reissued a license or permit, and all persons whose license or permit has been revoked or suspended. The register shall also include a record of persons licensed prior to October 17, 1975. 72938
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- (5) Maintain a register, in such form as the board determines by rule, of all colleges and universities that teach veterinary medicine and veterinary technology that are approved by the board; 72945
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- (6) Enforce this chapter, and for that purpose, make investigations relative as provided in section 4741.26 of the Revised Code; 72949
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- (7) Issue licenses and permits to persons who meet the qualifications set forth in this chapter; 72952
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- (8) Approve colleges and universities which meet the board's requirements for veterinary medicine and associated fields of study and withdraw or deny, after an adjudication conducted in accordance with Chapter 119. of the Revised Code, approval from colleges and universities which fail to meet those requirements; 72954
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- (9) Adopt rules, in accordance with Chapter 119. of the Revised Code, which are necessary for its government ~~and for the administration and enforcement of this chapter.~~ 72960
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- (D) The board may do all of the following: 72963
- (1) Subpoena witnesses and require their attendance and 72964

testimony, and require the production by witnesses of books, 72965
papers, public records, animal patient records, and other 72966
documentary evidence and examine them, in relation to any matter 72967
that the board has authority to investigate, inquire into, or 72968
hear. Except for any officer or employee of the state or any 72969
political subdivision of the state, the treasurer of state shall 72970
pay all witnesses in any proceeding before the board, upon 72971
certification from the board, witness fees and mileage in the 72972
amount provided for under section 119.094 of the Revised Code. 72973

(2) Examine and inspect books, papers, public records, 72974
animal patient records, and other documentary evidence at the 72975
location where the books, papers, records, and other evidence 72976
are normally stored or maintained. 72977

(E) All registers, books, and records kept by the board 72978
are the property of the board and are open for public 72979
examination and inspection at all reasonable times in accordance 72980
with section 149.43 of the Revised Code. The registers, books, 72981
and records are prima-facie evidence of the matters contained in 72982
them. 72983

Sec. 4741.221. ~~(A)~~—The state veterinary medical licensing 72984
board may, prior to or after a hearing conducted under section 72985
4741.22 of the Revised Code, and in lieu of taking or in 72986
addition to any action it may take under that section, refer any 72987
veterinarian or registered veterinarian technician: 72988

~~(1)~~—(A) Who experiences alcohol or substance abuse, to the 72989
Ohio veterinary medical association special assistance 72990
committee, the Ohio physicians health program, or an advocacy 72991
group approved by the board, for support and assistance in the 72992
coordination of the treatment of that veterinarian or 72993
technician; 72994

~~(2)(B)~~ Who has violated any provision of this chapter for 72995
any offense for which the board normally would not seek the 72996
revocation or suspension of the person's license or 72997
registration, to the Ohio veterinary medical association special 72998
committee on peer review. 72999

~~(B) To implement this section, the board shall adopt rules 73000
in accordance with Chapter 119. of the Revised Code. 73001~~

Sec. 4741.45. The state veterinary medical licensing 73002
board, in accordance with Chapter 119. of the Revised Code, 73003
shall adopt rules that do all of the following: 73004

(A) Define "large animal veterinary services," "veterinary 73005
services necessary to implement or enforce the law," and 73006
"veterinary services necessary to protect public health"; 73007

(B) Designate veterinary resource shortage areas comprised 73008
of areas in this state that have limited access to each of the 73009
following: 73010

(1) Large animal veterinary services; 73011

(2) Veterinary services necessary to implement or enforce 73012
the law; 73013

(3) Veterinary services necessary to protect public 73014
health. 73015

The designations may apply to a geographic area, one or 73016
more facilities within a particular area, or a population group 73017
of animals within a particular area. 73018

(C) Establish priorities among veterinary resource 73019
shortage areas for use in recruiting veterinarians under the 73020
veterinarian loan repayment program; 73021

(D) Establish priorities for use in determining 73022
eligibility among applicants for participation in the 73023
veterinarian loan repayment program. 73024

~~(E) Establish any other requirement or procedure that is 73025
necessary to implement and administer sections 4741.40 to 73026
4741.47 of the Revised Code. 73027~~

In adopting the rules, the board shall consult with the 73028
state veterinarian. 73029

Sec. 4741.51. ~~(A) The state veterinary medical licensing 73030
board, in accordance with Chapter 119. of the Revised Code, 73031
shall adopt rules necessary to implement and administer for 73032
purposes of the veterinarian student debt assistance program. 73033~~

~~(B) Rules adopted under division (A) of this section shall 73034
to do all of the following: 73035~~

~~(1) (A) Establish procedures for the selection of 73036
veterinarian student debt assistance recipients, including the 73037
development of a lottery system for selecting who, from the list 73038
of eligible veterinarians, will receive assistance. The rules 73039
shall require that the selection of recipients occur in each 73040
odd-numbered calendar year. 73041~~

~~(2) (B) Provide for a method to determine the amount that 73042
each recipient of veterinarian student debt assistance receives 73043
if selected through the lottery system. The rules shall require 73044
that all recipients receive the same amount of assistance in 73045
each year in which assistance is awarded. The rules also shall 73046
require that the amount awarded to each recipient is not less 73047
than five thousand dollars and not more than ten thousand 73048
dollars. 73049~~

~~(3) (C) Establish the types of charitable veterinarian 73050~~

services that qualify for application to and participation in 73051
the program, including, but not limited to, spay and neutering 73052
services. The rules shall require an applicant to complete 73053
charitable veterinarian services in service to a nonprofit 73054
organization, a humane society established under Chapter 1717. 73055
of the Revised Code, a law enforcement agency, or a state, 73056
local, or federal government entity. The rules also shall 73057
require each recipient of veterinarian student debt assistance 73058
to submit information to the board that details the charitable 73059
veterinarian services completed by the veterinarian. 73060

~~(4)~~ (D) Establish the minimum amount of time that a 73061
veterinarian must have performed charitable veterinarian 73062
services to be eligible to apply to the program. The number of 73063
hours shall be not less than twelve. 73064

~~(5)~~ (E) Establish the minimum period of time, not to exceed 73065
two years, that a veterinarian must agree to reside in this 73066
state under a contract entered into under section 4741.54 of the 73067
Revised Code; 73068

~~(6)~~ (F) Provide for the inclusion of information regarding 73069
the program on application forms for both an initial veterinary 73070
license and a renewal of a veterinary license; 73071

~~(7)~~ Establish any other procedures and requirements that 73072
the board determines is necessary to administer and implement 73073
the program. 73074

Sec. 4743.041. (A) As used in this section: 73075

"Active guard and reserve" has the meaning defined in 10 73076
U.S.C. 101. 73077

"Military duty" includes service in the uniformed services 73078
on active duty, in the active guard and reserve, and as a 73079

military technician dual status under 10 U.S.C. 10216. 73080

"Uniformed services" has the meaning defined in section 73081
5747.01 of the Revised Code. 73082

(B) Pursuant to division (C) of section 4743.04 of the 73083
Revised Code, a department, agency, or office of this state 73084
shall issue a temporary license or certificate to practice a 73085
trade or profession to an individual, provided that all of the 73086
following qualifications are met: 73087

(1) The individual holds a valid license or certificate to 73088
practice the trade or profession issued by any other state or 73089
jurisdiction; 73090

(2) The individual is in good standing in the state or 73091
jurisdiction of licensure or certification; 73092

(3) The individual presents adequate proof to the 73093
department, agency, or office of this state that the individual 73094
or the individual's spouse is on military duty in this state; 73095
and 73096

(4) The individual complies with sections 4776.01 to 73097
4776.04 of the Revised Code if a department, agency, or office 73098
of this state requires an applicant under the law governing the 73099
applicable trade or profession to submit to a criminal records 73100
check to receive a license or certificate. 73101

(C) A department, agency, or office of this state may, 73102
under this section, issue a regular license or certificate in 73103
lieu of issuing a temporary license or certificate, provided 73104
that the applicant meets the requirements of this section, and 73105
provided that the regular license is issued by the deadline 73106
specified in division (D) of this section. 73107

(D) If the department, agency, or office of this state requires an individual under the law governing the applicable trade or profession to submit to a criminal records check to receive a license or certificate, and the individual applies for a license or certificate under this section, the department, agency, or office of this state shall, within twenty-four hours after receiving the report under division (A) of section 4776.04 of the Revised Code, notify the applicant that the department, agency, or office of this state has received the results of a criminal records check. A department, agency, or office of this state shall issue a temporary license or certificate or a regular license under this section, provided that the applicant meets the requirements of this section, within thirty days of having received an application, or, if the applicant is subject to a criminal records check, within fourteen days of having received the results of a criminal records check. If the department, agency, or office of this state finds that the individual is under investigation by the licensing agency of any other state or jurisdiction, the department, agency, or office of this state may postpone issuing the license or certificate until the investigation is complete and the licensing agency of the other state or jurisdiction confirms that the individual is in good standing. The department, agency, or office of this state shall verify the standing of the license or certificate issued by another state or jurisdiction when the temporary license is up for renewal. No temporary license shall be valid for a period of more than six years.

(E) A department, agency, or office of this state shall, in accordance with Chapter 119. of the Revised Code, deny an individual a temporary license or certificate issued under this section or revoke an individual's temporary license or

certificate issued under this section if any of the following 73139
circumstances occur: 73140

(1) The individual's license or certificate issued by 73141
another state or jurisdiction expires or is revoked, or the 73142
individual is not in good standing; 73143

(2) With respect to an individual who was eligible for a 73144
temporary license under this section as the spouse of an 73145
individual on military duty, six months have elapsed since the 73146
divorce, dissolution, or annulment of the marriage; 73147

(3) The individual is disqualified from obtaining a 73148
license in the trade or profession because of a conviction, 73149
judicial finding of guilt, or plea of guilty to a disqualifying 73150
criminal offense specified on the list the department, agency, 73151
or office of this state makes available pursuant to division (C) 73152
of section 9.78 of the Revised Code. 73153

(F) An individual with a temporary license or certificate 73154
or a regular license issued under this section may practice the 73155
trade or profession in this state only within the scope and 73156
practice that is permitted under Ohio law and that does not 73157
exceed the individual's training. 73158

(G) Notwithstanding any other provision of the Revised 73159
Code, a department, agency, or office of this state shall waive 73160
all fees associated with the issuance of a temporary license or 73161
certificate issued under this section. 73162

~~(H) Each department, agency, or office of this state that 73163
issues a license or certificate to practice a trade or 73164
profession shall adopt rules under Chapter 119. of the Revised 73165
Code as necessary to implement this section. 73166~~

~~(I) Each department, agency, or office of this state that 73167~~

issues a license or certificate to practice a trade or 73168
profession, shall, upon the conclusion of the state fiscal year, 73169
prepare a report on the number and type of temporary licenses or 73170
certificates that were issued during the fiscal year under this 73171
section. The report shall be provided to the director of 73172
veterans services not later than thirty days after the end of 73173
the fiscal year. The director shall compile the reports and make 73174
them available to the public. 73175

~~(J)~~(I) A license or certificate issued under this section 73176
shall be considered a license issued under the laws regulating 73177
the practice of the applicable occupation or profession in this 73178
state. Provisions of law applicable to a license issued to an 73179
applicant who does not obtain a license under this section apply 73180
in the same manner to licenses issued under this section. 73181

~~(K)~~(J) Chapter 4796. of the Revised Code does not apply to 73182
a license or certificate issued under this section. 73183

~~(I)~~(K) A department, agency, or office of this state 73184
shall not require an individual who meets the requirements of 73185
this section to apply for the license or certificate under 73186
Chapter 4796. of the Revised Code. However, the individual may 73187
elect to apply for the license or certificate under Chapter 73188
4796. of the Revised Code. 73189

Sec. 4743.09. (A) As used in this section: 73190

(1) "Durable medical equipment" means a type of equipment, 73191
such as a remote monitoring device utilized by a physician, 73192
physician assistant, or advanced practice registered nurse in 73193
accordance with this section, that can withstand repeated use, 73194
is primarily and customarily used to serve a medical purpose, 73195
and generally is not useful to a person in the absence of 73196

illness or injury and, in addition, includes repair and	73197
replacement parts for the equipment.	73198
(2) "Facility fee" means any fee charged or billed for	73199
telehealth services provided in a facility that is intended to	73200
compensate the facility for its operational expenses and is	73201
separate and distinct from a professional fee.	73202
(3) "Health care professional" means:	73203
(a) An advanced practice registered nurse, as defined in	73204
section 4723.01 of the Revised Code;	73205
(b) An optometrist licensed under Chapter 4725. of the	73206
Revised Code to practice optometry;	73207
(c) A pharmacist licensed under Chapter 4729. of the	73208
Revised Code;	73209
(d) A physician assistant licensed under Chapter 4730. of	73210
the Revised Code;	73211
(e) A physician licensed under Chapter 4731. of the	73212
Revised Code to practice medicine and surgery, osteopathic	73213
medicine and surgery, or podiatric medicine and surgery;	73214
(f) A psychologist, independent school psychologist, or	73215
school psychologist licensed under Chapter 4732. of the Revised	73216
Code;	73217
(g) A chiropractor licensed under Chapter 4734. of the	73218
Revised Code;	73219
(h) An audiologist or speech-language pathologist licensed	73220
under Chapter 4753. of the Revised Code;	73221
(i) An occupational therapist or physical therapist	73222
licensed under Chapter 4755. of the Revised Code;	73223

(j) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code;	73224 73225 73226
(k) A professional clinical counselor, independent social worker, independent marriage and family therapist, art therapist, or music therapist licensed under Chapter 4757. of the Revised Code;	73227 73228 73229 73230
(l) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;	73231 73232
(m) A dietitian licensed under Chapter 4759. of the Revised Code;	73233 73234
(n) A respiratory care professional licensed under Chapter 4761. of the Revised Code;	73235 73236
(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;	73237 73238
(p) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code;	73239 73240
(q) A certified mental health assistant licensed under Chapter 4772. of the Revised Code.	73241 73242
(4) "Health care professional licensing board" means any of the following:	73243 73244
(a) The board of nursing;	73245
(b) The state vision professionals board;	73246
(c) The state board of pharmacy;	73247
(d) The state medical board;	73248
(e) The state board of psychology;	73249

(f) The state chiropractic board;	73250
(g) The state speech and hearing professionals board;	73251
(h) The Ohio occupational therapy, physical therapy, and athletic trainers board;	73252 73253
(i) The counselor, social worker, and marriage and family therapist board;	73254 73255
(j) The chemical dependency professionals board.	73256
(5) "Health plan issuer" has the same meaning as in section 3922.01 of the Revised Code.	73257 73258
(6) "Telehealth services" means health care services provided through the use of information and communication technology by a health care professional, within the professional's scope of practice, who is located at a site other than the site where either of the following is located:	73259 73260 73261 73262 73263
(a) The patient receiving the services;	73264
(b) Another health care professional with whom the provider of the services is consulting regarding the patient.	73265 73266
(B) (1) Each health care professional licensing board shall permit a health care professional under its jurisdiction to provide the professional's services as telehealth services in accordance with this section. Subject to division (B) (2) of this section, a board may adopt any rules it considers necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. Any such rules adopted by a board are not subject to the requirements of division (F) of section 121.95 of the Revised Code.	73267 73268 73269 73270 73271 73272 73273 73274 73275 73276

(2) (a) Except as provided in division (B) (2) (b) of this section, ~~the rules adopted by a health care professional licensing board may adopt rules under this section shall~~ Chapter 119. of the Revised Code to establish a standard of care for telehealth services that is equal to the standard of care for in-person services.

(b) Subject to division (B) (2) (c) of this section, a board may require an initial in-person visit prior to prescribing a schedule II controlled substance to a new patient, equivalent to applicable state and federal requirements.

(c) (i) A board shall not require an initial in-person visit for a new patient whose medical record indicates that the patient is receiving hospice or palliative care, who is receiving medication-assisted treatment or any other medication for opioid-use disorder, who is a patient with a mental health condition, or who, as determined by the clinical judgment of a health care professional, is in an emergency situation.

(ii) Notwithstanding division (B) of section 3796.01 of the Revised Code, medical marijuana shall not be considered a schedule II controlled substance.

(C) With respect to the provision of telehealth services, all of the following apply:

(1) A health care professional may use synchronous or asynchronous technology to provide telehealth services to a patient during an initial visit if the appropriate standard of care for an initial visit is satisfied.

(2) A health care professional may deny a patient telehealth services and, instead, require the patient to undergo an in-person visit.

(3) When providing telehealth services in accordance with this section, a health care professional shall comply with all requirements under state and federal law regarding the protection of patient information. A health care professional shall ensure that any username or password information and any electronic communications between the professional and a patient are securely transmitted and stored.

(4) A health care professional may use synchronous or asynchronous technology to provide telehealth services to a patient during an annual visit if the appropriate standard of care for an annual visit is satisfied.

(5) In the case of a health care professional who is a physician, physician assistant, or advanced practice registered nurse, both of the following apply:

(a) The professional may provide telehealth services to a patient located outside of this state if permitted by the laws of the state in which the patient is located.

(b) The professional may provide telehealth services through the use of medical devices that enable remote monitoring, including such activities as monitoring a patient's blood pressure, heart rate, or glucose level.

(D) When a patient has consented to receiving telehealth services, the health care professional who provides those services is not liable in damages under any claim made on the basis that the services do not meet the same standard of care that would apply if the services were provided in-person.

(E) (1) A health care professional providing telehealth services shall not charge a patient or a health plan issuer covering telehealth services under section 3902.30 of the

Revised Code any of the following: a facility fee, an origination fee, or any fee associated with the cost of the equipment used at the provider site to provide telehealth services.

A health care professional providing telehealth services may charge a health plan issuer for durable medical equipment used at a patient or client site.

(2) A health care professional may negotiate with a health plan issuer to establish a reimbursement rate for fees associated with the administrative costs incurred in providing telehealth services as long as a patient is not responsible for any portion of the fee.

(3) A health care professional providing telehealth services shall obtain a patient's consent before billing for the cost of providing the services, but the requirement to do so applies only once.

(F) Nothing in this section limits or otherwise affects any other provision of the Revised Code that requires a health care professional who is not a physician to practice under the supervision of, in collaboration with, in consultation with, or pursuant to the referral of another health care professional.

(G) It is the intent of the general assembly, through the amendments to this section, to expand access to and investment in telehealth services in this state in congruence with the expansion and investment in telehealth services made during the COVID-19 pandemic.

Sec. 4745.04. (A) As used in this section:

(1) "Indigent and uninsured person" and "volunteer" have the same meanings as in section 2305.234 of the Revised Code.

(2) "Licensing agency that licenses health care professionals" means all of the following:	73364 73365
(a) The state dental board established under Chapter 4715. of the Revised Code;	73366 73367
(b) The board of nursing established under Chapter 4723. of the Revised Code;	73368 73369
(c) The state vision professionals board established under Chapter 4725. of the Revised Code;	73370 73371
(d) The state board of pharmacy established under Chapter 4729. of the Revised Code;	73372 73373
(e) The state medical board established under Chapter 4731. of the Revised Code;	73374 73375
(f) The state board of psychology established under Chapter 4732. of the Revised Code;	73376 73377
(g) The state chiropractic board established under Chapter 4734. of the Revised Code;	73378 73379
(h) The Ohio occupational therapy, physical therapy, and athletic trainers board established under Chapter 4755. of the Revised Code;	73380 73381 73382
(i) The counselor, social worker, and marriage and family therapist board established under Chapter 4757. of the Revised Code;	73383 73384 73385
(j) The chemical dependency professionals board established under Chapter 4758. of the Revised Code;	73386 73387
(k) The state board of emergency medical services established under Chapter 4765. of the Revised Code;	73388 73389
(l) The state speech and hearing professionals board	73390

established under Chapter 4744. of the Revised Code; 73391

(m) Any other licensing agency that considers its 73392
licensees to be health care professionals. 73393

(B) Notwithstanding any provision of the Revised Code to 73394
the contrary, a licensing agency that licenses health care 73395
professionals shall apply toward the satisfaction of a portion 73396
of a licensee's continuing education requirement the provision 73397
of health care services if all of the following apply: 73398

(1) The licensing agency that licenses health care 73399
professionals requires a licensee to complete continuing 73400
education as a condition of having a license renewed by the 73401
agency. 73402

(2) The licensee provides the health care services to an 73403
indigent and uninsured person. 73404

(3) The licensee provides the health care services as a 73405
volunteer. 73406

(4) The licensee satisfies the requirements of section 73407
2305.234 of the Revised Code to qualify for the immunity from 73408
liability granted under that section. 73409

(5) The health care services provided are within the scope 73410
of authority of the licensee renewing the license. 73411

(C) (1) Except as provided in division (C) (2) of this 73412
section, a licensing agency that licenses health care 73413
professionals shall permit a licensee to satisfy up to one-third 73414
of the licensee's continuing education requirement by providing 73415
health care services as a volunteer. A licensing agency that 73416
licenses health care professionals shall permit a licensee to 73417
earn continuing education credits at the rate of one credit hour 73418

for each sixty minutes spent providing health care services as a 73419
volunteer. 73420

(2) In the case of a person holding a license to practice 73421
medicine and surgery, osteopathic medicine and surgery, or 73422
podiatric medicine and surgery, the state medical board shall 73423
permit the person to satisfy not more than ten hours of the 73424
person's continuing education requirement by providing health 73425
care services as a volunteer. The board shall permit a licensee 73426
to earn continuing education credits at the rate of one credit 73427
hour for every five hours spent providing health care services 73428
as a volunteer. 73429

~~(D) A licensing agency that licenses health care 73430
professionals shall adopt rules as necessary to implement this 73431
section. The rules shall be adopted in accordance with Chapter 73432
119. of the Revised Code. 73433~~

~~(E) Continuing education credit received under this 73434
section for providing health care services is not compensation 73435
or any other form of remuneration for purposes of section 73436
2305.234 of the Revised Code and does not make the provider of 73437
those services ineligible for the immunity from liability 73438
granted under that section. 73439~~

Sec. 4747.04. (A) The state speech and hearing 73440
professionals board shall: 73441

(1) Establish the nature and scope of qualifying 73442
examinations in accordance with section 4747.08 of the Revised 73443
Code; 73444

(2) Determine whether persons holding similar valid 73445
licenses from other jurisdictions other than other states shall 73446
be required to take and successfully pass the appropriate 73447

qualifying examination as a condition for licensing in this state; 73448
73449

(3) Review complaints and conduct investigations in accordance with section 4747.13 of the Revised Code and hold any hearings that are necessary to carry out this chapter; 73450
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(4) Determine and specify the length of time each license that is suspended or revoked shall remain suspended or revoked; 73453
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(5) Deposit all payments collected under this chapter into the state treasury to the credit of the occupational licensing and regulatory fund created in section 4743.05 of the Revised Code; 73455
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(6) Establish a list of disqualifying offenses for licensure as a hearing aid dealer or fitter, or for a hearing aid dealer or fitter trainee permit, pursuant to sections 9.79, 4747.05, 4747.10, 4747.12, and 4776.10 of the Revised Code. 73459
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(B) The board shall adopt ~~reasonable~~ rules, in accordance with Chapter 119. of the Revised Code, ~~necessary for the administration of this chapter. The board shall~~ that include all of the following ~~in those rules~~: 73463
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(1) The amount of any fees required under this chapter; 73467

(2) The information to be included in a hearing aid receipt provided by a licensed hearing aid dealer or fitter to a person under section 4747.09 of the Revised Code; 73468
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(3) The amount of time a licensed hearing aid dealer or fitter or trainee permit holder has to provide the notice of a change in address or addresses required under section 4747.11 of the Revised Code and any other requirements relating to the notice; 73471
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(4) Any additional conduct for which the board may 73476
discipline a licensee or permit holder under section 4747.12 of 73477
the Revised Code. 73478

(C) Nothing in this section shall be interpreted as 73479
granting to the board the right to restrict advertising which is 73480
not false or misleading, or to prohibit or in any way restrict a 73481
hearing aid dealer or fitter from renting or leasing space from 73482
any person, firm or corporation in a mercantile establishment 73483
for the purpose of using such space for the lawful sale of 73484
hearing aids or to prohibit a mercantile establishment from 73485
selling hearing aids if the sale would be otherwise lawful under 73486
this chapter. 73487

Sec. 4749.02. The director of public safety shall 73488
administer this chapter, and for that purpose, may appoint 73489
~~employees and adopt rules that the director considers necessary.~~ 73490

The director shall implement electronic licensing and 73491
registration procedures under this chapter not later than 73492
December 31, 2006. The application procedures in effect on ~~the~~ 73493
~~effective date of this amendment~~ June 29, 2005, shall continue 73494
until such time as electronic licensing and registration 73495
procedures are implemented. 73496

Sec. 4749.08. (A) No class A, B, or C licensee, or 73497
registered employee of a class A, B, or C licensee shall be 73498
considered, because of licensure or registration under this 73499
chapter, a law enforcement officer for any purpose. Nothing in 73500
this chapter shall be construed as granting the right to carry a 73501
concealed weapon. 73502

(B) ~~The rules of the department of public safety adopted~~ 73503
~~for the administration of this chapter shall include provisions~~ 73504

adopt rules to assure that any uniform or identification card 73505
shall be so designed as to avoid confusion of a private 73506
investigator, security guard provider, or registered employee 73507
with any law enforcement officer in this state. 73508

Sec. 4751.03. There is hereby created in the state 73509
treasury the board of executives of long-term services and 73510
supports fund. The fund shall consist of the amounts the board 73511
of executives of long-term services and supports collects under 73512
this chapter as fees, civil penalties, and fines. The board 73513
shall use the money in the fund to administer and enforce this 73514
chapter ~~and the rules adopted under section 4751.04 of the~~ 73515
~~Revised Code.~~ Investment earnings of the fund shall be credited 73516
to the fund. 73517

Sec. 4751.10. No person shall knowingly do any of the 73518
following: 73519

(A) Operate a nursing home unless it is under the 73520
supervision of an administrator whose principal occupation is 73521
nursing home administration or hospital administration and who 73522
is a licensed nursing home administrator; 73523

(B) Practice or offer to practice nursing home 73524
administration unless the person is a licensed nursing home 73525
administrator; 73526

(C) Use any of the following unless the person is a 73527
licensed nursing home administrator: 73528

(1) The title "licensed nursing home administrator," 73529
"nursing home administrator," "licensed assistant nursing home 73530
administrator," or "assistant nursing home administrator"; 73531

(2) The acronym "LNHA," "L.N.H.A.," "NHA," "N.H.A.," 73532
"LANHA," "L.A.N.H.A.," "ANHA," or "A.N.H.A." after the person's 73533

name; 73534

(3) Any other words, letters, signs, cards, or devices 73535
that tend to indicate or imply that the person is a licensed 73536
nursing home administrator. 73537

(D) Use any of the following unless the person is a 73538
licensed health services executive: 73539

(1) The title "licensed health services executive" or 73540
"health services executive"; 73541

(2) The acronym "LHSE," "L.H.S.E.," "HSE," or "H.S.E." 73542
after the person's name; 73543

(3) Any other words, letters, signs, cards, or devices 73544
that tend to indicate or imply that the person is a licensed 73545
health services executive. 73546

(E) Sell, fraudulently furnish, fraudulently obtain, or 73547
aid or abet another person in selling, fraudulently furnishing, 73548
or fraudulently obtaining either of the following: 73549

(1) A nursing home administrator license; 73550

(2) A health services executive license. 73551

(F) Otherwise violate any of the provisions of this 73552
~~chapter or the rules adopted under section 4751.04 of the~~ 73553
~~Revised Code.~~ 73554

Sec. 4751.15. The board of executives of long-term 73555
services and supports shall administer, or contract with a 73556
government or private entity to administer, examinations that an 73557
individual must pass to obtain a nursing home administrator 73558
license under section 4751.20 of the Revised Code. If the board 73559
contracts with a government or private entity to administer the 73560

examinations, the contract may authorize the entity to collect 73561
and keep, as all or part of the entity's compensation under the 73562
contract, any fee an individual pays to take the examination. 73563
The entity is not required to deposit the fee into the state 73564
treasury. 73565

To be admitted to an examination administered under this 73566
section, an individual must pay the examination fee charged by 73567
the board or government or private entity. If an individual 73568
fails three times to pass the examination, the individual, 73569
before being admitted to the examination a subsequent time, also 73570
must satisfy any education requirements, experience 73571
requirements, or both, that may be prescribed in rules adopted 73572
under ~~section 4751.04~~ Chapter 119. of the Revised Code in 73573
addition to any education requirements or experience 73574
requirements that must be satisfied to obtain a nursing home 73575
administrator license under section 4751.20 of the Revised Code. 73576

Sec. 4751.20. (A) Except as provided in section 4751.201 73577
of the Revised Code, and subject to section 4751.32 of the 73578
Revised Code, the board of executives of long-term services and 73579
supports shall issue a nursing home administrator license to an 73580
individual under this section if all of the following 73581
requirements are satisfied: 73582

(1) The individual has submitted to the board a completed 73583
application for the license ~~in accordance with rules adopted~~ 73584
~~under section 4751.04 of the Revised Code~~ and paid an 73585
application fee of two hundred fifty dollars. 73586

(2) If the individual is required ~~by rules adopted under~~ 73587
~~section 4751.04 of the Revised Code~~ to serve as a nursing home 73588
administrator resident, the individual has paid to the board the 73589
application fee of two hundred fifty dollars. 73590

- (3) The individual is at least twenty-one years of age. 73591
- (4) The individual has successfully completed educational requirements and work experience ~~specified in rules adopted under section 4751.04 of the Revised Code, including, if so required by the rules,~~ experience obtained as a nursing home administrator resident. 73592
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- (5) The individual has complied with section 4776.02 of the Revised Code regarding a criminal records check. 73597
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- (6) The board, in accordance with section 9.79 of the Revised Code, has determined that the results of the criminal records check do not make the individual ineligible for the license. 73599
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- (7) Except as provided in division (B) of this section, the individual has passed the licensing examination administered under section 4751.15 of the Revised Code. 73603
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- (8) The individual has paid to the board three hundred fifty dollars for a temporary license issued under division (B) of this section. 73606
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73608
- (9) The individual has paid to the board a license fee of eight hundred dollars. 73609
73610
- ~~(10) The individual has satisfied any additional requirements as may be prescribed in rules adopted under section 4751.04 of the Revised Code.~~ 73611
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- (B) Beginning January 1, 2025, the operator of a nursing home may request that the board issue a nursing home administrator license to an individual who meets the requirements specified in division (A) of this section but has not passed the licensing examination administered under section 73614
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4751.15 of the Revised Code, in order to fill a vacancy in the position of nursing home administrator at the nursing home resulting from a death, illness, or other unexpected cause. An individual issued a license under division (B) of this section shall submit to the board, not later than one hundred eighty days after a license is issued, satisfactory evidence that the individual has passed the licensing examination administered under section 4751.15 of the Revised Code.

(C) A nursing home administrator license shall certify that the individual to whom it was issued has met the applicable requirements of this chapter ~~and any applicable rules adopted under section 4751.04 of the Revised Code~~ and is authorized to practice nursing home administration while the license is valid.

Sec. 4751.21. (A) Except as provided in section 4751.201 of the Revised Code, and subject to section 4751.32 of the Revised Code, the board of executives of long-term services and supports shall issue a health services executive license to an individual if all of the following requirements are satisfied:

(1) The individual has submitted to the board a completed application for the license ~~in accordance with rules adopted under section 4751.04 of the Revised Code.~~

(2) The individual is a licensed nursing home administrator.

(3) The individual has obtained the health services executive qualification through the national association of long-term care administrator boards.

(4) The individual has complied with section 4776.02 of the Revised Code regarding a criminal records check.

(5) The board, in accordance with section 9.79 of the

Revised Code, has determined that the results of the criminal records check do not make the individual ineligible for the license.

(6) The individual has paid to the board a license fee of one hundred dollars.

(B) A health services executive license shall certify that the individual to whom it was issued has met the applicable requirements of this chapter ~~and any applicable rules adopted under section 4751.04 of the Revised Code~~ and is a licensed health services executive while the license is valid.

Sec. 4751.24. (A) Subject to section 4751.32 of the Revised Code, a nursing home administrator license is valid for two years and may be renewed and reinstated in accordance with this section.

(B) If a licensed nursing home administrator intends to continue to practice nursing home administration without interruption after the administrator's license expires, the administrator shall apply to the board of executives of long-term services and supports for a renewed nursing home administrator license. Subject to section 4751.32 of the Revised Code, the board shall renew the license if the administrator does all of the following before the license expires:

(1) Submits to the board a completed application for license renewal ~~in accordance with rules adopted under section 4751.04 of the Revised Code;~~

(2) Pays to the board the license renewal fee of eight hundred dollars;

(3) Submits to the board satisfactory evidence of having attended such continuing education programs or courses of study

as may be prescribed in rules adopted under ~~section~~ 73677
~~4751.04~~Chapter 119. of the Revised Code; 73678

~~(4) Satisfies any other requirements as may be prescribed~~ 73679
~~in rules adopted under section 4751.04 of the Revised Code.~~ 73680

(C) If a nursing home administrator license issued under 73681
section 4751.20 or 4751.201 of the Revised Code is not renewed 73682
before it expires, the individual who held the license may apply 73683
to the board for the license's reinstatement. Subject to section 73684
4751.32 of the Revised Code, the board shall reinstate the 73685
license if the individual does all of the following not later 73686
than one year after the date the license expired: 73687

(1) Submits to the board the completed application for 73688
license reinstatement ~~in accordance with rules adopted under~~ 73689
~~section 4751.04 of the Revised Code;~~ 73690

(2) Pays to the board the license reinstatement fee equal 73691
to the sum of the following: 73692

(a) Eight hundred dollars; 73693

(b) Fifty dollars for each calendar quarter that occurs 73694
during the period beginning on the date the license expires and 73695
ending on the last day of the calendar quarter during which the 73696
individual applies for license reinstatement, up to a maximum of 73697
two hundred dollars. 73698

(3) Submits to the board satisfactory evidence of having 73699
attended such continuing education programs or courses of study 73700
as may be prescribed in rules adopted by the board under ~~section~~ 73701
~~4751.04~~Chapter 119. of the Revised Code; 73702

~~(4) Satisfies any other requirements as may be prescribed~~ 73703
~~in rules adopted under section 4751.04 of the Revised Code.~~ 73704

(D) A licensed nursing home administrator who determines 73705
to temporarily abandon the practice of nursing home 73706
administration shall notify the board in writing immediately. 73707
The former administrator may thereafter resume the practice of 73708
nursing home administration within the state upon complying with 73709
the requirements of this section regarding biennial license 73710
renewal or license reinstatement, whichever is applicable. 73711

Sec. 4751.25. (A) Subject to section 4751.32 of the 73712
Revised Code, a health services executive license is valid for 73713
one year and may be renewed and reinstated in accordance with 73714
this section. 73715

(B) A licensed health services executive may apply to the 73716
board of executives of long-term services and supports for a 73717
renewed license. Subject to section 4751.32 of the Revised Code, 73718
the board shall renew the license if the licensed health 73719
services executive does all of the following before the license 73720
expires: 73721

(1) Submits to the board the completed application for 73722
license renewal ~~in accordance with rules adopted under section~~ 73723
~~4751.04 of the Revised Code;~~ 73724

(2) Pays to the board the license renewal fee of one 73725
hundred dollars; 73726

(3) Submits to the board satisfactory evidence of having 73727
attended such continuing education programs or courses of study 73728
as may be prescribed in rules adopted under ~~section 4751.04~~ 73729
Chapter 119. of the Revised Code. 73730

(C) (1) If a health services executive license is not 73731
renewed before it expires, the individual who held the license 73732
may apply to the board for the license's reinstatement. Subject 73733

to section 4751.32 of the Revised Code, the board shall 73734
reinstate the license if the individual does all of the 73735
following not later than one year after the date the license 73736
expired: 73737

(a) Submits to the board the completed application for 73738
license reinstatement ~~in accordance with rules adopted under~~ 73739
~~section 4751.04 of the Revised Code;~~ 73740

(b) Pays to the board the license reinstatement fee 73741
specified in division (C) (2) of this section; 73742

(c) Submits to the board satisfactory evidence of having 73743
attended such continuing education programs or courses of study 73744
as may be prescribed in rules adopted under ~~section 4751.04~~ 73745
Chapter 119. of the Revised Code. 73746

(2) The fee to reinstate a health services executive 73747
license under division (C) (1) of this section is the following: 73748

(a) If the individual applying for reinstatement has, at 73749
the same time, applied for reinstatement of a nursing home 73750
administrator license under division (C) of section 4751.24 of 73751
the Revised Code and paid the reinstatement fee required by 73752
division (C) (2) of that section, one hundred dollars; 73753

(b) If division (C) (2) (a) of this section does not apply 73754
to the individual, the sum of the following: 73755

(i) One hundred dollars; 73756

(ii) Twenty-five dollars for each calendar quarter that 73757
occurs during the period beginning on the date the license 73758
expired and ending on the last day of the calendar quarter 73759
during which the individual applies for license reinstatement, 73760
up to a maximum of one hundred dollars. 73761

Sec. 4751.30. (A) Any person may submit to the board of executives of long-term services and supports a complaint that the person reasonably believes that another person has violated, or failed to comply with a requirement of, this chapter ~~or a rule adopted under section 4751.04 of the Revised Code.~~ All of the following apply to complaints submitted to the board under this section:

(1) Complaints and all information and documentation related to an investigation conducted by the board pursuant to a complaint, are confidential and not subject to discovery in any civil action, except that the confidential information may be used by the board in any hearing it conducts pursuant to Chapter 119. of the Revised Code.

(2) Complaints are not public records for purposes of section 149.43 of the Revised Code.

(3) Complaints are not subject to inspection or copying under section 1347.08 of the Revised Code.

(B) Except as provided in division (D) of section 4751.31 of the Revised Code, the board shall protect the confidentiality of each person who submits a complaint to the board under this section. Any entity that receives confidential information shall maintain the confidentiality of the information in the same manner as the board, notwithstanding any conflicting provision of the Revised Code or procedure of the entity.

(C) Information that is confidential under this section may be admitted in a judicial proceeding only in accordance with the Rules of Evidence of the court. The court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that

contains names or other identifying information about patients 73791
or a person who submitted a complaint to the board under this 73792
section. The court shall take measures to ensure 73793
confidentiality, which may include sealing records or redacting 73794
or deleting specific information from records. 73795

Sec. 4751.31. (A) The board of executives of long-term 73796
services and supports shall receive, investigate, and take 73797
appropriate action with respect to any complaint submitted to 73798
the board under section 4751.30 of the Revised Code and any 73799
other credible information the board possesses that indicates a 73800
person may have violated, or failed to comply with a requirement 73801
of, this chapter ~~or a rule adopted under section 4751.04 of the~~ 73802
~~Revised Code.~~ 73803

(B) In conducting an investigation under this section, the 73804
board may do any of the following: 73805

(1) Question witnesses; 73806

(2) Conduct interviews; 73807

(3) Inspect and copy any books, accounts, papers, records, 73808
or other documents; 73809

(4) Issue subpoenas; 73810

(5) Compel the attendance of witnesses and the production 73811
of documents and testimony. 73812

(C) No member of the board who supervises an investigation 73813
conducted under this section shall participate in any 73814
adjudication arising from the investigation. 73815

(D) The board may disclose any information it receives as 73816
part of an investigation conducted under this section, including 73817
the identity of a person who submits a complaint under section 73818

4751.30 of the Revised Code, to a law enforcement agency, 73819
licensing board, or other government agency that investigates, 73820
prosecutes, or adjudicates alleged violations of statutes or 73821
rules. An agency or board that receives such information shall 73822
protect the confidentiality of a person who submits a complaint 73823
under section 4751.30 of the Revised Code in the same manner as 73824
the board of executives of long-term services and supports, 73825
notwithstanding any other information that the agency or other 73826
board possesses. 73827

Sec. 4751.32. (A) Except as provided in division (D) of 73828
this section, the board of executives of long-term services and 73829
supports may take any of the actions authorized by division (B) 73830
of this section against an individual who has applied for or 73831
holds a nursing home administrator license or health services 73832
executive license if any of the following apply to the 73833
individual: 73834

(1) The individual has failed to satisfy any requirement 73835
established by this chapter ~~or the rules adopted under section~~ 73836
~~4751.04 of the Revised Code~~ that must be satisfied to obtain the 73837
license or temporary license. 73838

(2) The individual has violated, or failed to comply with 73839
a requirement of, this chapter ~~or a rule adopted under section~~ 73840
~~4751.04 of the Revised Code~~ regarding the practice of nursing 73841
home administration, including the requirements of sections 73842
4751.40 and 4751.41 of the Revised Code. 73843

(3) The individual is unfit or incompetent to practice 73844
nursing home administration, serve in a leadership position at a 73845
long-term services and supports setting, or direct the practices 73846
of others in such a setting by reason of negligence, habits, or 73847
other causes, including the individual's habitual or excessive 73848

- use or abuse of drugs, alcohol, or other substances. 73849
- (4) The individual has acted in a manner inconsistent with 73850
the health and safety of either of the following: 73851
- (a) The residents of the nursing home at which the 73852
individual practices nursing home administration; 73853
- (b) The consumers of services and supports provided by a 73854
long-term services and supports setting at which the individual 73855
serves in a leadership position or directs the practices of 73856
others. 73857
- (5) The individual has been convicted of, or pleaded 73858
guilty to, either of the following in a court of competent 73859
jurisdiction, either within or without this state: 73860
- (a) A felony; 73861
- (b) An offense of moral turpitude that constitutes a 73862
misdemeanor in this state. 73863
- (6) The individual made a false, fraudulent, deceptive, or 73864
misleading statement in seeking to obtain, or obtaining, a 73865
nursing home administrator license or health services executive 73866
license. 73867
- (7) The individual made a fraudulent misrepresentation in 73868
attempting to obtain, or obtaining, money or anything of value 73869
in the practice of nursing home administration or while serving 73870
in a leadership position at a long-term services and supports 73871
setting or directing the practices of others in such a setting. 73872
- (8) The individual has substantially deviated from the 73873
board's code of ethics. 73874
- (9) Another health care licensing agency has taken any of 73875

the following actions against the individual for any reason	73876
other than nonpayment of a fee:	73877
(a) Denied, refused to renew or reinstate, limited,	73878
revoked, or suspended, or accepted the surrender of, a license	73879
or other authorization to practice;	73880
(b) Imposed probation;	73881
(c) Issued a censure or other reprimand.	73882
(10) The individual has failed to do any of the following:	73883
(a) Cooperate with an investigation conducted by the board	73884
under section 4751.31 of the Revised Code;	73885
(b) Respond to or comply with a subpoena issued by the	73886
board in an investigation of the individual;	73887
(c) Comply with any disciplinary action the board has	73888
taken against the individual pursuant to this section.	73889
(B) The following are the actions that the board may take	73890
for the purpose of division (A) of this section:	73891
(1) Deny the individual any of the following:	73892
(a) A nursing home administrator license under section	73893
4751.20, 4751.201, 4751.23, or 4751.24 of the Revised Code;	73894
(b) A health services executive license under section	73895
4751.201, 4751.21, 4751.23, or 4751.25 of the Revised Code.	73896
(2) Suspend the individual's nursing home administrator	73897
license or health services executive license;	73898
(3) Revoke the individual's nursing home administrator	73899
license or health services executive license, either permanently	73900
or for a period of time the board specifies;	73901

(4) Place a limitation on the individual's nursing home administrator license or health services executive license; 73902
73903

(5) Place the individual on probation; 73904

(6) Issue a written reprimand of the individual; 73905

~~(7) Impose on the individual a civil penalty, fine, or other sanction specified in rules adopted under section 4751.04 of the Revised Code. 73906
73907
73908~~

(C) The board shall take actions authorized by division 73909
(B) of this section in accordance with Chapter 119. of the 73910
Revised Code, except that the board may enter into a consent 73911
agreement with an individual to resolve an alleged violation of 73912
this chapter ~~or a rule adopted under section 4751.04 of the~~ 73913
~~Revised Code~~ in lieu of making an adjudication regarding the 73914
alleged violation. A consent agreement constitutes the board's 73915
findings and order with respect to the matter addressed in the 73916
consent agreement if the board ratifies the consent agreement. 73917
Any admissions or findings included in a proposed consent 73918
agreement have no force or effect if the board refuses to ratify 73919
the consent agreement. 73920

(D) The board shall not refuse to issue an initial nursing 73921
home administrator license or health services executive license, 73922
unless the refusal is in accordance with section 9.79 of the 73923
Revised Code. 73924

Sec. 4751.45. An individual who is a licensed nursing home 73925
administrator or licensed health services executive may request 73926
that the board of executives of long-term services and supports 73927
provide to a licensing board or agency of another state 73928
verification of the individual's licensure status under this 73929
chapter and other related information in the board's possession. 73930

The board shall provide the licensing board or agency of the other state the verification and other related information so requested if the individual pays to the board the fee for this service. The board shall adopt a rule under ~~section 4751.04~~ Chapter 119. of the Revised Code establishing the fee.

Sec. 4752.17. (A) The state board of pharmacy shall adopt rules ~~to implement and administer this chapter. The rules shall~~ that do all of the following:

(1) Specify items considered to be home medical equipment for purposes of divisions (B) (1) and (2) of section 4752.01 of the Revised Code;

(2) Establish procedures for issuance and renewal of licenses and certificates of registration under this chapter, including the duties that may be fulfilled by the board's executive director and other board employees;

(3) Specify the national accrediting bodies the board recognizes for purposes of issuing certificates of registration under this chapter;

(4) Establish standards an applicant must meet to be eligible to be granted a license under section 4752.05 of the Revised Code;

(5) Establish standards for personnel policies, equipment storage, equipment maintenance, and record keeping to be followed by home medical equipment services providers licensed under this chapter;

(6) Establish standards for continuing education programs in home medical equipment services for individuals who provide home medical equipment services while employed by or under the control of a home medical equipment services provider licensed

under this chapter; 73960

(7) Establish standards and procedures for inspection of 73961
home medical equipment providers licensed under this chapter and 73962
the facilities from which their home medical equipment services 73963
are provided; 73964

(8) Establish fees for issuing and renewing licenses under 73965
this chapter, in an amount sufficient to meet the expenses the 73966
board incurs in administering the licensing program; 73967

(9) Establish fees for issuing and renewing certificates 73968
of registration under this chapter, in an amount sufficient to 73969
meet the expenses the board incurs in administering the 73970
registration program; 73971

~~(10) Establish any other standards, requirements, or 73972
procedures the board considers necessary for the implementation 73973
or administration of this chapter. 73974~~

(B) The board may adopt rules specifying items that are 73975
considered home medical equipment for purposes of division (B) 73976
(3) of section 4752.01 of the Revised Code. 73977

(C) Rules shall be adopted under this chapter in 73978
accordance with Chapter 119. of the Revised Code. Prior to 73979
adopting any rule, the board shall consult with representatives 73980
of any association of home medical equipment services providers 73981
that do business in this state. 73982

Sec. 4753.05. (A) The state speech and hearing 73983
professionals board ~~may make reasonable rules necessary for the 73984
administration of this chapter. All rules adopted under this 73985
chapter shall be adopted in accordance with Chapter 119. of the 73986
Revised Code. 73987~~

~~(B)~~ The board shall determine the nature and scope of examinations to be administered to applicants for licensure pursuant to this chapter in the practices of speech-language pathology and audiology, and shall evaluate the qualifications of all applicants. Written examinations may be supplemented by ~~such practical and oral examinations as the board shall determine by rule.~~ The board shall determine ~~by rule~~ the minimum examination score for licensure. Licensure shall be granted independently in speech-language pathology and audiology.

Test materials, examinations, answer keys, or evaluation tools used in an examination for licensure pursuant to this chapter, whether administered by the board or by a private or government entity pursuant to a contract, are not public records under section 149.43 of the Revised Code.

~~(C)~~ (B) The board shall publish and make available, upon request, the licensure and permit standards prescribed by this chapter ~~and rules adopted pursuant thereto.~~

~~(D)~~ (C) The board shall investigate all alleged irregularities in the practices of speech-language pathology and audiology by persons licensed or permitted pursuant to this chapter and any violations of this chapter ~~or rules adopted by the board.~~ The board shall not investigate the practice of any person specifically exempted from licensure under this chapter by section 4753.12 of the Revised Code, as long as the person is practicing within the scope of the person's license or is carrying out responsibilities as described in division (G) or (H) of section 4753.12 of the Revised Code and does not claim to be a speech-language pathologist or audiologist.

In conducting investigations under this division, the board may administer oaths, order the taking of depositions,

issue subpoenas, and compel the attendance of witnesses and the 74018
production of books, accounts, papers, records, documents, and 74019
testimony. In any case of disobedience or neglect of any 74020
subpoena served on any person or the refusal of any witness to 74021
testify to any matter regarding which the witness may lawfully 74022
be interrogated, the court of common pleas of any county where 74023
such disobedience, neglect, or refusal occurs or any judge 74024
thereof, on application by the board, shall compel obedience by 74025
attachment proceedings for contempt, as in the case of 74026
disobedience of the requirements of a subpoena issued from such 74027
court, or a refusal to testify therein. 74028

~~(E)~~(D) The board shall conduct such hearings as are 74029
necessary to carry out this chapter. 74030

Sec. 4753.06. No person is eligible for licensure as a 74031
speech-language pathologist or audiologist unless: 74032

(A) The person has obtained a broad general education to 74033
serve as a background for the person's specialized academic 74034
training and preparatory professional experience. Such 74035
background may include study from among the areas of human 74036
psychology, sociology, psychological and physical development, 74037
the physical sciences, especially those that pertain to acoustic 74038
and biological phenomena, and human anatomy and physiology, 74039
including neuroanatomy and neurophysiology. 74040

(B) If the person seeks licensure as a speech-language 74041
pathologist, the person submits to the state speech and hearing 74042
professionals board an official transcript demonstrating that 74043
the person has at least a master's degree in speech-language 74044
pathology or the equivalent as determined by the board. The 74045
person's academic credit must include course work accumulated in 74046
the completion of a well-integrated course of study approved by 74047

the board and delineated by rule dealing with the normal aspects 74048
of human communication, development and disorders thereof, and 74049
clinical techniques for the evaluation and the improvement or 74050
eradication of such disorders. The course work must have been 74051
completed at colleges or universities accredited by regional or 74052
national accrediting organizations recognized by the board. 74053

(C) If the person seeks licensure as an audiologist, the 74054
person submits to the board an official transcript demonstrating 74055
that the person has at least a doctor of audiology degree or the 74056
equivalent as determined by the board. The person's academic 74057
credit must include course work accumulated in the completion of 74058
a well-integrated course of study approved by the board and 74059
delineated by rules dealing with the normal aspects of human 74060
hearing, balance, and related development and clinical 74061
evaluation, audiologic diagnosis, and treatment of disorders of 74062
human hearing, balance, and related development. The course work 74063
must have been completed in an audiology program that is 74064
accredited by an organization recognized by the United States 74065
department of education and operated by a college or university 74066
accredited by a regional or national accrediting organization 74067
recognized by the board. 74068

(D) The person submits to the board evidence of the 74069
completion of appropriate, supervised clinical experience in the 74070
professional area, speech-language pathology or audiology, for 74071
which licensure is requested, dealing with a variety of 74072
communication disorders. The appropriateness of the experience 74073
shall be determined under rules of the board. This experience 74074
shall have been obtained in an accredited college or university, 74075
in a cooperating program of an accredited college or university, 74076
or in another program approved by the board. 74077

(E) The person submits to the board evidence that the person has passed the examination for licensure to practice speech-language pathology or audiology pursuant to division ~~(B)~~ (A) of section 4753.05 of the Revised Code.

(F) In the case of a person seeking licensure as a speech-language pathologist, the person presents to the board written evidence that the person has obtained professional experience.

The professional experience shall be appropriately supervised as determined by board rule. The amount of professional experience shall be determined by board rule and shall be bona fide clinical work that has been accomplished in speech-language pathology. This experience shall not begin until the requirements of divisions (B), (D), and (E) of this section have been completed unless approved by the board. Before beginning the supervised professional experience pursuant to this section, the applicant shall obtain a conditional license pursuant to section 4753.071 of the Revised Code.

Sec. 4757.10. (A) The counselor, social worker, and marriage and family therapist board ~~may adopt any rules necessary to carry out this chapter.~~

~~(B) The board shall adopt rules that do all of the following:~~

(1) Concern intervention for and treatment of any impaired person holding a license or certificate of registration issued under this chapter;

(2) Establish standards for training and experience of supervisors described in division (C) of section 4757.30 of the Revised Code;

(3) Establish requirements for criminal records checks of

applicants under section 4776.03 of the Revised Code; 74107

(4) Establish a graduated system of fines based on the 74108
scope and severity of violations and the history of compliance, 74109
not to exceed five hundred dollars per incident, that any 74110
professional standards committee of the board may charge for a 74111
disciplinary violation described in section 4757.36 of the 74112
Revised Code; 74113

(5) Establish the amount and content of corrective action 74114
courses required by the board under section 4757.36 of the 74115
Revised Code; 74116

(6) Provide for voluntary registration of all of the 74117
following: 74118

(a) Master's level counselor trainees enrolled in practice 74119
and internships; 74120

(b) Master's level social worker trainees enrolled in 74121
fieldwork, practice, and internships; 74122

(c) Master's level marriage and family therapist trainees 74123
enrolled in practice and internships. 74124

(7) In the case of an individual who is voluntarily 74125
registered as a trainee under division (B) (6) of this section 74126
and who has graduated but not yet completed all requirements for 74127
licensure, provide for an extension of the individual's 74128
registration for a period of six months beginning on the date of 74129
the individual's graduation. 74130

(8) Establish a schedule of deadlines for renewal. 74131

~~(C)~~ (B) Rules adopted under division ~~(B)~~ ~~(6)~~ (A) (6) of this 74132
section shall not require a trainee to register with the board, 74133
and if a trainee has not registered, shall prohibit any adverse 74134

effect with respect to a trainee's application for licensure by 74135
the board. 74136

~~(D)~~(C) All rules adopted under this section shall be 74137
adopted in accordance with Chapter 119. of the Revised Code. 74138
When it adopts rules under this section or any other section of 74139
this chapter, the board may consider standards established by 74140
any national association or other organization representing the 74141
interests of those involved in professional counseling, social 74142
work, or marriage and family therapy. 74143

Sec. 4757.22. (A) The counselors professional standards 74144
committee of the counselor, social worker, and marriage and 74145
family therapist board shall issue a license to practice as a 74146
licensed professional clinical counselor to each applicant who 74147
submits a properly completed application, pays the fee 74148
established under section 4757.31 of the Revised Code, and meets 74149
the requirements specified in division (B) of this section. 74150

(B) (1) To be eligible for a licensed professional clinical 74151
counselor license, an individual must meet the following 74152
requirements: 74153

(a) The individual must hold a graduate degree in 74154
counseling as described in division (B) (2) of this section. 74155

(b) The individual must complete a minimum of ninety 74156
quarter hours or sixty semester hours of graduate credit in 74157
counselor training acceptable to the committee, including 74158
instruction in the following areas: 74159

(i) Clinical psychopathology, personality, and abnormal 74160
behavior; 74161

(ii) Evaluation of mental and emotional disorders; 74162

(iii) Diagnosis of mental and emotional disorders;	74163
(iv) Methods of prevention, intervention, and treatment of mental and emotional disorders.	74164 74165
(c) The individual must complete, in either a private or clinical counseling setting, supervised experience in counseling that is of a type approved by the committee, is supervised by a licensed professional clinical counselor or other qualified professional approved by the committee, and is in the following amounts:	74166 74167 74168 74169 74170 74171
(i) In the case of an individual holding only a master's degree, not less than two years of experience, which must be completed after the award of the master's degree;	74172 74173 74174
(ii) In the case of an individual holding a doctorate, not less than one year of experience, which must be completed after the award of the doctorate.	74175 74176 74177
(d) The individual must pass a field evaluation that meets the following requirements:	74178 74179
(i) Has been completed by the applicant's instructors, employers, supervisors, or other persons determined by the committee to be competent to evaluate an individual's professional competence;	74180 74181 74182 74183
(ii) Includes documented evidence of the quality, scope, and nature of the applicant's experience and competence in diagnosing and treating mental and emotional disorders.	74184 74185 74186
(e) The individual must pass an examination administered by the board for the purpose of determining ability to practice as a licensed professional clinical counselor.	74187 74188 74189
(2) To meet the requirement of division (B) (1) (a) of this	74190

section, a graduate degree in counseling obtained from a 74191
counseling program in this state after January 1, 2018, must be 74192
from one of the following: 74193

(a) A counseling program accredited by the council for 74194
accreditation of counseling and related educational programs; 74195

(b) A counseling education program approved by the board 74196
in accordance with rules adopted by the board under division (F) 74197
of this section. 74198

(3) All of the following meet the educational requirements 74199
of division (B) (1) (b) of this section: 74200

(a) A clinical mental health counseling program accredited 74201
by the council for accreditation of counseling and related 74202
educational programs; 74203

(b) A graduate degree in counseling issued by another 74204
state from a clinical mental health counseling program, a 74205
clinical rehabilitation counseling program, or an addiction 74206
counseling program that is accredited by the council for 74207
accreditation of counseling and related educational programs; 74208

(c) A counseling education program approved by the board 74209
in accordance with rules adopted under division (F) of this 74210
section. 74211

(C) To be accepted by the committee for purposes of 74212
division (B) of this section, counselor training must include at 74213
least the following: 74214

(1) Instruction in human growth and development; 74215
counseling theory; counseling techniques; group dynamics, 74216
processing, and counseling; appraisal of individuals; research 74217
and evaluation; professional, legal, and ethical 74218

responsibilities; social and cultural foundations; and lifestyle 74219
and career development; 74220

(2) Participation in a supervised practicum and clinical 74221
internship in counseling. 74222

(D) An individual may not sit for the licensing 74223
examination unless the individual meets the educational 74224
requirements to be licensed under this section. An individual 74225
who is denied admission to the licensing examination may appeal 74226
the denial in accordance with Chapter 119. of the Revised Code. 74227

(E) The board shall adopt ~~any rules necessary for the~~ 74228
~~committee to implement this section. The rules shall~~ that do 74229
both of the following: 74230

(1) Establish criteria for the committee to use in 74231
determining whether an applicant's training should be accepted 74232
and supervised experience approved; 74233

(2) Establish course content requirements for qualifying 74234
counseling degrees issued by institutions in other states from 74235
clinical mental health counseling programs, clinical 74236
rehabilitation counseling programs, and addiction counseling 74237
programs that are not accredited by the council for 74238
accreditation of counseling and related educational programs. 74239

Rules adopted under this division shall be adopted in 74240
accordance with Chapter 119. of the Revised Code. 74241

(F) (1) The board may adopt rules to temporarily approve a 74242
counseling education program created after January 1, 2018, that 74243
has not been accredited by the council for accreditation of 74244
counseling and related educational programs. If the board adopts 74245
rules under this division, the board shall do all of the 74246
following in the rules: 74247

(a) Create an application process under which a program administrator may apply to the board for approval of the program;

(b) Identify the educational requirements that an individual must satisfy to receive a graduate degree in counseling from the approved program;

(c) Establish a time period during which an individual may use an unaccredited degree granted under the program to satisfy the requirements of divisions (B) (1) (a) and (b) of this section;

(d) Specify that, if the program is denied accreditation, a student enrolled in the program before the accreditation is denied may apply for licensure before completing the program and, on receiving a degree from the program, is considered to satisfy divisions (B) (1) (a) and (b) of this section.

(2) A degree from a counseling education program approved by the board pursuant to the rules adopted under division (F) (1) of this section satisfies the requirements of divisions (B) (1) (a) and (b) of this section for the time period approved by the board.

Sec. 4757.23. (A) The counselors professional standards committee of the counselor, social worker, and marriage and family therapist board shall issue a license as a licensed professional counselor to each applicant who submits a properly completed application, pays the fee established under section 4757.31 of the Revised Code, and meets the requirements established under division (B) of this section.

(B) (1) To be eligible for a license as a licensed professional counselor, an individual must meet the following requirements:

- (a) The individual must hold a graduate degree in counseling as described in division (B) (2) of this section. 74277
74278
- (b) The individual must complete a minimum of ninety quarter hours or sixty semester hours of graduate credit in counselor training acceptable to the committee, which the individual may complete while working toward receiving a graduate degree in counseling, or subsequent to receiving the degree, and which shall include training in the following areas: 74279
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- (i) Clinical psychopathology, personality, and abnormal behavior; 74285
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- (ii) Evaluation of mental and emotional disorders; 74287
- (iii) Diagnosis of mental and emotional disorders; 74288
- (iv) Methods of prevention, intervention, and treatment of mental and emotional disorders. 74289
74290
- (c) The individual must pass an examination administered by the board for the purpose of determining ability to practice as a licensed professional counselor. 74291
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- (2) To meet the requirement of division (B) (1) (a) of this section, a graduate degree in counseling obtained from a counseling program in this state after January 1, 2018, must be from one of the following: 74294
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74297
- (a) A counseling program accredited by the council for accreditation of counseling and related educational programs; 74298
74299
- (b) A counseling education program approved by the board in accordance with rules adopted by the board under division (G) of this section. 74300
74301
74302
- (3) All of the following meet the educational requirements 74303

of division (B) (1) (b) of this section: 74304

(a) A clinical mental health counseling program accredited 74305
by the council for accreditation of counseling and related 74306
educational programs; 74307

(b) Until January 1, 2018, a mental health counseling 74308
program accredited by the council for accreditation of 74309
counseling and related educational programs; 74310

(c) A graduate degree in counseling issued by an 74311
institution in another state from a clinical mental health 74312
counseling program, a clinical rehabilitation counseling 74313
program, or an addiction counseling program that is accredited 74314
by the council for accreditation of counseling and related 74315
educational programs; 74316

(d) A counseling education program approved by the board 74317
in accordance with rules adopted under division (G) of this 74318
section. 74319

(C) To be accepted by the committee for purposes of 74320
division (B) of this section, counselor training must include at 74321
least the following: 74322

(1) Instruction in human growth and development; 74323
counseling theory; counseling techniques; group dynamics, 74324
processing, and counseling; appraisal of individuals; research 74325
and evaluation; professional, legal, and ethical 74326
responsibilities; social and cultural foundations; and lifestyle 74327
and career development; 74328

(2) Participation in a supervised practicum and clinical 74329
internship in counseling. 74330

(D) The committee may issue a temporary license to 74331

practice as a licensed professional counselor to an applicant 74332
who meets all of the requirements to be licensed under this 74333
section as follows: 74334

(1) Pending the receipt of transcripts or action by the 74335
committee to issue a license as a licensed professional 74336
counselor; 74337

(2) For a period not to exceed ninety days, to an 74338
applicant who provides the board with a statement from the 74339
applicant's academic institution indicating that the applicant 74340
has met the academic requirements for the applicant's degree and 74341
the projected date the applicant will receive the applicant's 74342
transcript showing a conferred degree. 74343

On application to the committee, a temporary license 74344
issued under division (D) (2) of this section may be renewed for 74345
good cause shown. 74346

(E) An individual may not sit for the licensing 74347
examination unless the individual meets the educational 74348
requirements to be licensed under this section. An individual 74349
who is denied admission to the licensing examination may appeal 74350
the denial in accordance with Chapter 119. of the Revised Code. 74351

(F) The board shall adopt ~~any rules necessary for the~~ 74352
~~committee to implement this section. The rules shall that do~~ 74353
both of the following: 74354

(1) Establish criteria for the committee to use in 74355
determining whether an applicant's training should be accepted 74356
and supervised experience approved; 74357

(2) Establish course content requirements for qualifying 74358
counseling degrees issued by institutions in other states from 74359
clinical mental health counseling programs, clinical 74360

rehabilitation counseling programs, and addiction counseling 74361
programs that are not accredited by the council for 74362
accreditation of counseling and related educational programs. 74363

Rules adopted under this division shall be adopted in 74364
accordance with Chapter 119. of the Revised Code. 74365

(G) (1) The board may adopt rules to temporarily approve a 74366
counseling education program created after January 1, 2018, that 74367
has not been accredited by the council for accreditation of 74368
counseling and related educational programs. If the board adopts 74369
rules under this division, the board shall do all of the 74370
following in the rules: 74371

(a) Create an application process under which a program 74372
administrator may apply to the board for approval of the 74373
program; 74374

(b) Identify the educational requirements that an 74375
individual must satisfy to receive a graduate degree in 74376
counseling from the approved program; 74377

(c) Establish a time period during which an individual may 74378
use an unaccredited degree granted under the program to satisfy 74379
the requirements of divisions (B) (1) (a) and (b) of this section; 74380

(d) Specify that, if the program is denied accreditation, 74381
a student enrolled in the program before the accreditation is 74382
denied may apply for licensure before completing the program 74383
and, on receiving a degree from the program, is considered to 74384
satisfy divisions (B) (1) (a) and (b) of this section. 74385

(2) A degree from a counseling education program approved 74386
by the board pursuant to the rules adopted under division (G) (1) 74387
of this section satisfies the requirements of divisions (B) (1) 74388
(a) and (b) of this section for the time period approved by the 74389

board. 74390

Sec. 4757.27. (A) The social workers professional 74391
standards committee of the counselor, social worker, and 74392
marriage and family therapist board shall issue a license as an 74393
independent social worker to each applicant who submits a 74394
properly completed application, pays the fee established under 74395
section 4757.31 of the Revised Code, and meets the requirements 74396
specified in division (B) of this section. An independent social 74397
worker license shall clearly indicate each academic degree 74398
earned by the person to whom it has been issued. 74399

(B) To be eligible for a license as an independent social 74400
worker, an individual must meet the following requirements: 74401

(1) The individual must hold a master's degree in social 74402
work from an educational institution accredited by the council 74403
on social work education or an educational institution in 74404
candidacy for accreditation by the council. 74405

(2) The individual must complete at least two years of 74406
post-master's degree social work experience supervised by an 74407
independent social worker. 74408

(3) The individual must pass an examination administered 74409
by the board for the purpose of determining ability to practice 74410
as an independent social worker. 74411

(C) The board shall adopt ~~any rules necessary for the~~ 74412
~~committee to implement this section, including establishing~~ 74413
criteria for the committee to use in determining whether an 74414
applicant's training should be accepted and supervised 74415
experience approved. Rules adopted under this division shall be 74416
adopted in accordance with Chapter 119. of the Revised Code. 74417

Sec. 4757.28. (A) The social workers professional 74418

standards committee of the counselor, social worker, and 74419
marriage and family therapist board shall issue a license as a 74420
social worker to each applicant who submits a properly completed 74421
application, pays the fee established under section 4757.31 of 74422
the Revised Code, and meets the requirements specified in 74423
division (B) of this section. A social worker license shall 74424
clearly indicate each academic degree earned by the person to 74425
whom it is issued. 74426

(B) To be eligible for a license as a social worker, an 74427
individual must meet the following requirements: 74428

(1) The individual must hold from an accredited 74429
educational institution one of the following: 74430

(a) A baccalaureate degree in social work; 74431

(b) A master's degree in social work; 74432

(c) A doctorate in social work. 74433

(2) The individual must pass an examination administered 74434
by the board for the purpose of determining ability to practice 74435
as a social worker. 74436

(C) The committee may issue a temporary license to 74437
practice as a social worker as follows: 74438

(1) To an applicant who meets all of the requirements to 74439
be licensed under this section, pending the receipt of 74440
transcripts or action by the committee to issue a license as a 74441
social worker; 74442

(2) For a period not to exceed ninety days, to an 74443
applicant who provides the board with a statement from the 74444
applicant's academic institution indicating that the applicant 74445
has met the academic requirements for the applicant's degree, 74446

and the projected date the applicant will receive the 74447
applicant's transcript showing a conferred degree. 74448

On application to the committee, a temporary license 74449
issued under division (C) (2) of this section may be renewed for 74450
good cause shown. 74451

(D) The board shall adopt ~~any rules necessary for the~~ 74452
~~committee to implement this section, including establishing~~ 74453
criteria for the committee to use in determining whether an 74454
applicant's training should be accepted and supervised 74455
experience approved. Rules adopted under this division shall be 74456
adopted in accordance with Chapter 119. of the Revised Code. 74457

Sec. 4758.20. (A) The chemical dependency professionals 74458
board shall adopt rules to establish, specify, or provide for 74459
all of the following: 74460

(1) Fees for the purposes authorized by section 4758.21 of 74461
the Revised Code; 74462

(2) If the board, pursuant to section 4758.221 of the 74463
Revised Code, elects to administer examinations for individuals 74464
seeking to act as substance abuse professionals in a United 74465
States department of transportation drug and alcohol testing 74466
program, the board's administration of the examinations; 74467

(3) For the purpose of section 4758.23 of the Revised 74468
Code, codes of ethical practice and professional conduct for 74469
individuals who hold a license, certificate, or endorsement 74470
issued under this chapter; 74471

(4) For the purpose of section 4758.24 of the Revised 74472
Code, all of the following: 74473

(a) The documents that an individual seeking such a 74474

license, certificate, or endorsement must submit to the board; 74475

(b) Requirements to obtain the license, certificate, or 74476
endorsement that are in addition to the requirements established 74477
under sections 4758.39, 4758.40, 4758.41, 4758.42, 4758.43, 74478
4758.44, 4758.45, 4758.46, 4758.47, and 4758.48 of the Revised 74479
Code. The additional requirements may include internships and 74480
practicums. 74481

(c) The period of time that an individual whose registered 74482
applicant certificate has expired must wait before applying for 74483
a new registered applicant certificate. 74484

(5) For the purpose of section 4758.28 of the Revised 74485
Code, requirements for approval of continuing education courses 74486
of study for individuals who hold a license, certificate, or 74487
endorsement issued under this chapter; 74488

(6) For the purpose of section 4758.30 of the Revised 74489
Code, both of the following: 74490

(a) The intervention for and treatment of an individual 74491
holding a license, certificate, or endorsement issued under this 74492
chapter whose abilities to practice are impaired due to abuse of 74493
or dependency on alcohol or other drugs or other physical or 74494
mental condition; 74495

(b) Requirements governing reinstatement of a suspended or 74496
revoked license, certificate, or endorsement, including 74497
requirements for determining the amount of time an individual 74498
must wait to apply for reinstatement. 74499

(7) For the purpose of section 4758.31 of the Revised 74500
Code, methods of ensuring that all records the board holds 74501
pertaining to an investigation remain confidential during the 74502
investigation; 74503

(8) Criteria for employees of the board to follow when performing their duties under division (B) of section 4758.35 of the Revised Code; 74504
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(9) For the purpose of division (A) of section 4758.39, division (A) of section 4758.40, and division (A) of section 4758.41 of the Revised Code, course requirements for a degree in a behavioral science or nursing that may include specific content areas and minimum hours for course requirements; 74507
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74509
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(10) For the purpose of division (B) of section 4758.39 of the Revised Code, the number of hours of compensated work or supervised internship experience that an individual must have and the number of those hours that must be in clinical supervisory experience; 74512
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(11) For the purpose of division (C) of section 4758.39, division (C) of section 4758.40, division (C) of section 4758.41, and division (A) (3) of section 4758.42 of the Revised Code, both of the following: 74517
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(a) The number of hours of training in substance use disorders an individual must have; 74521
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(b) Training requirements for substance use disorders that shall, at a minimum, include qualifications for the individuals who provide the training and the content areas covered in the training. 74523
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(12) For the purpose of division (B) of section 4758.40, division (B) of section 4758.41, and division (A) (2) of section 4758.42 of the Revised Code, the number of hours of compensated work or supervised internship experience that an individual must have; 74527
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(13) For the purpose of division (A) of section 4758.41 of 74532

the Revised Code, course requirements for a degree in a 74533
behavioral science or nursing; 74534

(14) For the purpose of section 4758.42 of the Revised 74535
Code, both of the following: 74536

(a) Education requirements for substance use disorders; 74537

(b) Requirements for programs that provide practicum 74538
experience in substance use disorders. 74539

(15) For the purpose of section 4758.43 of the Revised 74540
Code, both of the following: 74541

(a) The number of hours of training in substance use 74542
disorder counseling that an individual must have; 74543

(b) Training requirements for substance use disorder 74544
counseling that shall, at a minimum, include qualifications for 74545
the individuals who provide the training and the content areas 74546
covered in the training. 74547

(16) For the purpose of section 4758.44 of the Revised 74548
Code, both of the following: 74549

(a) The number of hours of compensated work experience in 74550
prevention services that an individual must have and the number 74551
of those hours that must be in administering or supervising the 74552
services; 74553

(b) The field of study in which an individual must obtain 74554
at least a bachelor's degree. 74555

(17) For the purpose of division (C) of section 4758.44, 74556
division (C) of section 4758.45, and division (D) of section 74557
4758.46 of the Revised Code, both of the following: 74558

(a) The number of hours of prevention-related education 74559

that an individual must have; 74560

(b) Requirements for prevention-related education. 74561

(18) For the purpose of division (D) of section 4758.44 of the Revised Code, the number of hours of administrative or supervisory education that an individual must have; 74562
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(19) For the purpose of section 4758.45 of the Revised Code, both of the following: 74565
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(a) The number of hours of compensated or volunteer work, field placement, intern, or practicum experience in prevention services that an individual must have and the number of those hours that must be in planning or delivering the services; 74567
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(b) The field of study in which an individual must obtain at least an associate's degree. 74571
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(20) For the purpose of division (C) of section 4758.46 of the Revised Code, the number of hours of compensated or volunteer work, field placement, intern, or practicum experience in prevention services that an individual must have; 74573
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(21) Standards for the one hundred hours of compensated work or supervised internship in gambling disorder direct clinical experience required by division (B) (2) of section 4758.48 of the Revised Code; 74577
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(22) For the purpose of section 4758.51 of the Revised Code, both of the following: 74581
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(a) Continuing education requirements for individuals who hold a license, certificate, or endorsement issued under this chapter; 74583
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(b) The number of hours of continuing education that an 74586

individual must complete to have an expired license, 74587
certificate, or endorsement restored under section 4758.26 of 74588
the Revised Code. 74589

(23) For the purpose of divisions (A) and (B) of section 74590
4758.52 of the Revised Code, training requirements for substance 74591
use disorder counseling; 74592

(24) The duties, which may differ, of all of the 74593
following: 74594

(a) An independent chemical dependency counselor-clinical 74595
supervisor licensed under this chapter who supervises a chemical 74596
dependency counselor III under section 4758.56 of the Revised 74597
Code; 74598

(b) An independent chemical dependency counselor-clinical 74599
supervisor, independent chemical dependency counselor, or 74600
chemical dependency counselor III licensed under this chapter 74601
who supervises a chemical dependency counselor assistant under 74602
section 4758.59 of the Revised Code; 74603

(c) A prevention consultant or prevention specialist 74604
certified under this chapter who supervises a prevention 74605
specialist assistant or registered applicant under section 74606
4758.61 of the Revised Code. 74607

(25) The duties of an independent chemical dependency 74608
counselor licensed under this chapter who holds the gambling 74609
disorder endorsement who supervises a chemical dependency 74610
counselor III with the gambling disorder endorsement under 74611
section 4758.62 of the Revised Code. 74612

~~(26) Anything else the board considers necessary to 74613
administer this chapter. 74614~~

(B) All rules adopted under this section shall be adopted 74615
in accordance with Chapter 119. of the Revised Code and any 74616
applicable federal laws and regulations. 74617

(C) When it adopts rules under this section, the board may 74618
consider standards established by any national association or 74619
other organization representing the interests of those involved 74620
in substance use disorder counseling or prevention services. 74621

Sec. 4758.21. (A) In accordance with rules adopted under 74622
section 4758.20 of the Revised Code and subject to division (B) 74623
of this section, the chemical dependency professionals board 74624
shall establish, and may from time to time adjust, fees to be 74625
charged for the following: 74626

(1) Admitting an individual to an examination administered 74627
pursuant to section 4758.22 of the Revised Code; 74628

(2) Issuing an initial independent chemical dependency 74629
counselor-clinical supervisor license, independent chemical 74630
dependency counselor license, chemical dependency counselor III 74631
license, chemical dependency counselor II license, chemical 74632
dependency counselor assistant certificate, prevention 74633
consultant certificate, prevention specialist certificate, 74634
prevention specialist assistant certificate, or registered 74635
applicant certificate; 74636

(3) Issuing an initial gambling disorder endorsement; 74637

(4) Renewing an independent chemical dependency counselor- 74638
clinical supervisor license, independent chemical dependency 74639
counselor license, chemical dependency counselor III license, 74640
chemical dependency counselor II license, chemical dependency 74641
counselor assistant certificate, prevention consultant 74642
certificate, prevention specialist certificate, or prevention 74643

specialist assistant certificate;	74644
(5) Renewing a gambling disorder endorsement;	74645
(6) Approving continuing education courses under section 4758.28 of the Revised Code;	74646 74647
 (7) Doing anything else the board determines necessary to administer this chapter.	74648 74649
(B) The fees established under division (A) of this section are nonrefundable. They shall be in amounts sufficient to cover the necessary expenses of the board in administering this chapter and rules adopted under it. The fees for a license, certificate, or endorsement and the renewal of a license, certificate, or endorsement may differ for the various types of licenses, certificates, or endorsements, but shall not exceed one hundred seventy-five dollars each, unless the board determines that amounts in excess of one hundred seventy-five dollars are needed to cover its necessary expenses in administering this chapter and rules adopted under it and the amounts in excess of one hundred seventy-five dollars are approved by the controlling board.	74650 74651 74652 74653 74654 74655 74656 74657 74658 74659 74660 74661 74662
(C) All vouchers of the board shall be approved by the chairperson or executive director of the board, or both, as authorized by the board.	74663 74664 74665
Sec. 4759.05. (A) Except as provided in division (E) of this section, the state medical board shall adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code to carry out the provisions of this chapter, including rules governing the following:	74666 74667 74668 74669 74670
(1) Selection and approval of a dietitian licensure examination offered by the commission on dietetic registration	74671 74672

- or any other examination; 74673
- (2) The examination of applicants for licensure as a dietitian, as required under division (A) of section 4759.06 of the Revised Code; 74674
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- (3) Requirements for pre-professional dietetic experience of applicants for licensure as a dietitian that are at least equivalent to the requirements adopted by the commission on dietetic registration; 74677
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- (4) Requirements for a person holding a limited permit under division (G) of section 4759.06 of the Revised Code, including the duration of validity of a limited permit and procedures for renewal; 74681
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- (5) Continuing education requirements for renewal of a license, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who have been disabled by illness or accident or have been absent from the country. Rules adopted under this division shall be consistent with the continuing education requirements adopted by the commission on dietetic registration. 74685
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- (6) Any additional education requirements the board considers necessary, for applicants who have not practiced dietetics within five years of the initial date of application for licensure; 74693
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- (7) Standards of professional responsibility and practice for persons licensed under this chapter that are consistent with those standards of professional responsibility and practice adopted by the academy of nutrition and dietetics; 74697
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- (8) Formulation of an application form for licensure or 74701

license renewal; 74702

(9) Procedures for license renewal; 74703

(10) Requirements for criminal records checks of 74704
applicants under section 4776.03 of the Revised Code. 74705

(B) (1) The board shall investigate evidence that appears 74706
to show that a person has violated any provision of this chapter 74707
or any rule adopted under it. Any person may report to the board 74708
in a signed writing any information that the person may have 74709
that appears to show a violation of any provision of this 74710
chapter or any rule adopted under it. In the absence of bad 74711
faith, any person who reports information of that nature or who 74712
testifies before the board in any adjudication conducted under 74713
Chapter 119. of the Revised Code shall not be liable in damages 74714
in a civil action as a result of the report or testimony. Each 74715
complaint or allegation of a violation received by the board 74716
shall be assigned a case number and shall be recorded by the 74717
board. 74718

(2) Investigations of alleged violations of this chapter 74719
or any rule adopted under it shall be supervised by the 74720
supervising member elected by the board in accordance with 74721
section 4731.02 of the Revised Code and by the secretary as 74722
provided in section 4759.012 of the Revised Code. The president 74723
may designate another member of the board to supervise the 74724
investigation in place of the supervising member. Upon a vote of 74725
the majority of the board to authorize the addition of a 74726
consumer member in the supervision of any part of any 74727
investigation, the president shall designate a consumer member 74728
for supervision of investigations as determined by the 74729
president. The authorization of consumer member participation in 74730
investigation supervision may be rescinded by a majority vote of 74731

the board. No member of the board who supervises the 74732
investigation of a case shall participate in further 74733
adjudication of the case. 74734

(3) In investigating a possible violation of this chapter 74735
or any rule adopted under this chapter, the board may issue 74736
subpoenas, question witnesses, conduct interviews, administer 74737
oaths, order the taking of depositions, inspect and copy any 74738
books, accounts, papers, records, or documents, and compel the 74739
attendance of witnesses and the production of books, accounts, 74740
papers, records, documents, and testimony, except that a 74741
subpoena for patient record information shall not be issued 74742
without consultation with the attorney general's office and 74743
approval of the secretary of the board. 74744

Before issuance of a subpoena for patient record 74745
information, the secretary shall determine whether there is 74746
probable cause to believe that the complaint filed alleges a 74747
violation of this chapter or any rule adopted under it and that 74748
the records sought are relevant to the alleged violation and 74749
material to the investigation. The subpoena may apply only to 74750
records that cover a reasonable period of time surrounding the 74751
alleged violation. 74752

On failure to comply with any subpoena issued by the board 74753
and after reasonable notice to the person being subpoenaed, the 74754
board may move for an order compelling the production of persons 74755
or records pursuant to the Rules of Civil Procedure. 74756

A subpoena issued by the board may be served by a sheriff, 74757
the sheriff's deputy, or a board employee or agent designated by 74758
the board. Service of a subpoena issued by the board may be made 74759
by delivering a copy of the subpoena to the person named 74760
therein, reading it to the person, or leaving it at the person's 74761

usual place of residence, usual place of business, or address on 74762
file with the board. When serving a subpoena to an applicant for 74763
or the holder of a license or limited permit issued under this 74764
chapter, service of the subpoena may be made by certified mail, 74765
return receipt requested, and the subpoena shall be deemed 74766
served on the date delivery is made or the date the person 74767
refuses to accept delivery. If the person being served refuses 74768
to accept the subpoena or is not located, service may be made to 74769
an attorney who notifies the board that the attorney is 74770
representing the person. 74771

A sheriff's deputy who serves a subpoena shall receive the 74772
same fees as a sheriff. Each witness who appears before the 74773
board in obedience to a subpoena shall receive the fees and 74774
mileage provided for under section 119.094 of the Revised Code. 74775

(4) All hearings, investigations, and inspections of the 74776
board shall be considered civil actions for the purposes of 74777
section 2305.252 of the Revised Code. 74778

(5) A report required to be submitted to the board under 74779
this chapter, a complaint, or information received by the board 74780
pursuant to an investigation is confidential and not subject to 74781
discovery in any civil action. 74782

The board shall conduct all investigations or inspections 74783
and proceedings in a manner that protects the confidentiality of 74784
patients and persons who file complaints with the board. The 74785
board shall not make public the names or any other identifying 74786
information about patients or complainants unless proper consent 74787
is given. 74788

The board may share any information it receives pursuant 74789
to an investigation or inspection, including patient records and 74790

patient record information, with law enforcement agencies, other 74791
licensing boards, and other governmental agencies that are 74792
prosecuting, adjudicating, or investigating alleged violations 74793
of statutes or administrative rules. An agency or board that 74794
receives the information shall comply with the same requirements 74795
regarding confidentiality as those with which the state medical 74796
board must comply, notwithstanding any conflicting provision of 74797
the Revised Code or procedure of the agency or board that 74798
applies when it is dealing with other information in its 74799
possession. In a judicial proceeding, the information may be 74800
admitted into evidence only in accordance with the Rules of 74801
Evidence, but the court shall require that appropriate measures 74802
are taken to ensure that confidentiality is maintained with 74803
respect to any part of the information that contains names or 74804
other identifying information about patients or complainants 74805
whose confidentiality was protected by the state medical board 74806
when the information was in the board's possession. Measures to 74807
ensure confidentiality that may be taken by the court include 74808
sealing its records or deleting specific information from its 74809
records. 74810

No person shall knowingly access, use, or disclose 74811
confidential investigatory information in a manner prohibited by 74812
law. 74813

(6) On a quarterly basis, the board shall prepare a report 74814
that documents the disposition of all cases during the preceding 74815
three months. The report shall contain the following information 74816
for each case with which the board has completed its activities: 74817

(a) The case number assigned to the complaint or alleged 74818
violation; 74819

(b) The type of license, if any, held by the individual 74820

against whom the complaint is directed; 74821

(c) A description of the allegations contained in the 74822
complaint; 74823

(d) Whether witnesses were interviewed; 74824

(e) Whether the individual against whom the complaint is 74825
directed is the subject of any pending complaints; 74826

(f) The disposition of the case. 74827

The report shall state how many cases are still pending 74828
and shall be prepared in a manner that protects the identity of 74829
each person involved in each case. The report shall be a public 74830
record under section 149.43 of the Revised Code. 74831

(7) The board may provide a status update regarding an 74832
investigation to a complainant on request if the board verifies 74833
the complainant's identity. 74834

(C) The board shall keep records as are necessary to carry 74835
out the provisions of this chapter. 74836

(D) The board shall maintain and publish on its internet 74837
web site the board's rules and requirements for licensure 74838
adopted under division (A) of this section. 74839

(E) The board shall issue a license or limited permit to 74840
practice dietetics in accordance with Chapter 4796. of the 74841
Revised Code to an applicant if either of the following apply: 74842

(1) The applicant holds a license or permit in another 74843
state. 74844

(2) The applicant has satisfactory work experience, a 74845
government certification, or a private certification as 74846
described in that chapter as a dietitian in a state that does 74847

not issue that license. 74848

Sec. 4759.051. (A) The state medical board shall appoint a 74849
dietetics advisory council for the purpose of advising the board 74850
on issues relating to the practice of dietetics. The advisory 74851
council shall consist of not more than seven individuals 74852
knowledgeable in the area of dietetics. 74853

A majority of the council members shall be individuals 74854
licensed under this chapter who are actively engaged in the 74855
practice of dietetics. The board shall include both of the 74856
following on the council: 74857

(1) One educator with a doctoral degree who holds a 74858
regular faculty appointment in a program that prepares students 74859
to meet the requirements of division (A) (3) of section 4759.06 74860
of the Revised Code; 74861

(2) One individual who is not affiliated with any health 74862
care profession, who shall be appointed to represent the 74863
interest of consumers. 74864

The Ohio academy of nutrition and dietetics, or its 74865
successor organization, may nominate not more than three 74866
qualified individuals for consideration by the board in 74867
appointing any member of the council. 74868

(B) Not later than ninety days after January 21, 2018, the 74869
board shall make initial appointments to the council. Initial 74870
members shall serve terms of office of one, two, or three years, 74871
as selected by the board. Thereafter, terms of office shall be 74872
for three years, with each term ending on the same day of the 74873
same month as did the term that it succeeds. A council member 74874
shall continue in office subsequent to the expiration date of 74875
the member's term until a successor is appointed and takes 74876

office, or until a period of sixty days has elapsed, whichever
occurs first. Each council member shall hold office from the
date of appointment until the end of the term for which the
member was appointed.

(C) Members shall serve without compensation, but shall be
reimbursed for actual and necessary expenses incurred in
performing their official duties.

(D) The council shall meet at least four times each year
and at such other times as may be necessary to carry out its
responsibilities.

(E) The council may submit to the board recommendations
concerning all of the following:

(1) Requirements for issuing a license to practice as a
dietitian or as a limited permit holder, including the
educational and experience requirements that must be met to
receive the license or permit;

(2) Existing and proposed rules pertaining to the practice
~~of dietetics and the administration and enforcement of this~~
~~chapter;~~

(3) Standards for the approval of educational programs
required to qualify for licensure and continuing education
programs for licensure renewal;

(4) Policies related to the issuance and renewal of
licenses and limited permits;

(5) Fees for the issuance and renewal of a license to
practice dietetics as a licensee or as a limited permit holder;

(6) Standards of practice and ethical conduct in the
practice of dietetics;

(7) The safe and effective practice of dietetics, 74905
including scope of practice and minimal standards of care. 74906

Sec. 4759.064. (A) An individual who holds a current, 74907
valid license issued under this chapter to practice dietetics 74908
and who retires voluntarily from practice may request that the 74909
state medical board place the individual's license on retired 74910
status. 74911

This section does not authorize an individual who holds a 74912
limited permit issued under section 4759.06 of the Revised Code 74913
to request that the board place the individual's permit on 74914
retired status. 74915

(B) An individual seeking to have the individual's license 74916
placed on retired status shall file with the board an 74917
application in the form and manner prescribed by the board. The 74918
application shall be submitted before the end of a biennial 74919
renewal period and include all of the following: 74920

(1) The applicant's full name, license number, mailing 74921
address, and electronic mail address; 74922

(2) An attestation that the information included in the 74923
application is accurate and truthful and that the applicant 74924
meets the following qualifications: 74925

(a) That the applicant holds a current, valid license 74926
issued under this chapter; 74927

(b) That the applicant has retired voluntarily from the 74928
practice of dietetics; 74929

(c) That the applicant does not have any criminal charges 74930
pending against the applicant; 74931

(d) That the applicant is not the subject of discipline 74932

by, or an investigation pending with, a regulatory agency of 74933
this state, another state, or the United States; 74934

(e) That the applicant does not have any complaints 74935
pending with the board; 74936

(f) That the applicant is not, at the time of application, 74937
subject to the board's hearing, disciplinary, or compliance 74938
processes under the terms of a citation, notice of opportunity 74939
for hearing, board order, or consent agreement. 74940

(3) A fee in an amount equal to the restoration fee 74941
described in section 4759.062 of the Revised Code. 74942

The board shall not consider an application for retired 74943
status complete until the board receives the fee described in 74944
this division. On receipt of a fee, the board shall deposit the 74945
fee in accordance with section 4731.24 of the Revised Code. 74946

(C) If the board determines that an applicant meets the 74947
requirements of division (B) of this section, the board shall 74948
place the applicant's license on retired status. The license 74949
remains on retired status for the life of the license holder, 74950
unless suspended, revoked, or reactivated, and does not require 74951
renewal. 74952

(D) During the period in which a license is on retired 74953
status, all of the following apply: 74954

(1) The license holder is prohibited from practicing as a 74955
dietitian under any circumstance. 74956

(2) The license holder is not required to complete the 74957
continuing education required by the board in rules adopted 74958
under section 4759.05 of the Revised Code. 74959

(3) The license holder is prohibited from using the 74960

license to obtain a license to practice dietetics in another 74961
state, whether by endorsement or reciprocity or through a 74962
licensure compact. 74963

(4) The license holder may use a title authorized for the 74964
holder's license as described in section 4759.02 of the Revised 74965
Code, but only if "retired" also is included in the title. 74966

(E) If a license has been placed on retired status 74967
pursuant to this section, it may be reactivated. Subject to 74968
section 4759.063 of the Revised Code, the board may reactivate a 74969
license placed on retired status if all of the following 74970
conditions are satisfied: 74971

(1) The individual seeking to reactivate the license 74972
applies to the board in the form and manner prescribed by the 74973
board. 74974

(2) The applicant certifies completion of, within the two- 74975
year period that ends on the date of the application's 74976
submission, the continuing education requirements that must be 74977
met for renewal of a license. 74978

(3) The applicant complies with sections 4776.01 to 74979
4776.04 of the Revised Code. 74980

(4) The applicant pays a reactivation fee in an amount 74981
equal to the restoration fee described in section 4759.062 of 74982
the Revised Code. 74983

The board shall not consider an application to reactivate 74984
a license complete until the board receives the fee described in 74985
this division. On receipt of a fee, the board shall deposit the 74986
fee in accordance with section 4731.24 of the Revised Code. 74987

(F) The board shall reactivate a license placed on retired 74988

status if the conditions of division (E) of this section have 74989
been satisfied and the board, in its discretion, determines that 74990
the results of the criminal records check conducted pursuant to 74991
sections 4776.01 to 4776.04 of the Revised Code do not make the 74992
applicant ineligible for active status. 74993

(G) The board may take disciplinary action against an 74994
applicant who is seeking to place a license on retired status or 74995
to reactivate the license if the applicant commits fraud, 74996
misrepresentation, or deception in applying for or securing the 74997
retired status or reactivation. 74998

The board also may take disciplinary action against the 74999
holder of a license placed on retired status if the holder 75000
practices under the license, uses the license to obtain 75001
licensure as a dietitian in another state, or uses a title that 75002
does not reflect the holder's retired status. 75003

In taking disciplinary action under this section, the 75004
board may impose on the applicant or holder any sanction 75005
described in section 4759.07 of the Revised Code, but shall do 75006
so in accordance with the procedures described in that section. 75007

~~(H) The board may adopt rules to implement and enforce 75008
this section. The rules shall be adopted in accordance with 75009
Chapter 119. of the Revised Code. 75010~~

Sec. 4760.062. (A) An individual who holds a current, 75011
valid license issued under this chapter to practice as an 75012
anesthesiologist assistant and who retires voluntarily from 75013
practice may request that the state medical board place the 75014
individual's license on retired status. 75015

(B) An individual seeking to have the individual's license 75016
placed on retired status shall file with the board an 75017

application in the form and manner prescribed by the board. The 75018
application shall be submitted before the end of a biennial 75019
renewal period and include all of the following: 75020

(1) The applicant's full name, license number, mailing 75021
address, and electronic mail address; 75022

(2) An attestation that the information included in the 75023
application is accurate and truthful and that the applicant 75024
meets the following qualifications: 75025

(a) That the applicant holds a current, valid license 75026
issued under this chapter; 75027

(b) That the applicant has retired voluntarily from 75028
practice as an anesthesiologist assistant; 75029

(c) That the applicant does not have any criminal charges 75030
pending against the applicant; 75031

(d) That the applicant is not the subject of discipline 75032
by, or an investigation pending with, a regulatory agency of 75033
this state, another state, or the United States; 75034

(e) That the applicant does not have any complaints 75035
pending with the board; 75036

(f) That the applicant is not, at the time of application, 75037
subject to the board's hearing, disciplinary, or compliance 75038
processes under the terms of a citation, notice of opportunity 75039
for hearing, board order, or consent agreement. 75040

(3) A fee in an amount equal to the sum of the biennial 75041
renewal fee and restoration penalty described in section 4760.06 75042
of the Revised Code. 75043

The board shall not consider an application for retired 75044

status complete until the board receives the fee described in 75045
this division. On receipt of a fee, the board shall deposit the 75046
fee in accordance with section 4731.24 of the Revised Code. 75047

(C) If the board determines that an applicant meets the 75048
requirements of division (B) of this section, the board shall 75049
place the applicant's license on retired status. The license 75050
remains on retired status for the life of the license holder, 75051
unless suspended, revoked, or reactivated, and does not require 75052
renewal. 75053

(D) During the period in which a license is on retired 75054
status, all of the following apply: 75055

(1) The license holder is prohibited from practicing as an 75056
anesthesiologist assistant under any circumstance. 75057

(2) The license holder is prohibited from using the 75058
license to obtain a license to practice as an anesthesiologist 75059
assistant in another state, whether by endorsement or 75060
reciprocity or through a licensure compact. 75061

(3) The license holder may use a title authorized for the 75062
holder's license, but only if "retired" also is included in the 75063
title. 75064

(E) If a license has been placed on retired status 75065
pursuant to this section, it may be reactivated. Subject to 75066
section 4760.061 of the Revised Code, the board may reactivate a 75067
license placed on retired status if all of the following 75068
conditions are satisfied: 75069

(1) The individual seeking to reactivate the license 75070
applies to the board in the form and manner prescribed by the 75071
board. 75072

(2) The applicant complies with sections 4776.01 to 75073
4776.04 of the Revised Code. 75074

(3) The applicant pays a reactivation fee in an amount 75075
equal to the sum of the biennial renewal fee and restoration 75076
penalty described in section 4760.06 of the Revised Code. 75077

The board shall not consider an application to reactivate 75078
a license complete until the board receives the fee described in 75079
this division. On receipt of a fee, the board shall deposit the 75080
fee in accordance with section 4731.24 of the Revised Code. 75081

(F) The board shall reactivate a license placed on retired 75082
status if the conditions of division (E) of this section have 75083
been satisfied and the board, in its discretion, determines that 75084
the results of the criminal records check conducted pursuant to 75085
sections 4776.01 to 4776.04 of the Revised Code do not make the 75086
applicant ineligible for active status. 75087

(G) The board may take disciplinary action against an 75088
applicant who is seeking to place a license on retired status or 75089
to reactivate the license if the applicant commits fraud, 75090
misrepresentation, or deception in applying for or securing the 75091
retired status or reactivation. 75092

The board also may take disciplinary action against the 75093
holder of a license placed on retired status if the holder 75094
practices under the license, uses the license to obtain 75095
licensure as an anesthesiologist assistant in another state, or 75096
uses a title that does not reflect the holder's retired status. 75097

In taking disciplinary action under this section, the 75098
board may impose on the applicant or holder any sanction 75099
described in section 4760.13 of the Revised Code, but shall do 75100
so in accordance with the procedures described in that section. 75101

~~(H) The board may adopt rules to implement and enforce
this section. The rules shall be adopted in accordance with
Chapter 119. of the Revised Code.~~

Sec. 4761.03. (A) The state medical board shall regulate
the practice of respiratory care in this state and the persons
to whom the board issues licenses and limited permits under this
chapter. Rules adopted under this chapter that deal with the
provision of respiratory care in a hospital, other than rules
regulating the issuance of licenses or limited permits, shall be
consistent with the conditions for participation under medicare,
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965),
42 U.S.C.A. 1395, as amended, and with the respiratory care
accreditation standards of the joint commission or the American
osteopathic association.

(B) The board shall adopt, and may rescind or amend, rules
in accordance with Chapter 119. of the Revised Code ~~to carry out
the purposes of this chapter, including rules prescribing the
following:~~

(1) The form and manner for filing applications under
sections 4761.05 and 4761.06 of the Revised Code;

(2) Standards for the approval of examinations and
reexaminations administered by national organizations for
licensure, license renewal, and license reinstatement;

(3) Standards for the approval of educational programs
required to qualify for licensure and approval of continuing
education programs required for license renewal;

(4) Continuing education courses and the number of hour
requirements necessary for license renewal under section 4761.06
of the Revised Code, including rules providing for pro rata

reductions by month of the number of hours of continuing 75131
education that must be completed for license holders who are in 75132
their first renewal period, have been disabled by illness or 75133
accident, or have been absent from the country; 75134

(5) Procedures for the issuance and renewal of licenses 75135
and limited permits, including the duties that may be fulfilled 75136
by the board's executive director and other board employees; 75137

(6) Procedures for the limitation, suspension, and 75138
revocation of licenses and limited permits, the refusal to 75139
issue, renew, or reinstate licenses and limited permits, and the 75140
imposition of a reprimand or probation under section 4761.09 of 75141
the Revised Code; 75142

(7) Standards of ethical conduct for the practice of 75143
respiratory care; 75144

(8) The respiratory care tasks that may be performed by an 75145
individual practicing as a polysomnographic technologist 75146
pursuant to division (B) (3) of section 4761.10 of the Revised 75147
Code; 75148

(9) Requirements for criminal records checks of applicants 75149
under section 4776.03 of the Revised Code. 75150

(C) The board shall determine the sufficiency of an 75151
applicant's qualifications for admission to the licensing 75152
examination or a reexamination, and for the issuance or renewal 75153
of a license or limited permit. 75154

(D) The board shall determine the respiratory care 75155
educational programs that are acceptable for fulfilling the 75156
requirements of division (A) of section 4761.04 of the Revised 75157
Code. 75158

(E) (1) The board shall investigate evidence that appears 75159
to show that a person has violated any provision of this chapter 75160
or any rule adopted under it. Any person may report to the board 75161
in a signed writing any information that the person may have 75162
that appears to show a violation of any provision of this 75163
chapter or any rule adopted under it. In the absence of bad 75164
faith, any person who reports information of that nature or who 75165
testifies before the board in any adjudication conducted under 75166
Chapter 119. of the Revised Code shall not be liable in damages 75167
in a civil action as a result of the report or testimony. Each 75168
complaint or allegation of a violation received by the board 75169
shall be assigned a case number and shall be recorded by the 75170
board. 75171

(2) Investigations of alleged violations of this chapter 75172
or any rule adopted under it shall be supervised by the 75173
supervising member elected by the board in accordance with 75174
section 4731.02 of the Revised Code and by the secretary as 75175
provided in section 4761.012 of the Revised Code. The president 75176
may designate another member of the board to supervise the 75177
investigation in place of the supervising member. Upon a vote of 75178
the majority of the board to authorize the addition of a 75179
consumer member in the supervision of any part of any 75180
investigation, the president shall designate a consumer member 75181
for supervision of investigations as determined by the 75182
president. The authorization of consumer member participation in 75183
investigation supervision may be rescinded by a majority vote of 75184
the board. No member of the board who supervises the 75185
investigation of a case shall participate in further 75186
adjudication of the case. 75187

(3) In investigating a possible violation of this chapter 75188
or any rule adopted under it, the board may issue subpoenas, 75189

administer oaths, question witnesses, conduct interviews, order 75190
the taking of depositions, inspect and copy any books, accounts, 75191
papers, records, or documents, and compel the attendance of 75192
witnesses and production of books, accounts, papers, records, 75193
documents, and testimony, except that a subpoena for patient 75194
record information shall not be issued without consultation with 75195
the attorney general's office and approval of the secretary of 75196
the board. 75197

Before issuance of a subpoena for patient record 75198
information, the secretary shall determine whether there is 75199
probable cause to believe that the complaint filed alleges a 75200
violation of this chapter or any rule adopted under it and that 75201
the records sought are relevant to the alleged violation and 75202
material to the investigation. The subpoena may apply only to 75203
records that cover a reasonable period of time surrounding the 75204
alleged violation. 75205

On failure to comply with any subpoena issued by the board 75206
and after reasonable notice to the person being subpoenaed, the 75207
board may move for an order compelling the production of persons 75208
or records pursuant to the Rules of Civil Procedure. 75209

A subpoena issued by the board may be served by a sheriff, 75210
the sheriff's deputy, or a board employee or agent designated by 75211
the board. Service of a subpoena issued by the board may be made 75212
by delivering a copy of the subpoena to the person named 75213
therein, reading it to the person, or leaving it at the person's 75214
usual place of residence, usual place of business, or address on 75215
file with the board. When serving a subpoena to an applicant for 75216
or the holder of a license or limited permit issued under this 75217
chapter, service of the subpoena may be made by certified mail, 75218
return receipt requested, and the subpoena shall be deemed 75219

served on the date delivery is made or the date the person 75220
refuses to accept delivery. If the person being served refuses 75221
to accept the subpoena or is not located, service may be made to 75222
an attorney who notifies the board that the attorney is 75223
representing the person. 75224

A sheriff's deputy who serves a subpoena shall receive the 75225
same fees as a sheriff. Each witness who appears before the 75226
board in obedience to a subpoena shall receive the fees and 75227
mileage provided for under section 119.094 of the Revised Code. 75228

(4) All hearings, investigations, and inspections of the 75229
board shall be considered civil actions for the purposes of 75230
section 2305.252 of the Revised Code. 75231

(5) A report required to be submitted to the board under 75232
this chapter, a complaint, or information received by the board 75233
pursuant to an investigation is confidential and not subject to 75234
discovery in any civil action. 75235

The board shall conduct all investigations or inspections 75236
and proceedings in a manner that protects the confidentiality of 75237
patients and persons who file complaints with the board. The 75238
board shall not make public the names or any other identifying 75239
information about patients or complainants unless proper consent 75240
is given. 75241

The board may share any information it receives pursuant 75242
to an investigation or inspection, including patient records and 75243
patient record information, with law enforcement agencies, other 75244
licensing boards, and other governmental agencies that are 75245
prosecuting, adjudicating, or investigating alleged violations 75246
of statutes or administrative rules. An agency or board that 75247
receives the information shall comply with the same requirements 75248

regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

No person shall knowingly access, use, or disclose confidential investigatory information in a manner prohibited by law.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

(a) The case number assigned to the complaint or alleged violation;

(b) The type of license or limited permit, if any, held by the individual against whom the complaint is directed;

(c) A description of the allegations contained in the complaint;

(d) Whether witnesses were interviewed;

(e) Whether the individual against whom the complaint is directed is the subject of any pending complaints; 75278
75279

(f) The disposition of the case. 75280

The report shall state how many cases are still pending 75281
and shall be prepared in a manner that protects the identity of 75282
each person involved in each case. The report shall be a public 75283
record under section 149.43 of the Revised Code. 75284

(7) The board may provide a status update regarding an 75285
investigation to a complainant on request if the board verifies 75286
the complainant's identity. 75287

(F) The board shall keep records of its proceedings and do 75288
other things as are necessary and proper to carry out and 75289
enforce the provisions of this chapter. 75290

(G) The board shall maintain and publish on its internet 75291
web site all of the following: 75292

(1) The requirements for the issuance of licenses and 75293
limited permits under this chapter and rules adopted by the 75294
board; 75295

(2) A list of the names and locations of the institutions 75296
that each year granted degrees or certificates of completion in 75297
respiratory care. 75298

Sec. 4761.032. (A) The state medical board shall appoint a 75299
respiratory care advisory council for the purpose of advising 75300
the board on issues relating to the practice of respiratory 75301
care. The advisory council shall consist of not more than seven 75302
individuals knowledgeable in the area of respiratory care. 75303

A majority of the council members shall be individuals 75304
licensed under this chapter who are actively engaged in the 75305

practice of respiratory care. The board shall include all of the 75306
following on the council: 75307

(1) One physician who is a member of the state medical 75308
board; 75309

(2) One physician who has clinical training and experience 75310
in pulmonary disease; 75311

(3) One individual who is not affiliated with any health 75312
care profession, who shall be appointed to represent the 75313
interest of consumers. 75314

The Ohio state medical association, or its successor 75315
organization, may nominate not more than three individuals for 75316
consideration by the board in appointing the physician member 75317
described in division (A) (2) of this section. 75318

The Ohio society for respiratory care, or its successor 75319
organization, may nominate not more than three individuals for 75320
consideration by the board in appointing any member of the 75321
council other than the physician members described in divisions 75322
(A) (1) and (2) of this section. 75323

(B) Not later than ninety days after January 21, 2018, the 75324
board shall make initial appointments to the council. Initial 75325
members shall serve terms of office of one, two, or three years, 75326
as selected by the board. Thereafter, terms of office shall be 75327
for three years, with each term ending on the same day of the 75328
same month as the term that it succeeds. A council member shall 75329
continue in office subsequent to the expiration date of the 75330
member's term until a successor is appointed and takes office, 75331
or until a period of sixty days has elapsed, whichever occurs 75332
first. Each council member shall hold office from the date of 75333
appointment until the end of the term for which the member was 75334

appointed. 75335

(C) Members shall serve without compensation, but shall be 75336
reimbursed for actual and necessary expenses incurred in 75337
performing their official duties. 75338

(D) The council shall meet at least four times each year 75339
and at such other times as may be necessary to carry out its 75340
responsibilities. 75341

(E) The council may submit to the board recommendations 75342
concerning all of the following: 75343

(1) Requirements for issuing a license to practice as a 75344
respiratory care professional or as a limited permit holder, 75345
including the educational and experience requirements that must 75346
be met to receive the license or permit; 75347

(2) Existing and proposed rules pertaining to the practice 75348
of respiratory care ~~and the administration and enforcement of~~ 75349
~~this chapter;~~ 75350

(3) Standards for the approval of educational programs 75351
required to qualify for licensure and continuing education 75352
programs for licensure renewal; 75353

(4) Policies related to the issuance and renewal of 75354
licenses and limited permits; 75355

(5) Fees for the issuance and renewal of a license to 75356
practice respiratory care as a licensee or as a limited permit 75357
holder; 75358

(6) Standards of practice and ethical conduct in the 75359
practice of respiratory care; 75360

(7) The safe and effective practice of respiratory care, 75361

including scope of practice and minimal standards of care. 75362

Sec. 4761.062. (A) An individual who holds a current, 75363
valid license issued under this chapter to practice respiratory 75364
care and who retires voluntarily from practice may request that 75365
the state medical board place the individual's license on 75366
retired status. 75367

This section does not authorize an individual who holds a 75368
limited permit issued under section 4761.05 of the Revised Code 75369
to request that the board place the individual's permit on 75370
retired status. 75371

(B) An individual seeking to have the individual's license 75372
placed on retired status shall file with the board an 75373
application in the form and manner prescribed by the board. The 75374
application shall be submitted before the end of a biennial 75375
renewal period and include all of the following: 75376

(1) The applicant's full name, license number, mailing 75377
address, and electronic mail address; 75378

(2) An attestation that the information included in the 75379
application is accurate and truthful and that the applicant 75380
meets the following qualifications: 75381

(a) That the applicant holds a current, valid license 75382
issued under this chapter; 75383

(b) That the applicant has retired voluntarily from the 75384
practice of respiratory care; 75385

(c) That the applicant does not have any criminal charges 75386
pending against the applicant; 75387

(d) That the applicant is not the subject of discipline 75388
by, or an investigation pending with, a regulatory agency of 75389

this state, another state, or the United States; 75390

(e) That the applicant does not have any complaints 75391
pending with the board; 75392

(f) That the applicant is not, at the time of application, 75393
subject to the board's hearing, disciplinary, or compliance 75394
processes under the terms of a citation, notice of opportunity 75395
for hearing, board order, or consent agreement. 75396

(3) A fee in an amount equal to the restoration fee 75397
described in section 4761.06 of the Revised Code. 75398

The board shall not consider an application for retired 75399
status complete until the board receives the fee described in 75400
this division. On receipt of a fee, the board shall deposit the 75401
fee in accordance with section 4731.24 of the Revised Code. 75402

(C) If the board determines that an applicant meets the 75403
requirements of division (B) of this section, the board shall 75404
place the applicant's license on retired status. The license 75405
remains on retired status for the life of the license holder, 75406
unless suspended, revoked, or reactivated, and does not require 75407
renewal. 75408

(D) During the period in which a license is on retired 75409
status, all of the following apply: 75410

(1) The license holder is prohibited from practicing as a 75411
respiratory care professional under any circumstance. 75412

(2) The license holder is not required to complete 75413
continuing education as described in section 4761.06 of the 75414
Revised Code. 75415

(3) The license holder is prohibited from using the 75416
license to obtain a license to practice respiratory care in 75417

another state, whether by endorsement or reciprocity or through
a licensure compact.

(4) The license holder may use a title authorized for the
holder's license as described in section 4761.10 of the Revised
Code, but only if "retired" also is included in the title.

(E) If a license has been placed on retired status
pursuant to this section, it may be reactivated. Subject to
section 4761.061 of the Revised Code, the board may reactivate a
license placed on retired status if all of the following
conditions are satisfied:

(1) The holder seeking to reactivate the license applies
to the board in the form and manner prescribed by the board.

(2) The applicant certifies completion of, within the two-
year period that ends on the date of the application's
submission, the continuing education requirements that must be
met for renewal of a license.

(3) The applicant complies with sections 4776.01 to
4776.04 of the Revised Code.

(4) The applicant pays a reactivation fee in an amount
equal to the restoration fee described in section 4761.06 of the
Revised Code.

The board shall not consider an application to reactivate
a license complete until the board receives the fee described in
this division. On receipt of a fee, the board shall deposit the
fee in accordance with section 4731.24 of the Revised Code.

(F) The board shall reactivate a license placed on retired
status if the conditions of division (E) of this section have
been satisfied and the board, in its discretion, determines that

the results of the criminal records check conducted pursuant to 75446
sections 4776.01 to 4776.04 of the Revised Code do not make the 75447
applicant ineligible for active status. 75448

(G) The board may take disciplinary action against an 75449
applicant who is seeking to place a license on retired status or 75450
to reactivate the license if the applicant commits fraud, 75451
misrepresentation, or deception in applying for or securing the 75452
retired status or reactivation. 75453

The board also may take disciplinary action against the 75454
holder of a license placed on retired status if the holder 75455
practices under the license, uses the license to obtain 75456
licensure as a respiratory care professional in another state, 75457
or uses a title that does not reflect the holder's retired 75458
status. 75459

In taking disciplinary action under this section, the 75460
board may impose on the applicant or holder any sanction 75461
described in section 4761.09 of the Revised Code, but shall do 75462
so in accordance with the procedures described in that section. 75463

~~(H) The board may adopt rules to implement and enforce~~ 75464
~~this section. The rules shall be adopted in accordance with~~ 75465
~~Chapter 119. of the Revised Code.~~ 75466

Sec. 4762.062. (A) An individual who holds a current, 75467
valid license issued under this chapter to practice as an 75468
acupuncturist and who retires voluntarily from practice may 75469
request that the state medical board place the individual's 75470
license on retired status. 75471

(B) An individual seeking to have the individual's license 75472
placed on retired status shall file with the board an 75473
application in the form and manner prescribed by the board. The 75474

application shall be submitted before the end of a biennial 75475
renewal period and include all of the following: 75476

(1) The applicant's full name, license number, mailing 75477
address, and electronic mail address; 75478

(2) An attestation that the information included in the 75479
application is accurate and truthful and that the applicant 75480
meets the following qualifications: 75481

(a) That the applicant holds a current, valid license 75482
issued under this chapter; 75483

(b) That the applicant has retired voluntarily from 75484
practice as an acupuncturist; 75485

(c) That the applicant does not have any criminal charges 75486
pending against the applicant; 75487

(d) That the applicant is not the subject of discipline 75488
by, or an investigation pending with, a regulatory agency of 75489
this state, another state, or the United States; 75490

(e) That the applicant does not have any complaints 75491
pending with the board; 75492

(f) That the applicant is not, at the time of application, 75493
subject to the board's hearing, disciplinary, or compliance 75494
processes under the terms of a citation, notice of opportunity 75495
for hearing, board order, or consent agreement. 75496

(3) A fee in an amount equal to the sum of the biennial 75497
renewal fee and restoration penalty described in section 4762.06 75498
of the Revised Code. 75499

The board shall not consider an application for retired 75500
status complete until the board receives the fee described in 75501

this division. On receipt of a fee, the board shall deposit the 75502
fee in accordance with section 4731.24 of the Revised Code. 75503

(C) If the board determines that an applicant meets the 75504
requirements of division (B) of this section, the board shall 75505
place the applicant's license on retired status. The license 75506
remains on retired status for the life of the license holder, 75507
unless suspended, revoked, or reactivated, and does not require 75508
renewal. 75509

(D) During the period in which a license is on retired 75510
status, all of the following apply: 75511

(1) The license holder is prohibited from practicing as an 75512
acupuncturist under any circumstance. 75513

(2) The license holder is prohibited from using the 75514
license to obtain a license to practice as an acupuncturist in 75515
another state, whether by endorsement or reciprocity or through 75516
a licensure compact. 75517

(3) The license holder may use a title authorized for the 75518
holder's license as described in section 4762.08 of the Revised 75519
Code, but only if "retired" also is included in the title. 75520

(E) If a license has been placed on retired status 75521
pursuant to this section, it may be reactivated. Subject to 75522
section 4762.061 of the Revised Code, the board may reactivate a 75523
license placed on retired status if all of the following 75524
conditions are satisfied: 75525

(1) The individual seeking to reactivate the license 75526
applies to the board in the form and manner prescribed by the 75527
board. 75528

(2) The applicant complies with sections 4776.01 to 75529

4776.04 of the Revised Code. 75530

(3) The applicant pays a reactivation fee in an amount 75531
equal to the sum of the biennial renewal fee and restoration 75532
penalty described in section 4762.06 of the Revised Code. 75533

The board shall not consider an application to reactivate 75534
a license complete until the board receives the fee described in 75535
this division. On receipt of a fee, the board shall deposit the 75536
fee in accordance with section 4731.24 of the Revised Code. 75537

(F) The board shall reactivate a license placed on retired 75538
status if the conditions of division (E) of this section have 75539
been satisfied and the board, in its discretion, determines that 75540
the results of the criminal records check conducted pursuant to 75541
sections 4776.01 to 4776.04 of the Revised Code do not make the 75542
applicant ineligible for active status. 75543

(G) The board may take disciplinary action against an 75544
applicant who is seeking to place a license on retired status or 75545
to reactivate the license if the applicant commits fraud, 75546
misrepresentation, or deception in applying for or securing the 75547
retired status or reactivation. 75548

The board also may take disciplinary action against the 75549
holder of a license placed on retired status if the holder 75550
practices under the license, uses the license to obtain 75551
licensure as an acupuncturist in another state, or uses a title 75552
that does not reflect the holder's retired status. 75553

In taking disciplinary action under this section, the 75554
board may impose on the applicant or holder any sanction 75555
described in section 4762.13 of the Revised Code, but shall do 75556
so in accordance with the procedures described in that section. 75557

~~(H) The board may adopt rules to implement and enforce~~ 75558

~~this section. The rules shall be adopted in accordance with~~ 75559
~~Chapter 119. of the Revised Code.~~ 75560

Sec. 4763.03. (A) In addition to any other duties imposed 75561
on the real estate appraiser board under this chapter, the board 75562
shall: 75563

(1) Adopt rules, in accordance with Chapter 119. of the 75564
Revised Code, in furtherance of ~~this chapter, including, but not~~ 75565
~~limited to,~~ all of the following: 75566

(a) Defining, with respect to state-certified general real 75567
estate appraisers, state-certified residential real estate 75568
appraisers, and state-licensed residential real estate 75569
appraisers, the type of educational experience, appraisal 75570
experience, and other equivalent experience that satisfy the 75571
requirements of this chapter. The rules shall require that all 75572
appraisal experience performed after January 30, 1989, meet the 75573
uniform standards of professional practice established by the 75574
appraisal foundation. 75575

(b) Establishing the examination specifications for state- 75576
certified general real estate appraisers, state-certified 75577
residential real estate appraisers, and state-licensed 75578
residential real estate appraisers; 75579

(c) Relating to disciplinary proceedings conducted in 75580
accordance with section 4763.11 of the Revised Code, including 75581
rules governing the reinstatement of certificates, 75582
registrations, and licenses that have been suspended pursuant to 75583
those proceedings; 75584

(d) Identifying any additional information to be included 75585
on the forms specified in division (C) of section 4763.12 of the 75586
Revised Code, provided that the rules shall not require any less 75587

information than is required in that division; 75588

(e) Establishing the fees set forth in section 4763.09 of 75589
the Revised Code; 75590

(f) Establishing the amount of the assessment required by 75591
division (A) (2) of section 4763.05 of the Revised Code. The 75592
board annually shall determine the amount due from each 75593
applicant for an initial certificate, registration, and license 75594
in an amount that will maintain the real estate appraiser 75595
recovery fund at the level specified in division (A) of section 75596
4763.16 of the Revised Code. The board may, if the fund falls 75597
below that amount, require current certificate holders, 75598
registrants, and licensees to pay an additional assessment. 75599

(g) Defining the educational requirements pursuant to 75600
division (C) of section 4763.05 of the Revised Code; 75601

(h) Establishing a real estate appraiser assistant program 75602
for the registration of real estate appraiser assistants. 75603

(2) Prescribe by rule the requirements for the 75604
examinations required by division (D) of section 4763.05 of the 75605
Revised Code; 75606

(3) Periodically review the standards for the development 75607
and reporting of appraisal reports provided in this chapter and 75608
adopt rules explaining and interpreting those standards; 75609

(4) Hear appeals, pursuant to Chapter 119. of the Revised 75610
Code, from decisions and orders the superintendent of real 75611
estate issues pursuant to this chapter; 75612

(5) Request the initiation by the superintendent of 75613
investigations of violations of this chapter or the rules 75614
adopted pursuant thereto, as the board determines appropriate; 75615

- (6) Determine the appropriate disciplinary actions to be taken against certificate holders, registrants, and licensees under this chapter as provided in section 4763.11 of the Revised Code. 75616
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- (B) In addition to any other duties imposed on the superintendent of real estate under this chapter, the superintendent shall: 75620
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- (1) Prescribe the form and content of all applications required by this chapter; 75623
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- (2) Receive applications for certifications, registrations, and licenses and renewal thereof under this chapter and establish the procedures for processing, approving, and disapproving those applications; 75625
75626
75627
75628
- (3) Retain records and all application materials submitted to the superintendent; 75629
75630
- (4) Establish the time and place for conducting the examinations required by division (D) of section 4763.05 of the Revised Code; 75631
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- (5) Issue certificates, registrations, and licenses and maintain a register of the names and addresses of all persons issued a certificate, registration, or license under this chapter; 75634
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- (6) Perform any other functions and duties, including the employment of staff, necessary to administer this chapter; 75638
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- (7) Administer this chapter; 75640
- (8) Issue all orders necessary to implement this chapter; 75641
- (9) Investigate complaints, upon the superintendent's own 75642

motion or upon receipt of a complaint or upon a request of the board, concerning any violation of this chapter or the rules adopted pursuant thereto or the conduct of any person holding a certificate, registration, or license issued pursuant to this chapter;

(10) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators and auditors have the right to review and audit the business records of certificate holders, registrants, and licensees during normal business hours. The superintendent may utilize the investigators and auditors employed pursuant to division (B) (4) of section 4735.05 of the Revised Code or currently licensed certificate holders or licensees to assist in performing the duties of this division.

(11) Appoint a hearing examiner for any proceeding involving the disciplinary action of a certificate holder, licensee, or registrant under section 4763.11 of the Revised Code;

(12) Administer the real estate appraiser recovery fund;

(13) Conduct the examinations required by division (D) of section 4763.05 of the Revised Code at least four times per year.

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

(1) In connection with hearings, investigations, or audits under division (B) of this section, subpoena witnesses as provided in section 4763.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation

of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate this chapter, the court shall grant an injunction, restraining order, or other appropriate relief, or any combination thereof.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(10) of this section, from certificate holders, registrants, licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department of commerce, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to certificate holders, registrants, and licensees to the superintendent of financial institutions for purposes relating to the administration of Chapter 1322. of the Revised Code, to the commissioner of securities for purposes relating to Chapter 1707. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to law enforcement agencies and prosecutors. Information released by the division pursuant to this section remains confidential.

(F) Any rule the board adopts shall meet or exceed the requirements specified in federal law or regulations.

Sec. 4763.06. (A) A person licensed, registered, or certified under this chapter may obtain a renewal certificate, registration, or license by filing a renewal application with

and paying the renewal fee set forth in section 4763.09 of the Revised Code and any amount assessed pursuant to division (A) (2) of section 4763.05 of the Revised Code to the superintendent of real estate. The renewal application shall include a statement, signed by the certificate holder, registrant, or licensee, that the certificate holder, registrant, or licensee has not been convicted of or pleaded guilty to any criminal offense described in division (H) (2) of section 4763.05 of the Revised Code since the issuance or renewal of the individual's most recent certificate, registration, or license. The certificate holder, registrant, or licensee shall file the renewal application at least thirty days, but no earlier than one hundred twenty days, prior to expiration of the certificate holder's, registrant's, or licensee's current certificate, registration, or license. The superintendent shall establish a method by which a certificate holder, registrant, or licensee may electronically file the renewal application and pay the fee and the assessed amount required for renewal.

(B) A certificate holder, registrant, or licensee who fails to renew a certificate, registration, or license prior to its expiration is ineligible to obtain a renewal certificate, registration, or license and shall comply with section 4763.05 of the Revised Code in order to regain certification, registration, or licensure, except that a certificate holder, registrant, or licensee may renew the certificate, registration, or license without having to comply with section 4763.05 of the Revised Code by doing either of the following:

(1) Filing a renewal application and submitting payment of all fees for renewal and payment of the late filing fee set forth in section 4763.09 of the Revised Code within three months after the expiration of the certificate holder's, registrant's,

or licensee's certificate, registration, or license; 75733

(2) Obtaining a medical exception under division (C) of 75734
this section, filing a renewal application, and submitting 75735
payment of all fees for renewal and payment of the late filing 75736
fee set forth in section 4763.09 of the Revised Code. A 75737
certificate holder, registrant, or licensee who applies for late 75738
renewal of the certificate holder's, registrant's, or licensee's 75739
certificate, registration, or license may not engage in any 75740
activities permitted by the certification, registration, or 75741
license being renewed during the three-month period following 75742
the certificate's, registration's, or license's normal 75743
expiration date, or during the time period for which a medical 75744
exception applies, until all renewal fees and the late filing 75745
fee have been paid. 75746

(C) The superintendent may grant a medical exception upon 75747
application by a person certified, registered, or licensed under 75748
this chapter. To receive an exception, the certificate holder, 75749
registrant, or licensee shall submit a request to the 75750
superintendent with proof satisfactory that a medical exception 75751
is warranted. If the superintendent makes a determination that 75752
satisfactory proof has not been presented, within fifteen days 75753
of the date of the denial of the medical exception the 75754
certificate holder, registrant, or licensee may file with the 75755
division of real estate a request that the real estate appraiser 75756
board review the determination. ~~The board may adopt reasonable~~ 75757
~~rules in accordance with Chapter 119. of the Revised Code to~~ 75758
~~implement this division.~~ 75759

Sec. 4763.07. (A) (1) Beginning on and after ~~the effective~~ 75760
~~date of this amendment~~ April 9, 2025, every state-certified 75761
general real estate appraiser, state-certified residential real 75762

estate appraiser, state-licensed residential real estate 75763
appraiser, and state-registered real estate appraiser assistant 75764
shall submit proof of successfully completing a minimum of 75765
twenty-eight classroom hours of continuing education instruction 75766
in courses or seminars approved by the real estate appraiser 75767
board. The certificate holder, licensee, or registrant shall 75768
have satisfied the twenty-eight-hour continuing education 75769
requirements within the two-year period immediately following 75770
the issuance of the initial certificate, license, or 75771
registration and shall satisfy those requirements every two 75772
years thereafter. 75773

(2) Continuing education required under this section does 75774
not apply to an appraiser with a certification or license from 75775
another state that is temporarily recognized in this state 75776
pursuant to division (E) (2) of section 4763.05 of the Revised 75777
Code. 75778

(3) A certificate holder, licensee, or registrant who 75779
fails to submit proof to the superintendent of meeting these 75780
requirements is ineligible to obtain a renewal certificate, 75781
license, or registration and shall comply with section 4763.05 75782
of the Revised Code in order to regain a certificate, license, 75783
or registration, except that the certificate holder, licensee, 75784
or registrant may submit proof to the superintendent of meeting 75785
these requirements within three months after the date of 75786
expiration of the certificate, license, or registration, or by 75787
obtaining a medical exception under division (E) of this 75788
section, without having to comply with section 4763.05 of the 75789
Revised Code. A certificate holder, licensee, or registrant may 75790
not engage in any activities permitted by the certificate, 75791
license, or registration during the three-month period following 75792
the certificate's, license's, or registration's normal 75793

expiration date or during the time period for which a medical 75794
exception applies. 75795

(4) A certificate holder, licensee, or registrant may 75796
satisfy all or a portion of the required hours of classroom 75797
instruction in the following manner: 75798

(a) Completion of an educational program of study 75799
determined by the board to be equivalent, for continuing 75800
education purposes, to courses or seminars approved by the 75801
board; 75802

(b) Participation, other than as a student, in educational 75803
processes or programs approved by the board that relate to real 75804
estate appraisal theory, practices, or techniques. 75805

(5) A certificate holder, licensee, or registrant shall 75806
present to the superintendent of real estate evidence of the 75807
manner in which the certificate holder, licensee, or registrant 75808
satisfied the requirements of division (A) of this section. 75809

(B) The board shall adopt rules for implementing a 75810
continuing education program for state-certified general real 75811
estate appraisers, state-certified residential real estate 75812
appraisers, state-licensed residential real estate appraisers, 75813
and state-registered real estate appraiser assistants for the 75814
purpose of assuring that certificate holders, licensees, and 75815
registrants have current knowledge of real estate appraisal 75816
theories, practices, and techniques that will provide a high 75817
degree of service and protection to members of the public. ~~In~~ 75818
~~addition to any other provisions the board considers~~ 75819
~~appropriate, the~~ The rules adopted by the board shall prescribe 75820
the following: 75821

(1) Policies and procedures for obtaining board approval 75822

of courses of instruction and seminars; 75823

(2) Standards, policies, and procedures to be applied in 75824
evaluating the alternative methods of complying with continuing 75825
education requirements set forth in divisions (A) (4) (a) and (b) 75826
of this section; 75827

(3) Standards, monitoring methods, and systems for 75828
recording attendance to be employed by course sponsors as a 75829
prerequisite to approval of courses for continuing education 75830
credit. 75831

(C) No amendment or rescission of a rule the board adopts 75832
pursuant to division (B) of this section shall operate to 75833
deprive a certificate holder or licensee of credit toward 75834
renewal of certification or licensure for any course of 75835
instruction completed by the certificate holder or licensee 75836
prior to the effective date of the amendment or rescission that 75837
would have qualified for credit under the rule as it existed 75838
prior to amendment or rescission. 75839

(D) The superintendent of real estate shall not issue a 75840
renewal certificate, registration, or license to any person who 75841
does not meet applicable minimum criteria for state 75842
certification, registration, or licensure prescribed by federal 75843
law or rule. 75844

(E) The superintendent may grant a medical exception upon 75845
application by a person certified, registered, or licensed under 75846
this chapter. To receive an exception, the certificate holder, 75847
registrant, or licensee shall submit a request to the 75848
superintendent with proof satisfactory that a medical exception 75849
is warranted. If the superintendent makes a determination that 75850
satisfactory proof has not been presented, within fifteen days 75851

of the date of the denial of the medical exception, the 75852
certificate holder, registrant, or licensee may file with the 75853
division of real estate a request that the real estate appraiser 75854
board review the determination. ~~The board may adopt reasonable~~ 75855
~~rules in accordance with Chapter 119. of the Revised Code to~~ 75856
~~implement this division.~~ 75857

Sec. 4763.12. (A) A person licensed or certified under 75858
this chapter may be retained or employed to act as a 75859
disinterested third party in rendering an unbiased valuation or 75860
analysis of real estate or to provide specialized services to 75861
facilitate the client or employer's objectives. An appraisal or 75862
appraisal report rendered by a certificate holder or licensee 75863
shall comply with this chapter. A certified appraisal or 75864
certified appraisal report represents to the public that it 75865
satisfies the standards set forth in this chapter. 75866

(B) No certificate holder or licensee shall accept a fee 75867
for an appraisal assignment that is contingent, in whole or in 75868
part, upon the reporting of a predetermined estimate, analysis, 75869
or opinion or upon the opinion, conclusion, or valuation 75870
reached, or upon consequences resulting from the appraisal 75871
assignment. A certificate holder or licensee who enters into an 75872
agreement to provide specialized services may charge a fixed fee 75873
or a fee that is contingent upon the results achieved by the 75874
specialized services, provided that this fact is clearly stated 75875
in each oral report rendered pursuant to the agreement, and the 75876
existence of the contingent fee arrangement is clearly stated in 75877
a prominent place on each written report and in each letter of 75878
transmittal and certification statement made by the certificate 75879
holder or licensee within that report. 75880

(C) Every written report rendered by a certificate holder 75881

or licensee in conjunction with an appraisal assignment or 75882
specialized service performed shall include the following 75883
information: 75884

(1) The name of the certificate holder or licensee; 75885

(2) The class of certification or licensure held by and 75886
the certification or licensure number of the certificate holder 75887
or licensee; 75888

(3) Whether the appraisal or specialized service is 75889
performed within the scope of the certificate holder's or 75890
licensee's certification or licensure; 75891

(4) Whether the appraisal or specialized service is 75892
provided by a certificate holder or licensee as a disinterested 75893
and unbiased third party or as a person on an interested and 75894
biased basis or as an interested third party on a contingent fee 75895
basis; 75896

(5) The signature of the person performing and reporting 75897
the appraisal or specialized service; 75898

(6) The license, certificate, or registration number of 75899
the appraisal management company that has engaged the appraiser 75900
for the assignment within the body of the appraisal report; 75901

(7) If an appraisal report is completed for an appraisal 75902
management company, one of the following: 75903

(a) The actual fees paid to the appraiser within the body 75904
of the appraisal report; 75905

(b) If the appraiser is employed by the appraisal 75906
management company on an employee and employer basis for the 75907
performance of appraisals, a statement of that fact and a 75908
statement that the appraiser was not paid a fee. 75909

If the certificate holder or licensee provides an oral 75910
real estate appraisal report or specialized service, the 75911
certificate holder or licensee shall send, within seven days of 75912
providing the oral report, a form to the client containing the 75913
appropriate information specified in this division ~~and the rules~~ 75914
~~adopted pursuant to this division.~~ 75915

(D) Nothing in this chapter shall be construed as 75916
requiring a certificate holder or licensee to provide a client 75917
with a copy of any writing prepared in support of an oral 75918
appraisal report except as provided in division (C) of this 75919
section or as agreed to between the certificate holder or 75920
licensee and the certificate holder's or licensee's client. 75921

(E) No person, directly or indirectly, shall knowingly 75922
compensate, instruct, induce, coerce, or intimidate, or attempt 75923
to compensate, instruct, induce, coerce, or intimidate, a 75924
certificate holder or licensee for the purpose of corrupting or 75925
improperly influencing the independent judgment of the 75926
certificate holder or licensee with respect to the value of the 75927
dwelling offered as security for repayment of a mortgage loan. 75928

Sec. 4765.11. (A) The state board of emergency medical, 75929
fire, and transportation services shall adopt, and may amend and 75930
rescind, rules in accordance with Chapter 119. of the Revised 75931
Code and divisions (C) and (D) of this section that establish 75932
all of the following: 75933

(1) Procedures for its governance and the control of its 75934
actions and business affairs; 75935

(2) Standards for the performance of emergency medical 75936
services by first responders, emergency medical technicians- 75937
basic, emergency medical technicians-intermediate, and emergency 75938

medical technicians-paramedic;	75939
(3) Application fees for certificates of accreditation,	75940
certificates of approval, certificates to teach, and	75941
certificates to practice, which shall be deposited into the	75942
trauma and emergency medical services fund created in section	75943
4513.263 of the Revised Code;	75944
(4) Criteria for determining when the application or	75945
renewal fee for a certificate to practice may be waived because	75946
an applicant cannot afford to pay the fee;	75947
(5) Procedures for issuance and renewal of certificates of	75948
accreditation, certificates of approval, certificates to teach,	75949
and certificates to practice, including any measures necessary	75950
to implement section 9.79 of the Revised Code and any procedures	75951
necessary to ensure that adequate notice of renewal is provided	75952
in accordance with division (E) of section 4765.30 of the	75953
Revised Code;	75954
(6) Procedures for suspending or revoking certificates of	75955
accreditation, certificates of approval, certificates to teach,	75956
and certificates to practice;	75957
(7) Grounds for suspension or revocation of a certificate	75958
to practice issued under section 4765.30 of the Revised Code and	75959
for taking any other disciplinary action against a first	75960
responder, EMT-basic, EMT-I, or paramedic;	75961
(8) Procedures for taking disciplinary action against a	75962
first responder, EMT-basic, EMT-I, or paramedic;	75963
(9) Standards for certificates of accreditation and	75964
certificates of approval;	75965
(10) Qualifications for certificates to teach;	75966

- (11) Requirements for a certificate to practice; 75967
- (12) The curricula, number of hours of instruction and 75968
training, and instructional materials to be used in adult and 75969
pediatric emergency medical services training programs and adult 75970
and pediatric emergency medical services continuing education 75971
programs; 75972
- (13) Procedures for conducting courses in recognizing 75973
symptoms of life-threatening allergic reactions and in 75974
calculating proper dosage levels and administering injections of 75975
epinephrine to adult and pediatric patients who suffer life- 75976
threatening allergic reactions; 75977
- (14) Examinations for certificates to practice; 75978
- (15) Procedures for administering examinations for 75979
certificates to practice; 75980
- (16) Procedures for approving examinations that 75981
demonstrate competence to have a certificate to practice renewed 75982
without completing an emergency medical services continuing 75983
education program; 75984
- (17) Procedures for granting extensions and exemptions of 75985
emergency medical services continuing education requirements; 75986
- (18) Specifications of the emergency medical services that 75987
first responders are authorized to perform under section 4765.35 75988
of the Revised Code, that EMTs-basic are authorized to perform 75989
under section 4765.37 of the Revised Code, that EMTs-I are 75990
authorized to perform under section 4765.38 of the Revised Code, 75991
and that paramedics are authorized to perform under section 75992
4765.39 of the Revised Code; 75993
- (19) Standards and procedures for implementing the 75994

requirements of section 4765.06 of the Revised Code, including 75995
designations of the persons who are required to report 75996
information to the board and the types of information to be 75997
reported; 75998

(20) Procedures for administering the emergency medical 75999
services grant program established under section 4765.07 of the 76000
Revised Code; 76001

(21) Procedures consistent with Chapter 119. of the 76002
Revised Code for appealing decisions of the board; 76003

(22) Minimum qualifications and peer review and quality 76004
improvement requirements for persons who provide medical 76005
direction to emergency medical service personnel, including, 76006
subject to division (B) of section 4765.42 of the Revised Code, 76007
qualifications for a physician to be eligible to serve as the 76008
medical director of an emergency medical service organization or 76009
a member of its cooperating physician advisory board; 76010

(23) The manner in which a patient, or a patient's parent, 76011
guardian, or custodian, may consent to the board releasing 76012
identifying information about the patient under division (D) of 76013
section 4765.102 of the Revised Code; 76014

(24) Circumstances under which a training program or 76015
continuing education program, or portion of either type of 76016
program, may be taught by a person who does not hold a 76017
certificate to teach issued under section 4765.23 of the Revised 76018
Code; 76019

(25) Certification cycles for certificates issued under 76020
sections 4765.23 and 4765.30 of the Revised Code and 76021
certificates issued by the executive director of the state board 76022
of emergency medical, fire, and transportation services under 76023

section 4765.55 of the Revised Code that establish a common 76024
expiration date for all certificates; 76025

(26) Procedures by which the holder of a certificate to 76026
practice who intends to retire may request the emergency medical 76027
service organization for which the holder performs services to 76028
direct the board to designate the holder as "retired" in the 76029
board's records when the holder retires. 76030

(B) The board may adopt, and may amend and rescind, rules 76031
in accordance with Chapter 119. of the Revised Code and 76032
divisions (C) and (D) of this section that establish any of the 76033
following: 76034

(1) Specifications of information that may be collected 76035
under the trauma system registry and incidence reporting system 76036
created under section 4765.06 of the Revised Code; 76037

(2) Standards and procedures for implementing any of the 76038
recommendations made by any committees of the board or under 76039
section 4765.04 of the Revised Code; 76040

(3) Procedures and requirements for conducting background 76041
checks on applicants for the issuance and renewal of 76042
certificates of accreditation, certificates of approval, 76043
certificates to teach, and certificates to practice in 76044
accordance with section 109.578 of the Revised Code; 76045

~~(4) Any other rules necessary to implement this chapter. 76046~~

(C) In developing and administering rules adopted under 76047
this chapter, the state board of emergency medical, fire, and 76048
transportation services shall consult with regional directors 76049
and regional advisory boards appointed under section 4765.05 of 76050
the Revised Code and emphasize the special needs of pediatric 76051
and geriatric patients. 76052

(D) On and after April 6, 2023, the executive director shall not issue to any new applicant a certificate to practice as an emergency medical services assistant instructor. Any emergency medical services assistant instructor certificate that was issued in accordance with rules adopted under division (A) of this section prior to April 6, 2023, remains valid, subject to any conditions or responsibilities of retaining the validity of that certificate, until the holder of the certificate allows it to expire or lapse. The certificate may be renewed by the holder of that certificate. The board shall adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code in order to effectuate this division.

(E) Except as otherwise provided in this division, before adopting, amending, or rescinding any rule under this chapter, the board shall submit the proposed rule to the director of public safety for review. The director may review the proposed rule for not more than sixty days after the date it is submitted. If, within this sixty-day period, the director approves the proposed rule or does not notify the board that the rule is disapproved, the board may adopt, amend, or rescind the rule as proposed. If, within this sixty-day period, the director notifies the board that the proposed rule is disapproved, the board shall not adopt, amend, or rescind the rule as proposed unless at least twelve members of the board vote to adopt, amend, or rescind it.

This division does not apply to an emergency rule adopted in accordance with section 119.03 of the Revised Code.

(F) Notwithstanding any requirement for a certificate issued in accordance with rules adopted by the board under this section, the board, in accordance with Chapter 4796. of the

Revised Code, shall issue a certificate that is a license as 76083
defined in section 4796.01 of the Revised Code to an individual 76084
if either of the following applies: 76085

(1) The individual holds a license or certificate in 76086
another state. 76087

(2) The individual has satisfactory work experience, a 76088
government certification, or a private certification as 76089
described in that chapter as a first responder, emergency 76090
medical technician-basic, emergency medical technician- 76091
intermediate, or emergency medical technician-paramedic in a 76092
state that does not issue that license or certificate. 76093

Sec. 4765.431. (A) As used in this section: 76094

(1) "Emergency medical technician" and "EMT" have the same 76095
meanings as "emergency medical technician-basic" and "EMT- 76096
basic," respectively. 76097

(2) "Advanced emergency medical technician" and "AEMT" 76098
have the same meanings as "emergency medical technician- 76099
intermediate" and "AEMT," respectively. 76100

(3) "Nonemergency transport" means the transport of an 76101
individual who requires routine transportation to or from a 76102
medical appointment or service, is convalescent or otherwise 76103
nonambulatory, and, during transport to the destination 76104
facility, does not require medical monitoring, aid, care, or 76105
treatment. 76106

(B) When an ambulance is used for the nonemergency 76107
transport of a patient, the emergency medical service 76108
organization operating the ambulance shall staff the ambulance 76109
as follows: 76110

(1) One individual to serve as the driver who meets the requirements established in rules adopted under this section, but is not necessarily an emergency medical technician, advanced emergency medical technician, or paramedic;

(2) In addition to the driver, at least one EMT, AEMT, or paramedic.

~~(C) The state board of emergency medical, fire, and transportation services shall adopt rules necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4765.45. (A) If the department of public safety collects any of the following information regarding the administration of overdose reversal drugs, as defined in section 4729.01 of the Revised Code, by emergency medical service personnel or any firefighter or volunteer firefighter, the department of public safety shall report the information for the previous month to the department of health on a monthly basis and in a manner prescribed by the department of health:

(1) The five-digit postal zip code plus four-digit add-on where the overdose reversal drug was administered;

(2) The date on which the overdose reversal drug was administered;

(3) The number of doses administered;

(4) The name of the emergency medical service organization or fire department that administered the overdose reversal drug;

(5) Whether or not an overdose was reversed;

(6) Whether the individual to whom the overdose reversal drug was administered was taken to a hospital;

- (7) If known, the individual's age; 76139
- (8) If known, the United States postal zip code in which
the individual resides. 76140
76141
- When reporting to the department of health, the department
of public safety shall not include any information that 76142
identifies or tends to identify specific individuals to whom 76143
overdose reversal drugs were administered. 76144
76145
- (B) Each month, the department of health shall compile the 76146
information received under division (A) of this section, 76147
organize it by county, and forward it to each board of alcohol, 76148
drug addiction, and mental health services in this state. 76149
- ~~(C) The department of health may adopt rules as necessary
to implement this section. The rules shall be adopted in
accordance with Chapter 119. of the Revised Code.~~ 76150
76151
76152
- Sec. 4766.03.** (A) The state board of emergency medical, 76153
fire, and transportation services shall adopt rules, in 76154
accordance with Chapter 119. of the Revised Code, ~~implementing~~ 76155
~~the requirements of this chapter. The rules shall include~~ 76156
~~provisions~~ relating to the following: 76157
- (1) Requirements for an emergency medical service 76158
organization to receive a permit for an ambulance or 76159
nontransport vehicle; 76160
- (2) Requirements for an emergency medical service 76161
organization to receive a license as a basic life-support, 76162
intermediate life-support, advanced life-support, or mobile 76163
intensive care unit organization; 76164
- (3) Requirements for a nonemergency medical service 76165
organization to receive a permit for an ambulette vehicle; 76166

(4) Requirements for a nonemergency medical service organization to receive a license for an ambulette service;	76167 76168
(5) Requirements for an air medical service organization to receive a permit for a rotorcraft air ambulance or fixed wing air ambulance;	76169 76170 76171
(6) Requirements for licensure of air medical service organizations;	76172 76173
(7) Forms for applications and renewals of licenses and permits;	76174 76175
(8) Requirements for record keeping of service responses made by licensed emergency medical service organizations;	76176 76177
(9) Fee amounts for licenses and permits, and their renewals;	76178 76179
(10) Inspection requirements for licensees' vehicles or aircraft, records, and physical facilities;	76180 76181
(11) Fee amounts for inspections of ambulances, ambulettes, rotorcraft air ambulances, fixed wing air ambulances, and nontransport vehicles;	76182 76183 76184
(12) Requirements for ambulances and nontransport vehicles used by licensed emergency medical service organizations, for ambulette vehicles used by licensed nonemergency medical service organizations, and for rotorcraft air ambulances or fixed wing air ambulances used by licensed air medical service organizations that specify for each type of vehicle or aircraft the types of equipment that must be carried, the communication systems that must be maintained, and the personnel who must staff the vehicle or aircraft;	76185 76186 76187 76188 76189 76190 76191 76192 76193
(13) The level of care each type of emergency medical	76194

service organization, nonemergency medical service organization, 76195
and air medical service organization is authorized to provide; 76196

(14) Eligibility requirements for employment as an 76197
ambulette driver, including grounds for disqualification due to 76198
the results of a motor vehicle law violation check, chemical 76199
test, or criminal records check. The rule may require that an 76200
applicant for employment as an ambulette driver provide a set of 76201
fingerprints to law enforcement authorities if the applicant 76202
comes under final consideration for employment. 76203

(15) Any other rules that the board determines necessary 76204
for the implementation and enforcement of this chapter. 76205

(B) In the rules for ambulances and nontransport vehicles 76206
adopted under division (A) (12) of this section, the board may 76207
establish requirements that vary according to whether the 76208
emergency medical service organization using the vehicles is 76209
licensed as a basic life-support, intermediate life-support, 76210
advanced life-support, or mobile intensive care unit 76211
organization. 76212

(C) A mobile intensive care unit that is not dually 76213
certified to provide advanced life-support and meets the 76214
requirements of the rules adopted under this section is not 76215
required to carry immobilization equipment, including board 76216
splint kits, traction splints, backboards, backboard straps, 76217
cervical immobilization devices, cervical collars, stair chairs, 76218
folding cots, or other types of immobilization equipment 76219
determined by the board to be unnecessary for mobile intensive 76220
care units. 76221

A mobile intensive care unit is exempt from the emergency 76222
medical technician staffing requirements of section 4765.43 of 76223

the Revised Code when it is staffed by at least one physician or 76224
registered nurse and another person, designated by a physician, 76225
who holds a valid license or certificate to practice in a health 76226
care profession, and when at least one of the persons staffing 76227
the mobile intensive care unit is a registered nurse whose 76228
training meets or exceeds the training required for a paramedic. 76229

Sec. 4768.03. The real estate appraiser board shall do all 76230
of the following: 76231

(A) Adopt rules, in accordance with Chapter 119. of the 76232
Revised Code ~~in furtherance of this chapter, including, but not~~ 76233
~~limited to,~~ regarding all of the following: 76234

(1) Procedures for criminal records checks that are 76235
required under section 4768.06 of the Revised Code, in 76236
accordance with division (L) of section 121.08 and division (C) 76237
of section 4768.06 of the Revised Code; 76238

(2) The following nonrefundable fees: 76239

(a) The initial appraisal management company license fee, 76240
which shall not exceed two thousand dollars; 76241

(b) The annual renewal fee, which shall not exceed two 76242
thousand dollars; 76243

(c) The late filing fee, which shall not exceed one 76244
thousand dollars, for the renewal of a license under division 76245
(C) of section 4768.07 of the Revised Code. 76246

(3) Requirements for settlement agreements that the 76247
superintendent of real estate and professional licensing and an 76248
appraisal management company or other person may enter into 76249
under division (H) of section 4768.13 or division (C) of section 76250
4768.14 of the Revised Code; 76251

(4) Presumptions of compliance with regard to the 76252
customary and reasonable fees required under division (B) of 76253
section 4768.12 of the Revised Code. In adopting rules under 76254
division (A) (4) of this section, the board shall consider 76255
presumptions of compliance promulgated for the same purpose 76256
under the federal "Truth in Lending Act," 82 Stat. 146, 15 76257
U.S.C. 1631 et seq.; 76258

(5) Rules regarding consent to service of process for 76259
appraisal management companies in accordance with division (A) 76260
(6) of section 4768.06 of the Revised Code. 76261

(B) Determine the appropriate disciplinary actions to be 76262
taken against a person, including a licensee, under section 76263
4768.13 of the Revised Code; 76264

(C) Hear appeals, pursuant to Chapter 119. of the Revised 76265
Code, from decisions and orders that the superintendent issues 76266
pursuant to this chapter; 76267

(D) Request that the superintendent initiate an 76268
investigation of a violation of this chapter or the rules 76269
adopted under it, as the board determines appropriate. 76270

Sec. 4771.05. The Ohio athletic commission, established 76271
under section 3773.33 of the Revised Code, shall do all of the 76272
following: 76273

(A) Review the application form of an applicant for 76274
registration as an athlete agent; 76275

(B) Issue and renew biennial certificates of registration 76276
for an athlete agent pursuant to this chapter; 76277

(C) Maintain records of every athlete agent registered in 76278
this state, including the agent's business and residential 76279

address, and the date and number of the agent's registration; 76280

(D) Establish an application form to be completed by an 76281
individual seeking registration as an athlete agent; 76282

(E) Establish a fee for the registration, and renewal of 76283
the registration, of an individual as an athlete agent in an 76284
amount necessary to generate sufficient funds to cover the cost 76285
of administering and enforcing this chapter; 76286

~~(F) Adopt rules in accordance with Chapter 119. of the 76287
Revised Code to carry out the purposes of this chapter. 76288~~

Sec. 4771.07. (A) Each individual who desires to serve as 76289
an athlete agent within this state shall first file an 76290
application for registration with the Ohio athletic commission. 76291
The applicant shall apply using a form prescribed by the 76292
commission and shall provide all the following information: 76293

(1) The name and residential address of the applicant; 76294

(2) The address of the primary location in which the 76295
applicant wishes to conduct business as an athlete agent; 76296

(3) The type of business conducted or the occupation held 76297
by the applicant during the five years immediately preceding 76298
application; 76299

(4) The location and evidence of a trust fund established 76300
in accordance with division (B) of section 4771.12 of the 76301
Revised Code and rules adopted by the commission; 76302

(5) The name and address of all persons who have a 76303
financial interest in the business operation of the applicant, 76304
or who are compensated for the solicitation or recruitment of 76305
athletes on behalf of the applicant, except for salaried 76306
employees who receive no commission or bonus pursuant to any 76307

agent or professional sports services contract; 76308

(6) Any other information deemed necessary by the 76309
commission. 76310

(B) The applicant shall submit with the application for 76311
registration an affidavit or certificate of completion 76312
describing all formal training or practical experience completed 76313
by the applicant in any of the following areas: 76314

(1) Contracts; 76315

(2) Contract negotiations; 76316

(3) Complaint resolution; 76317

(4) Arbitration; 76318

(5) Dispute resolution. 76319

An attorney admitted to practice law in this state shall 76320
submit with the application a certificate of good standing 76321
issued by the supreme court of Ohio in lieu of an affidavit or 76322
certificate otherwise required under this division. 76323

(C) An applicant shall submit with the application for 76324
registration an application fee in an amount determined by the 76325
commission pursuant to division ~~(F)~~(E) of section 4771.05 of the 76326
Revised Code and proof of one of the securities required under 76327
section ~~477.11~~4771.11 of the Revised Code. 76328

(D) An athlete agent shall notify the commission of any 76329
change in business location or address during the period of 76330
application for registration or during the period of time the 76331
registration of the athlete agent is valid. 76332

Sec. 4771.08. (A) Upon receipt of all the materials 76333
required for application for registration under section 4771.07 76334

of the Revised Code, the Ohio athletic commission shall evaluate 76335
the information provided and issue a certificate of registration 76336
to the applicant, unless the commission finds that the applicant 76337
or an employee or representative of the applicant has committed 76338
any of the acts described in division (A) of section 4771.18 of 76339
the Revised Code. 76340

Notwithstanding the requirements for a certificate of 76341
registration under this chapter, the commission shall issue a 76342
certificate of registration in accordance with Chapter 4796. of 76343
the Revised Code to an applicant if either of the following 76344
applies: 76345

(1) The applicant is registered in another state. 76346

(2) The applicant has satisfactory work experience, a 76347
government certification, or a private certification as 76348
described in that chapter as an athlete agent in a state that 76349
does not issue that certificate of registration. 76350

(B) The commission may issue a temporary certificate of 76351
registration, effective for a period of up to ninety days after 76352
the issuance of the temporary registration, to a nonresident 76353
athlete agent who is registered as an athlete agent in another 76354
state, or to a person who has not submitted all the material 76355
required under section 4771.07 of the Revised Code, but who the 76356
commission determines to have submitted sufficient material to 76357
warrant the issuance of a temporary certificate. Chapter 4796. 76358
of the Revised Code does not apply to a temporary certificate of 76359
registration issued under this division. 76360

(C) The registration of an athlete agent with the 76361
commission is valid for a period of two years after the date the 76362
certificate of registration is issued. An athlete agent shall 76363

file an application for the renewal of a registration with the 76364
commission at least thirty days prior to the expiration of the 76365
registration of the athlete agent. An application for renewal 76366
shall be accompanied by a renewal fee in an amount determined by 76367
the commission pursuant to division ~~(F)~~(E) of section 4771.05 of 76368
the Revised Code. 76369

(D) Each certificate of registration issued by the 76370
commission to an athlete agent shall contain all the following 76371
information: 76372

(1) The name of the athlete agent; 76373

(2) The address of the primary location in which the 76374
athlete agent is authorized to conduct business as an athlete 76375
agent; 76376

(3) A registration number for the athlete agent and the 76377
date of issuance of the registration. 76378

(E) No registration or certificate of registration is 76379
valid for any individual other than the athlete agent to whom it 76380
is issued. 76381

(F) The commission is not liable for the acts of an 76382
athlete agent who is registered with the commission. 76383

Sec. 4772.13. (A) Subject to division (B) of this section, 76384
a certified mental health assistant may prescribe to a patient a 76385
controlled substance only if the controlled substance is one of 76386
the following: 76387

(1) Buprenorphine, but only for a patient that is actively 76388
engaged in opioid use disorder treatment; 76389

(2) A benzodiazepine, but only in the following 76390
circumstances: 76391

(a) For a patient diagnosed by the supervising physician
as having a chronic anxiety disorder; 76392
76393

(b) For a patient with acute anxiety or agitation, but
only in an amount indicated for a period not to exceed seven 76394
days. 76395
76396

(3) A stimulant that has been approved by the federal food
and drug administration for the treatment of attention deficit 76397
hyperactivity disorder, but only if the supervising physician 76398
has diagnosed the patient with, or confirmed the patient's 76399
diagnosis of, attention deficit ~~hyper activity~~ hyperactivity 76400
disorder. 76401
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(B) Except as provided in division (C) of this section, a 76403
certified mental health assistant licensed under this chapter 76404
who has been granted physician-delegated prescriptive authority 76405
by the physician supervising the certified mental health 76406
assistant shall comply with all of the following as conditions 76407
of prescribing a controlled substance identified in division (A) 76408
of this section as part of a patient's course of treatment for a 76409
particular condition: 76410

(1) Before initially prescribing the drug, the certified 76411
mental health assistant or the certified mental health 76412
assistant's delegate shall request from the drug database a 76413
report of information related to the patient that covers at 76414
least the twelve months immediately preceding the date of the 76415
request. If the certified mental health assistant practices 76416
primarily in a county of this state that adjoins another state, 76417
the certified mental health assistant or delegate also shall 76418
request a report of any information available in the drug 76419
database that pertains to prescriptions issued or drugs 76420
furnished to the patient in the state adjoining that county. 76421

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the certified mental health assistant or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B)(1) or (2) of this section, the certified mental health assistant shall assess the information in the report. The certified mental health assistant shall document in the patient's record that the report was received and the information was assessed.

(C) Division (B) of this section does not apply in any of the following circumstances:

(1) A drug database report regarding the patient is not available, in which case the certified mental health assistant shall document in the patient's record the reason that the report is not available.

(2) The drug is prescribed in an amount indicated for a period not to exceed seven days.

(3) The drug is prescribed to a hospice patient in a hospice care program, as those terms are defined in section 3712.01 of the Revised Code, or any other patient diagnosed as terminally ill.

(4) The drug is prescribed for administration in a hospital, nursing home, or residential care facility.

(5) If the state board of pharmacy no longer maintains the drug database. 76451
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(D) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement this section, including~~ regarding both of the following: 76453
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(1) Standards and procedures to be followed by a certified mental health assistant who has been granted physician-delegated prescriptive authority regarding the review of patient information available through the drug database under division (A) (5) of section 4729.80 of the Revised Code. 76456
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The rules adopted under this division do not apply if the state board of pharmacy no longer maintains the drug database. 76461
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(2) Standards and procedures to be followed by a certified mental health assistant in the use of buprenorphine for use in medication-assisted treatment, including regarding detoxification, relapse prevention, patient assessment, individual treatment planning, counseling and recovery supports, diversion control, and other topics selected by the board after considering best practices in medication-assisted treatment. 76463
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The board may apply the rules to all circumstances in which a certified mental health assistant prescribes drugs for use in medication-assisted treatment or limit the application of the rules to prescriptions for medication-assisted treatment issued for patients being treated in office-based practices or other practice types or locations specified by the board. 76470
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The rules adopted under this division shall be consistent with this chapter and, to the extent consistent with this chapter, rules adopted under sections 4723.51, 4730.55, and 4731.056 of the Revised Code. 76476
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Sec. 4772.19. ~~(A)~~ The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement and administer this chapter.~~

~~(B)~~ The rules adopted under this section shall include regarding all of the following:

~~(1)~~ (A) Standards and procedures for issuing and renewing licenses to practice as a certified mental health assistant;

~~(2)~~ (B) Application fees for an initial or renewed license;

~~(3)~~ (C) Rules governing physician-delegated prescriptive authority for certified mental health assistants;

~~(4)~~ (D) Rules establishing quality assurance standards for certified mental health assistants, including a process to be used for all of the following:

~~(a)~~ (1) Routine review by the supervising physician of selected patient record entries made by the certified mental health assistant and selected medical orders issued by the certified mental health assistant;

~~(b)~~ (2) Discussion of complex cases;

~~(c)~~ (3) Discussion of new medical developments relevant to the practice of the supervising physician and certified mental health assistant;

~~(d)~~ (4) Performance of any other quality assurance activities the board considers necessary.

~~(5)~~ Any other standards and procedures the board considers necessary to govern the practice of certified mental health assistants, the supervisory relationship between certified mental health assistants and supervising physicians, and the

~~administration and enforcement of this chapter.~~ 76507

Sec. 4773.08. The director of health shall adopt rules ~~to~~ 76508
~~implement and administer this chapter. In adopting the rules,~~ 76509
~~the director shall consider~~ considering any recommendations made 76510
by the radiation advisory council created under section 3748.20 76511
of the Revised Code. The rules shall be adopted in accordance 76512
with Chapter 119. of the Revised Code and shall not be less 76513
stringent than any applicable standards specified in 42 C.F.R. 76514
75. The rules shall establish all of the following: 76515

(A) Standards for licensing general x-ray machine 76516
operators, radiographers, radiation therapy technologists, and 76517
nuclear medicine technologists; 76518

(B) Application, renewal, and reinstatement fees for 76519
licenses issued under this chapter that do not exceed the cost 76520
incurred in issuing, renewing, and reinstating the licenses; 76521

(C) Standards for accreditation of educational programs 76522
and approval of continuing education programs in general x-ray 76523
machine operation, radiology, radiation therapy technology, and 76524
nuclear medicine technology; 76525

(D) Fees for accrediting educational programs and 76526
approving continuing education programs in general x-ray machine 76527
operation, radiology, radiation therapy technology, and nuclear 76528
medicine technology that do not exceed the cost incurred in 76529
accrediting the educational programs; 76530

(E) Fees for issuing conditional licenses under section 76531
4773.05 of the Revised Code that do not exceed the cost incurred 76532
in issuing the licenses; 76533

(F) Continuing education requirements that must be met to 76534
have a license renewed or reinstated under section 4773.03 of 76535

the Revised Code; 76536

(G) Continuing education requirements that the holder of a 76537
conditional license must meet to receive a license issued under 76538
section 4773.03 of the Revised Code; 76539

(H) Standards for approving national certifying 76540
organizations that certify nuclear medicine technologists or 76541
radiation therapy technologists to perform computed tomography; 76542

(I) Standards for performing computed tomography 76543
procedures; 76544

~~(J) Any other rules necessary for the implementation or 76545
administration of this chapter. 76546~~

Sec. 4774.062. (A) An individual who holds a current, 76547
valid license issued under this chapter to practice as a 76548
radiologist assistant and who retires voluntarily from practice 76549
may request that the state medical board place the individual's 76550
license on retired status. 76551

(B) An individual seeking to have the individual's license 76552
placed on retired status shall file with the board an 76553
application in the form and manner prescribed by the board. The 76554
application shall be submitted before the end of a biennial 76555
renewal period and include all of the following: 76556

(1) The applicant's full name, license number, mailing 76557
address, and electronic mail address; 76558

(2) An attestation that the information included in the 76559
application is accurate and truthful and that the applicant 76560
meets the following qualifications: 76561

(a) That the applicant holds a current, valid license 76562
issued under this chapter; 76563

- (b) That the applicant has retired voluntarily from practice as a radiologist assistant; 76564
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- (c) That the applicant does not have any criminal charges pending against the applicant; 76566
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- (d) That the applicant is not the subject of discipline by, or an investigation pending with, a regulatory agency of this state, another state, or the United States; 76568
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- (e) That the applicant does not have any complaints pending with the board; 76571
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- (f) That the applicant is not, at the time of application, subject to the board's hearing, disciplinary, or compliance processes under the terms of a citation, notice of opportunity for hearing, board order, or consent agreement. 76573
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- (3) A fee in an amount equal to the sum of the biennial renewal fee and restoration penalty described in section 4774.06 of the Revised Code. 76577
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- The board shall not consider an application for retired status complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code. 76580
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- (C) If the board determines that an applicant meets the requirements of division (B) of this section, the board shall place the applicant's license on retired status. The license remains on retired status for the life of the license holder, unless suspended, revoked, or reactivated, and does not require renewal. 76584
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- (D) During the period in which a license is on retired status, all of the following apply: 76590
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- (1) The license holder is prohibited from practicing as a radiologist assistant under any circumstance. 76592
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- (2) The license holder is prohibited from using the license to obtain a license to practice as a radiologist assistant in another state, whether by endorsement or reciprocity or through a licensure compact. 76594
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- (3) The license holder is not required to complete the continuing education described in section 4774.06 of the Revised Code. 76598
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- (4) The license holder may use a title authorized for the holder's license as described in section 4774.02 of the Revised Code, but only if "retired" also is included in the title. 76601
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- (E) If a license has been placed on retired status pursuant to this section, it may be reactivated. Subject to section 4774.061 of the Revised Code, the board may reactivate a license placed on retired status if all of the following conditions are satisfied: 76604
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- (1) The individual seeking to reactivate the license applies to the board in the form and manner prescribed by the board. 76609
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- (2) The applicant certifies completion of, within the two-year period that ends on the date of the application's submission, the continuing education requirements that must be met for renewal of a license. 76612
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- (3) The applicant complies with sections 4776.01 to 4776.04 of the Revised Code. 76616
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- (4) The applicant pays a reactivation fee in an amount equal to the sum of the biennial renewal fee and restoration 76618
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penalty described in section 4774.06 of the Revised Code. 76620

The board shall not consider an application to reactivate 76621
a license complete until the board receives the fee described in 76622
this division. On receipt of a fee, the board shall deposit the 76623
fee in accordance with section 4731.24 of the Revised Code. 76624

(F) The board shall reactivate a license placed on retired 76625
status if the conditions of division (E) of this section have 76626
been satisfied and the board, in its discretion, determines that 76627
the results of the criminal records check conducted pursuant to 76628
sections 4776.01 to 4776.04 of the Revised Code do not make the 76629
applicant ineligible for active status. 76630

(G) The board may take disciplinary action against an 76631
applicant who is seeking to place a license on retired status or 76632
to reactivate the license if the applicant commits fraud, 76633
misrepresentation, or deception in applying for or securing the 76634
retired status or reactivation. 76635

The board also may take disciplinary action against the 76636
holder of a license placed on retired status if the holder 76637
practices under the license, uses the license to obtain 76638
licensure as a radiologist assistant in another state, or uses a 76639
title that does not reflect the holder's retired status. 76640

In taking disciplinary action under this section, the 76641
board may impose on the applicant or holder any sanction 76642
described in section 4774.13 of the Revised Code, but shall do 76643
so in accordance with the procedures described in that section. 76644

~~(H) The board may adopt rules to implement and enforce~~ 76645
~~this section. The rules shall be adopted in accordance with~~ 76646
~~Chapter 119. of the Revised Code.~~ 76647

Sec. 4774.11. ~~(A)~~ The state medical board shall adopt 76648

rules in accordance with Chapter 119. of the Revised Code ~~to~~ 76649
~~implement and administer this chapter. In adopting the rules,~~ 76650
~~the board shall take~~ regarding all of the following, taking 76651
into consideration the guidelines adopted by the American 76652
college of radiology, the American society of radiologic 76653
technologists, and the American registry of radiologic 76654
technologists.— 76655

~~(B) The rules adopted under this section shall include all~~ 76656
~~of the following:~~ 76657

~~(1)~~ (A) Standards and procedures for issuing and renewing 76658
licenses to practice as a radiologist assistant; 76659

~~(2)~~ (B) Application fees for an initial or renewed license; 76660

~~(3)~~ (C) Any additional radiologic procedures that 76661
radiologist assistants may perform pursuant to division (A) (5) 76662
of section 4774.08 of the Revised Code and the level of 76663
supervision that the supervising radiologist is required to 76664
provide pursuant to section 4774.10 of the Revised Code; 76665

~~(4)~~ (D) Definitions of "general anesthesia," "deep 76666
sedation," "moderate sedation," and "minimal sedation." 76667

~~(5) Any other standards and procedures the board considers~~ 76668
~~necessary to govern the practice of radiologist assistants, the~~ 76669
~~supervisory relationship between radiologist assistants and~~ 76670
~~supervising radiologists, and the administration and enforcement~~ 76671
~~of this chapter.~~ 76672

Sec. 4775.04. (A) The motor vehicle repair board shall do 76673
all of the following: 76674

(1) Adopt rules in accordance with Chapter 119. of the 76675
Revised Code ~~as necessary to carry out the purposes of this~~ 76676

~~chapter. The rules shall include regarding~~ requirements for the 76677
type of liability insurance required under division (A) of 76678
section 4775.07 of the Revised Code. The rules shall permit the 76679
use of an insurance policy issued by any insurer authorized to 76680
issue that type of insurance in this state. 76681

(2) Appoint an executive director to serve at the pleasure 76682
of the board; 76683

(3) Direct the executive director as to how the executive 76684
director shall perform the duties imposed under this chapter; 76685

(4) Consider and make recommendations in regard to all 76686
matters submitted to the board by the executive director; 76687

(5) Determine whether to refuse to issue or renew a 76688
registration certificate or determine whether to waive a 76689
suspension of a registration certificate as provided in division 76690
(D) of section 4775.07 of the Revised Code; 76691

(6) Do all acts and perform all functions as are necessary 76692
for the administration and enforcement of this chapter. 76693

(B) Nothing in this chapter shall be interpreted as 76694
granting the board any authority over a motor vehicle collision 76695
repair operator concerning the quality of work performed in the 76696
repair of, or installation of parts on, motor vehicles. 76697

Sec. 4778.03. (A) Except as provided in division (D) of 76698
this section, an individual seeking a license to practice as a 76699
genetic counselor shall file with the state medical board an 76700
application in a manner prescribed by the board. The application 76701
shall include all the information the board considers necessary 76702
to process the application, including evidence satisfactory to 76703
the board that the applicant meets the requirements specified in 76704
division (B) of this section. 76705

At the time an application is submitted, the applicant 76706
shall pay the board an application fee of two hundred dollars. 76707
No part of the fee shall be returned to the applicant or 76708
transferred for purposes of another application. 76709

(B) Except as provided in division (D) of this section, to 76710
be eligible to receive a license to practice as a genetic 76711
counselor, an applicant shall demonstrate to the board that the 76712
applicant meets all of the following requirements: 76713

(1) Is at least eighteen years of age; 76714

(2) Has attained a master's degree or higher degree from a 76715
genetic counseling graduate program accredited by the American 76716
board of genetic counseling, inc.; 76717

(3) Is a certified genetic counselor; 76718

~~(4) Has satisfied any other requirements established by~~ 76719
~~the board in rules adopted under section 4778.12 of the Revised~~ 76720
~~Code.~~ 76721

(C) The board shall review all applications received under 76722
this section. Not later than sixty days after receiving an 76723
application it considers complete, the board shall determine 76724
whether the applicant meets the requirements for a license to 76725
practice as a genetic counselor. 76726

(D) The board shall issue a license to practice as a 76727
genetic counselor in accordance with Chapter 4796. of the 76728
Revised Code to an applicant if either of the following applies: 76729

(1) The applicant holds a license in another state. 76730

(2) The applicant has satisfactory work experience, a 76731
government certification, or a private certification as 76732
described in that chapter as a genetic counselor in a state that 76733

does not issue that license. 76734

Sec. 4778.072. (A) An individual who holds a current, 76735
valid license issued under this chapter to practice as a genetic 76736
counselor and who retires voluntarily from practice may request 76737
that the state medical board place the individual's license on 76738
retired status. 76739

(B) An individual seeking to have the individual's license 76740
placed on retired status shall file with the board an 76741
application in the form and manner prescribed by the board. The 76742
application shall be submitted before the end of a biennial 76743
renewal period and include all of the following: 76744

(1) The applicant's full name, license number, mailing 76745
address, and electronic mail address; 76746

(2) An attestation that the information included in the 76747
application is accurate and truthful and that the applicant 76748
meets the following qualifications: 76749

(a) That the applicant holds a current, valid license 76750
issued under this chapter; 76751

(b) That the applicant has retired voluntarily from 76752
practice as a genetic counselor; 76753

(c) That the applicant does not have any criminal charges 76754
pending against the applicant; 76755

(d) That the applicant is not the subject of discipline 76756
by, or an investigation pending with, a regulatory agency of 76757
this state, another state, or the United States; 76758

(e) That the applicant does not have any complaints 76759
pending with the board; 76760

(f) That the applicant is not, at the time of application, 76761
subject to the board's hearing, disciplinary, or compliance 76762
processes under the terms of a citation, notice of opportunity 76763
for hearing, board order, or consent agreement. 76764

(3) A fee in an amount equal to the sum of the biennial 76765
renewal fee and restoration penalty described in section 4778.07 76766
of the Revised Code. 76767

The board shall not consider an application for retired 76768
status complete until the board receives the fee described in 76769
this division. On receipt of a fee, the board shall deposit the 76770
fee in accordance with section 4731.24 of the Revised Code. 76771

(C) If the board determines that an applicant meets the 76772
requirements of division (B) of this section, the board shall 76773
place the applicant's license on retired status. The license 76774
remains on retired status for the life of the license holder, 76775
unless suspended, revoked, or reactivated, and does not require 76776
renewal. 76777

(D) During the period in which a license is on retired 76778
status, all of the following apply: 76779

(1) The license holder is prohibited from practicing as a 76780
genetic counselor under any circumstance. 76781

(2) The license holder is not required to complete the 76782
continuing education required by section 4778.06 of the Revised 76783
Code. 76784

(3) The license holder is prohibited from using the 76785
license to obtain a license to practice as a genetic counselor 76786
in another state, whether by endorsement or reciprocity or 76787
through a licensure compact. 76788

(4) The license holder may use a title authorized for the holder's license as described in section 4778.02 of the Revised Code, but only if "retired" also is included in the title.

(E) If a license has been placed on retired status pursuant to this section, it may be reactivated. Subject to section 4778.071 of the Revised Code, the board may reactivate a license placed on retired status if all of the following conditions are satisfied:

(1) The individual seeking to reactivate the license applies to the board in the form and manner prescribed by the board.

(2) The applicant certifies completion of, within the two-year period that ends on the date of the application's submission, the continuing education requirements for renewal of a license to practice.

(3) The applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

(4) The applicant pays a reactivation fee in an amount equal to the sum of the biennial renewal fee and restoration penalty described in section 4778.07 of the Revised Code.

The board shall not consider an application to reactivate a license complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(F) The board shall reactivate a license placed on retired status if the conditions of division (E) of this section have been satisfied and the board, in its discretion, determines that the results of the criminal records check conducted pursuant to sections 4776.01 to 4776.04 of the Revised Code do not make the

applicant ineligible for active status. 76818

(G) The board may take disciplinary action against an 76819
applicant who is seeking to place a license on retired status or 76820
to reactivate the license if the applicant commits fraud, 76821
misrepresentation, or deception in applying for or securing the 76822
retired status or reactivation. 76823

The board also may take disciplinary action against the 76824
holder of a license placed on retired status if the holder 76825
practices under the license, uses the license to obtain 76826
licensure as a genetic counselor in another state, or uses a 76827
title that does not reflect the holder's retired status. 76828

In taking disciplinary action under this section, the 76829
board may impose on the applicant or holder any sanction 76830
described in section 4778.14 of the Revised Code, but shall do 76831
so in accordance with the procedures described in that section. 76832

~~(H) The board may adopt rules to implement and enforce 76833
this section. The rules shall be adopted in accordance with 76834
Chapter 119. of the Revised Code. 76835~~

Sec. 4778.12. The state medical board shall adopt rules in 76836
accordance with Chapter 119. of the Revised Code ~~to implement 76837
and administer this chapter. The rules shall include regarding 76838
the following: 76839~~

(A) Any standards and procedures not addressed in this 76840
chapter that the board considers necessary for issuing and 76841
renewing licenses under this chapter; 76842

(B) Any standards and procedures the board considers 76843
necessary to govern the practice of genetic counselors, the 76844
collaborative agreements between genetic counselors and 76845
collaborating physicians, and the supervision of genetic 76846

counselors holding supervised practice licenses; 76847

~~(C) Any other standards and procedures the board considers 76848
necessary for the administration and enforcement of this 76849
chapter. 76850~~

Sec. 4779.08. (A) The Ohio occupational therapy, physical 76851
therapy, and athletic trainers board shall adopt rules in 76852
accordance with Chapter 119. of the Revised Code ~~to carry out~~ 76853
~~the purposes of this chapter, including rules prescribing all of~~ 76854
the following: 76855

(1) The form and manner of filing of applications to be 76856
admitted to examinations and for licensure and license renewal; 76857

(2) Standards and procedures for formulating, evaluating, 76858
approving, and administering licensing examinations or 76859
recognizing other entities that conduct examinations; 76860

(3) The form, scoring, and scheduling of licensing 76861
examinations; 76862

(4) Fees for examinations and applications for licensure 76863
and license renewal; 76864

(5) Fees for approval of continuing education courses; 76865

(6) Procedures for issuance, renewal, suspension, and 76866
revocation of licenses and the conduct of disciplinary hearings; 76867

(7) The schedule to be used for biennial renewal of 76868
licenses; 76869

(8) Standards of ethical and professional conduct in the 76870
practice of orthotics, prosthetics, and pedorthics; 76871

(9) Standards for approving national certification 76872
organizations in orthotics, prosthetics, and pedorthics; 76873

(10) Fines for violations of this chapter;	76874
(11) Standards for the recognition and approval of educational programs required for licensure, including standards for approving foreign educational credentials;	76875 76876 76877
(12) Standards for continuing education programs required for license renewal;	76878 76879
(13) The amount, scope, and nature of continuing education activities required for license renewal, including waivers of the continuing education requirements;	76880 76881 76882
(14) Provisions for making available the information described in section 4779.22 of the Revised Code;	76883 76884
(15) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;	76885 76886
(16) Requirements for an individual who is not licensed under this chapter to practice prosthetics or orthotics and prosthetics to engage in the 3-D printing of open-source prosthetic kits;	76887 76888 76889 76890
(17) Requirements for an applicant to be eligible for an orthotics, prosthetics, or orthotics and prosthetics license because of the applicant's unique and exceptional qualifications based on the recommendations submitted to the board by the orthotics, prosthetics, and pedorthics advisory council under section 4779.35 of the Revised Code, including standards for satisfactory evidence that demonstrate the applicant's qualifications through the applicant's education, experience, or training.	76891 76892 76893 76894 76895 76896 76897 76898 76899
(B) The board may adopt any other rules necessary for the administration of this chapter.	76900 76901

~~(C)~~All fees received by the board under this section 76902
shall be deposited in the state treasury to the credit of the 76903
occupational licensing and regulatory fund established in 76904
section 4743.05 of the Revised Code. 76905

Sec. 4779.32. If any person makes an allegation against an 76906
individual who holds a license issued under this chapter, the 76907
allegation shall be reduced to writing and verified by a person 76908
who is familiar with the facts underlying the allegation. The 76909
person making the allegation shall file the allegation with the 76910
Ohio occupational therapy, physical therapy, and athletic 76911
trainers board. If a person alleges that a license holder is 76912
engaging or has engaged in conduct described in division (A) of 76913
section 4779.28 of the Revised Code, the board may proceed with 76914
an adjudication hearing under Chapter 119. of the Revised Code. 76915
The board shall retain the information filed under this section 76916
in accordance with rules adopted by the board ~~under section~~ 76917
~~4779.08 of the Revised Code.~~ 76918

Sec. 4781.04. (A) The department of commerce, division of 76919
industrial compliance shall adopt rules pursuant to Chapter 119. 76920
of the Revised Code to do all of the following: 76921

(1) Establish uniform standards that govern the 76922
installation of manufactured housing that are consistent with, 76923
and not less stringent than, the model standards for the design 76924
and installation of manufactured housing the secretary of the 76925
United States department of housing and urban development 76926
adopts; 76927

(2) Govern the inspection of the installation of 76928
manufactured housing. The rules shall specify that the division 76929
of industrial compliance, any building department or personnel 76930
of any department, or any private third party, certified 76931

pursuant to section 4781.07 of the Revised Code shall conduct 76932
all inspections of the installation of manufactured housing 76933
located in manufactured home parks to determine compliance with 76934
the uniform installation standards the division of industrial 76935
compliance establishes pursuant to this section. 76936

(3) Govern the design, construction, installation, 76937
approval, and inspection of foundations and the base support 76938
systems for manufactured housing. The rules shall specify that 76939
the division of industrial compliance, any building department 76940
or personnel of any department, or any private third party, 76941
certified pursuant to section 4781.07 of the Revised Code shall 76942
conduct all inspections of the installation, foundations, and 76943
base support systems of manufactured housing located in 76944
manufactured home parks to determine compliance with the uniform 76945
installation standards and foundation and base support system 76946
design the division of industrial compliance establishes 76947
pursuant to this section. 76948

(4) Govern the training, experience, and education 76949
requirements for manufactured housing installers; 76950

(5) Establish a code of ethics for manufactured housing 76951
installers; 76952

(6) Govern the issuance, revocation, and suspension of 76953
licenses to manufactured housing installers; 76954

(7) Establish fees for the issuance and renewal of 76955
licenses, for conducting inspections to determine an applicant's 76956
compliance with this chapter and the rules adopted pursuant to 76957
it, and for the division's expenses incurred in implementing 76958
this chapter; 76959

(8) Establish conditions under which a licensee may enter 76960

into contracts to fulfill the licensee's responsibilities; 76961

(9) Govern the investigation of complaints concerning any 76962
complaints involving the conduct of any licensed manufactured 76963
housing installer or person installing manufactured housing 76964
without a license; 76965

(10) Establish a dispute resolution program for the timely 76966
resolution of warranty issues involving new manufactured homes, 76967
disputes regarding responsibility for the correction or repair 76968
of defects in manufactured housing, and the installation of 76969
manufactured housing. The rules shall provide for the timely 76970
resolution of disputes between manufacturers, manufactured 76971
housing dealers, and installers regarding the correction or 76972
repair of defects in manufactured housing that are reported by 76973
the purchaser of the home during the one-year period beginning 76974
on the date of installation of the home. The rules also shall 76975
provide that decisions made regarding the dispute under the 76976
program are not binding upon the purchaser of the home or the 76977
other parties involved in the dispute unless the purchaser so 76978
agrees in a written acknowledgement that the purchaser signs and 76979
delivers to the program within ten business days after the 76980
decision is issued. 76981

(11) Establish the requirements and procedures for the 76982
certification of building departments and building department 76983
personnel pursuant to section 4781.07 of the Revised Code; 76984

(12) Establish fees to be charged to building departments 76985
and building department personnel applying for certification and 76986
renewal of certification pursuant to section 4781.07 of the 76987
Revised Code; 76988

(13) Develop a policy regarding the maintenance of records 76989

for any inspection authorized or conducted pursuant to this 76990
chapter. Any record maintained under division (A) (13) of this 76991
section shall be a public record under section 149.43 of the 76992
Revised Code. 76993

(B) The division of industrial compliance shall do all of 76994
the following: 76995

(1) Prepare and administer a licensure examination to 76996
determine an applicant's knowledge of manufactured housing 76997
installation and other aspects of installation the division 76998
determines appropriate; 76999

(2) Select, provide, or procure appropriate examination 77000
questions and answers for the licensure examination and 77001
establish the criteria for successful completion of the 77002
examination; 77003

(3) Prepare and distribute any application form sections 77004
4781.01 to 4781.11 of the Revised Code require; 77005

(4) Receive applications for licenses and renewal of 77006
licenses and issue licenses to qualified applicants; 77007

(5) Establish procedures for processing, approving, and 77008
disapproving applications for licensure; 77009

(6) Retain records of applications for licensure, 77010
including all application materials submitted and a written 77011
record of the action taken on each application; 77012

(7) Review the design and plans for manufactured housing 77013
installations, foundations, and support systems; 77014

(8) Inspect a sample of homes at a percentage the division 77015
determines to evaluate the construction and installation of 77016
manufactured housing installations, foundations, and support 77017

systems to determine compliance with the standards the division
adopts; 77018
77019

(9) Investigate complaints concerning violations of this
chapter or the rules adopted pursuant to it, or the conduct of
any manufactured housing installer; 77020
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(10) Determine appropriate disciplinary actions for
violations of this chapter; 77023
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(11) Conduct audits and inquiries of manufactured housing
installers as appropriate for the enforcement of this chapter. 77025
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The division, or any person the division employs for the
purpose, may review and audit the business records of any 77027
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manufactured housing installer during normal business hours. 77029

(12) Approve an installation training course, which may be
offered by the Ohio manufactured homes association or other
entity. 77030
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(C) Nothing in this section, or in any rule adopted by the
division of industrial compliance, shall be construed to limit
the authority of a board of health to enforce section 3701.344
or Chapters 3703., 3718., and 3781. of the Revised Code or limit
the authority of the department of administrative services to
lease space for the use of a state agency and to group together
state offices in any city in the state as provided in section
123.01 of the Revised Code. 77033
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~~(D) The department of commerce, division of real estate
and professional licensing may adopt rules pursuant to Chapter
119. of the Revised Code necessary for administration of the
provisions of this chapter related to manufactured home dealers,
brokers, and salespersons.~~ 77041
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Sec. 4783.03. ~~(A)~~ The state board of psychology shall 77046

~~administer and enforce this chapter. The board shall adopt rules~~ 77047
under Chapter 119. of the Revised Code establishing all of the 77048
following: 77049

~~(1)~~ (A) Procedures and requirements for applying for a 77050
certificate issued under section 4783.04 of the Revised Code; 77051

~~(2)~~ (B) Fees for issuance of a certificate; 77052

~~(3)~~ (C) Reductions of the hours of continuing education 77053
required by section 4783.05 of the Revised Code for persons in 77054
their first certificate period. 77055

~~(B) The board may adopt additional rules in accordance~~ 77056
~~with Chapter 119. of the Revised Code as the board determines~~ 77057
~~are necessary to implement and enforce this chapter.~~ 77058

Sec. 4785.08. (A) In accordance with Chapter 119. of the 77059
Revised Code, the superintendent of industrial compliance shall 77060
adopt rules pertaining to all of the following: 77061

(1) The issuance and renewal of elevator mechanic's 77062
licenses and elevator contractor's licenses; 77063

(2) The list of disqualifying offenses required under 77064
division (B) of section 9.79 of the Revised Code. 77065

(B) In accordance with Chapter 119. of the Revised Code, 77066
the superintendent may adopt rules pertaining to all of the 77067
following: 77068

(1) Assisting in the development of public awareness 77069
programs; 77070

(2) Classifications or subclassifications of licenses for 77071
elevator mechanics and elevator contractors; 77072

(3) Monitoring inspections and testing in order to ensure 77073

satisfactory performance by licensees; 77074

(4) Fee schedules for elevator mechanic and elevator contractor licenses. The fees shall reflect the actual costs and expenses necessary to administer this chapter. 77075
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(5) Establishing standards for the approval of license testing agencies, pursuant to division (D) (1) (b) of section 4785.04 of the Revised Code; 77078
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(6) Establishing standards for the approval of continuing education and training providers, pursuant to division (B) of section 4785.041 of the Revised Code; 77081
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~~(7) Any other rules necessary to administer and carry out this chapter. 77084
77085~~

(C) Notwithstanding divisions (A) and (B) of this section or Chapter 4105. of the Revised Code, the superintendent shall not adopt rules relating to the construction, maintenance, and repair of elevators, except as pertaining to licensing individuals under this chapter. 77086
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(D) The superintendent may exercise such other powers and duties as are necessary to carry out the purpose and intent of this chapter. 77091
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(E) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, the superintendent may adopt rules pertaining to the issuance and renewal of elevator mechanic's licenses and elevator contractor's licenses that contain regulatory restrictions as described in that section without simultaneously removing two or more other existing regulatory restrictions. 77094
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Sec. 4796.30. Each licensing authority shall adopt rules 77101

~~as necessary to implement this chapter, including rules~~ 77102
regarding issuing restricted or limited licenses or government 77103
certifications under section 4796.10 of the Revised Code. 77104

Sec. 4905.06. The public utilities commission has general 77105
supervision over all public utilities within its jurisdiction as 77106
defined in section 4905.05 of the Revised Code, and may examine 77107
such public utilities and keep informed as to their general 77108
condition, capitalization, and franchises, and as to the manner 77109
in which their properties are leased, operated, managed, and 77110
conducted with respect to the adequacy or accommodation afforded 77111
by their service, the safety and security of the public and 77112
their employees, and their compliance with all laws, orders of 77113
the commission, franchises, and charter requirements. The 77114
commission has general supervision over all other companies 77115
referred to in section 4905.05 of the Revised Code to the extent 77116
of its jurisdiction as defined in that section, and may examine 77117
such companies and keep informed as to their general condition 77118
and capitalization, and as to the manner in which their 77119
properties are leased, operated, managed, and conducted with 77120
respect to the adequacy or accommodation afforded by their 77121
service, and their compliance with all laws and orders of the 77122
commission, insofar as any of such matters may relate to the 77123
costs associated with the provision of electric utility service 77124
by public utilities in this state which are affiliated or 77125
associated with such companies. The commission, through the 77126
public utilities commissioners or inspectors or employees of the 77127
commission authorized by it, may enter in or upon, for purposes 77128
of inspection, any property, equipment, building, plant, 77129
factory, office, apparatus, machinery, device, and lines of any 77130
public utility. The power to inspect includes the power to 77131
prescribe any ~~rule or~~ order that the commission finds necessary 77132

for protection of the public safety. In order to assist the 77133
commission in the performance of its duties under this chapter, 77134
authorized employees of the motor carrier enforcement unit, 77135
created under section 5503.34 of the Revised Code in the 77136
division of state highway patrol, of the department of public 77137
safety may enter in or upon, for inspection purposes, any motor 77138
vehicle of any motor carrier. 77139

In order to inspect motor vehicles owned or operated by a 77140
motor carrier engaged in the transportation of persons, 77141
authorized employees of the motor carrier enforcement unit, 77142
division of state highway patrol, of the department of public 77143
safety may enter in or upon any property of any motor carrier 77144
engaged in the intrastate transportation of persons. 77145

Sec. 4905.301. (A) As used in this section: 77146

(1) "Governmental entity" has the same meaning as in 77147
section 9.23 of the Revised Code, except that "governmental 77148
entity" excludes a municipal corporation. 77149

(2) "Right of way" means the surface of, and the space 77150
within, through, on, across, above, or below any land designated 77151
for public use that is owned or controlled by a governmental 77152
entity, except that "right of way" includes a public way as 77153
defined in section 4939.01 of the Revised Code, and is not a 77154
private easement. 77155

(B) A public utility subject to the rate-making 77156
jurisdiction of the public utilities commission may file an 77157
application with the commission for the accounting authority to 77158
classify a cost that meets the requirements of division (C) of 77159
this section as a regulatory asset for the purpose of recovering 77160
the cost. The commission, by order, shall authorize such 77161

accounting authority as may be reasonably necessary to classify 77162
the cost as a regulatory asset. 77163

(C) A cost is eligible for recovery as a regulatory asset 77164
under this section if the cost is directly incurred by the 77165
public utility on or after ~~the effective date of this section~~ 77166
April 3, 2025, as a result of a governmental entity's regulation 77167
of the public utility's occupancy or use of a right of way. 77168

(D) If the commission determines, upon an application 77169
under division (B) of this section or its own initiative, that 77170
classification of a cost described in division (C) of this 77171
section as a regulatory asset is not practical or that deferred 77172
recovery of that cost would impose a hardship on the public 77173
utility or its customers, the commission shall establish a 77174
charge and collection mechanism to permit the public utility 77175
full recovery of that cost. 77176

(E) Cost recovery authorized as a regulatory asset under 77177
this section is not subject to any other provision of law or any 77178
agreement establishing price caps, rate freezes, or rate 77179
increase moratoria. 77180

(F) The commission shall process applications submitted 77181
under this section in the same manner as set forth in divisions 77182
(E) and (F) of section 4939.07 of the Revised Code ~~and according~~ 77183
~~to rules adopted under division (G) of that section.~~ 77184

Sec. 4905.72. (A) As used in this section: 77185

(1) "Natural gas service" means the sale of natural gas, 77186
exclusive of any distribution or ancillary service. 77187

(2) "Public telecommunications service" means the 77188
transmission by a telephone company, by electromagnetic or other 77189
means, of signs, signals, writings, images, sounds, messages, or 77190

data originating in this state regardless of actual call 77191
routing, but does not include a system, including its 77192
construction, maintenance, or operation, for the provision of 77193
telecommunications service, or any portion of such service, by 77194
any entity for the sole and exclusive use of that entity, its 77195
parent, a subsidiary, or an affiliated entity, and not for 77196
resale, directly or indirectly; the provision of terminal 77197
equipment used to originate telecommunications service; 77198
broadcast transmission by radio, television, or satellite 77199
broadcast stations regulated by the federal government; or cable 77200
television service. 77201

(B) (1) No public utility shall request or submit, or cause 77202
to be requested or submitted, a change in the provider of 77203
natural gas service or public telecommunications service to a 77204
consumer in this state, without first obtaining, or causing to 77205
be obtained, the verified consent of the consumer in accordance 77206
with rules adopted by the public utilities commission pursuant 77207
to division (D) of this section. 77208

(2) No public utility shall violate or fail to comply with 77209
any provision of a rule adopted by the commission pursuant to 77210
division (D) of this section or any provision of an order issued 77211
by the commission pursuant to division (B) or (C) of section 77212
4905.73 of the Revised Code. 77213

(C) (1) Division (B) of this section does not apply to the 77214
transfer of a customer's natural gas service or public 77215
telecommunications service that occurs solely due to the 77216
operation of default provisions in the schedule of a public 77217
utility filed under section 4905.30 of the Revised Code. 77218

(2) Consistent with the exclusion, under 47 C.F.R. 64.1100 77219
(a) (3), of commercial mobile radio service providers from the 77220

verification requirements adopted in 47 C.F.R. 64.1100, 64.1150, 77221
64.1160, 64.1170, 64.1180, and 64.1190 by the federal 77222
communications commission, division (B) of this section does not 77223
apply to a provider of commercial mobile radio service insofar 77224
as such provider is engaged in the provision of commercial 77225
mobile radio service. However, when that exclusion no longer is 77226
in effect, division (B) of this section shall apply to such a 77227
provider, and the commission shall adopt rules applicable to 77228
such a provider in accordance with division (D) of this section. 77229

(D) The commission shall adopt competitively neutral rules 77230
prescribing procedures necessary for verifying the consent of a 77231
consumer for purposes of division (B)(1) of this section and any 77232
procedures necessary for the filing of a security under division 77233
(C) (5) of section 4905.73 of the Revised Code, ~~and may adopt~~ 77234
~~such other competitively neutral rules as the commission~~ 77235
~~considers necessary to carry out this section and section~~ 77236
~~4905.73 of the Revised Code.~~ With respect to public 77237
telecommunications service only, the rules prescribing 77238
procedures necessary for verifying consumer consent shall be 77239
consistent with the rules of the federal communications 77240
commission in 47 C.F.R. 64.1100 and 64.1150. 77241

Sec. 4905.79. Any telephone company, as defined in section 77242
5727.01 of the Revised Code, or, as authorized by the public 77243
utilities commission, any affiliate of such a company, that 77244
provides any telephone service program implemented after March 77245
27, 1991, to aid persons with communicative impairments in 77246
accessing the telephone network shall be allowed a tax credit 77247
for the costs of any such program under section 5733.56 of the 77248
Revised Code. Relative to any such program, the commission, in 77249
accordance with its rules, shall allow interested parties to 77250
intervene and participate in any proceeding or part of a 77251

proceeding brought before the commission pursuant to this 77252
section. ~~The commission shall adopt rules it considers necessary~~ 77253
~~to carry out this section.~~ 77254

Sec. 4905.81. The public utilities commission shall: 77255

(A) Supervise and regulate each motor carrier; 77256

(B) Regulate the safety of operation of each motor 77257
carrier, and of each intermodal equipment provider as defined in 77258
section 4923.041 of the Revised Code; 77259

(C) Adopt reasonable safety rules applicable to the 77260
highway transportation of persons or property in interstate and 77261
intrastate commerce by motor carriers; 77262

(D) Adopt safety rules applicable to the transportation 77263
and offering for transportation of hazardous materials in 77264
interstate and intrastate commerce by motor carriers. The rules 77265
shall not be incompatible with the requirements of the United 77266
States department of transportation. 77267

(E) Require the filing of reports and other data by motor 77268
carriers; 77269

(F) ~~Adopt reasonable rules for the administration and~~ 77270
~~enforcement of this chapter and Chapters 4901., 4903., 4907.,~~ 77271
~~4909., 4921., and 4923. of the Revised Code applying to each~~ 77272
~~motor carrier in this state;~~ 77273

~~(G)~~Supervise and regulate motor carriers in all other 77274
matters affecting the relationship between those carriers and 77275
the public to the exclusion of all local authorities, except as 77276
provided in this section. The commission, in the exercise of the 77277
jurisdiction conferred upon it by this chapter and Chapters 77278
4901., 4903., 4907., 4909., 4921., and 4923. of the Revised 77279

Code, may adopt rules affecting motor carriers, notwithstanding 77280
the provisions of any ordinance, resolution, license, or permit 77281
enacted, adopted, or granted by any township, municipal 77282
corporation, municipal corporation and county, or county. In 77283
case of conflict between any such ordinance, resolution, 77284
license, or permit, the order or rule of the commission shall 77285
prevail. Local subdivisions may adopt reasonable local police 77286
rules within their respective boundaries not inconsistent with 77287
those chapters and rules adopted under them. 77288

The commission has jurisdiction to receive, hear, and 77289
determine as a question of fact, upon complaint of any party or 77290
upon its own motion, and upon not less than fifteen days' notice 77291
of the time and place of the hearing and the matter to be heard, 77292
whether any corporation, company, association, joint-stock 77293
association, person, firm, or copartnership, or their lessees, 77294
legal or personal representatives, trustees, or receivers or 77295
trustees appointed by any court, is engaged as a motor carrier. 77296
The finding of the commission on such a question is a final 77297
order that may be reviewed as provided in section 4923.15 of the 77298
Revised Code. 77299

Sec. 4905.84. (A) As used in this section: 77300

(1) "Telecommunications relay service" means intrastate 77301
transmission services that provide the ability for an individual 77302
who has a hearing or speech impairment to engage in a 77303
communication by wire or radio with a hearing individual in a 77304
manner that is functionally equivalent to the ability of an 77305
individual who does not have a hearing or speech impairment to 77306
communicate using voice communication services by wire or radio. 77307
"Telecommunications relay service" includes services that enable 77308
two-way communication between an individual who uses a 77309

telecommunications device for the deaf or other nonvoice 77310
terminal device and an individual who does not use such a 77311
device. 77312

(2) "TRS provider" means an entity selected by the public 77313
utilities commission as the provider of telecommunications relay 77314
service for this state as part of the commission's intrastate 77315
telecommunications relay service program certified pursuant to 77316
federal law. 77317

(B) For the sole purpose of funding telecommunications 77318
relay service, the commission shall, not earlier than January 1, 77319
2009, impose on and collect from each service provider that is 77320
required under federal law to provide its customers access to 77321
telecommunications relay service an annual assessment to pay for 77322
costs incurred by the TRS provider for providing such service in 77323
Ohio. The commission shall determine the appropriate service 77324
providers to be assessed the telecommunications relay service 77325
costs, including telephone companies as defined in division (A) 77326
of section 4905.03 of the Revised Code, commercial mobile radio 77327
service providers, and providers of advanced services or 77328
internet protocol-enabled services that are competitive with or 77329
functionally equivalent to basic local exchange service as 77330
defined in section 4927.01 of the Revised Code. 77331

(C) The assessment shall be allocated proportionately 77332
among the appropriate service providers using a competitively 77333
neutral formula established by the commission based on the 77334
number of retail intrastate customer access lines or their 77335
equivalent. The commission shall annually reconcile the funds 77336
collected with the actual costs of providing telecommunications 77337
relay service when it issues the assessment and shall either 77338
proportionately charge the service providers for any amounts not 77339

sufficient to cover the actual costs or proportionately credit 77340
amounts collected in excess of the actual costs. The total 77341
amount assessed from all service providers shall not exceed the 77342
total telecommunications relay service costs. 77343

Each service provider that pays the assessment shall be 77344
permitted to recover the cost of the assessment. The method of 77345
recovery may include, but is not limited to, a customer billing 77346
surcharge. 77347

The commission shall deposit the money collected in the 77348
telecommunications relay service fund, which is hereby created 77349
in the state treasury, and shall use the money in that fund 77350
solely to compensate the TRS provider. 77351

(D) The commission shall take such measures as it 77352
considers necessary to protect the confidentiality of 77353
information provided to the commission pursuant to this section 77354
by service providers required to pay the assessment. 77355

(E) The commission may assess a forfeiture of not more 77356
than one thousand dollars on any service provider failing to 77357
comply with this section. Each day's continuance of such failure 77358
is a separate offense. The forfeiture shall be recovered in 77359
accordance with sections 4905.55 to 4905.60 of the Revised Code. 77360

(F) The jurisdiction and authority granted to the 77361
commission by this section is limited to the administration and 77362
enforcement of this section. ~~The commission may adopt such rules~~ 77363
~~as it finds necessary to carry out this section.~~ The commission 77364
shall adopt rules under section 111.15 of the Revised Code to 77365
establish the assessment amounts and procedures. 77366

Sec. 4906.03. The power siting board shall: 77367

(A) Require such information from persons subject to its 77368

jurisdiction as it considers necessary to assist in the conduct 77369
of hearings and any investigations or studies it may undertake; 77370

(B) Conduct any studies or investigations that it 77371
considers necessary or appropriate to carry out its 77372
responsibilities under this chapter; 77373

(C) Adopt rules establishing criteria for evaluating the 77374
effects on environmental values of proposed and alternative 77375
sites, and projected needs for electric power, and ~~such other~~ 77376
~~rules as are necessary and convenient to implement this chapter,~~ 77377
~~including~~ rules governing application fees, supplemental 77378
application fees, and other reasonable fees to be paid by 77379
persons subject to the board's jurisdiction. The board shall 77380
make an annual accounting of its collection and use of these 77381
fees and shall issue an annual report of its accounting, in the 77382
form and manner prescribed by its rules, not later than the last 77383
day of June of the year following the calendar year to which the 77384
report applies. 77385

(D) Approve, disapprove, or modify and approve 77386
applications for certificates; 77387

(E) Notwithstanding sections 4906.06 to 4906.14 of the 77388
Revised Code, the board may adopt rules to provide for an 77389
accelerated review of an application for a construction 77390
certificate for construction of a major utility facility related 77391
to a coal research and development project as defined in section 77392
1555.01 of the Revised Code, or to a coal development project as 77393
defined in section 1551.30 of the Revised Code, submitted to the 77394
Ohio coal development office for review under division (B) (7) of 77395
section 1551.33 of the Revised Code. Applications for 77396
construction certificates for construction of major utility 77397
facilities for Ohio coal research and development shall be filed 77398

with the board on the same day as the proposed facility or 77399
project is submitted to the Ohio coal development office for 77400
review. 77401

The board shall render a decision on an application for a 77402
construction certificate within ninety days after receipt of the 77403
application and all of the data and information it may require 77404
from the applicant. In rendering a decision on an application 77405
for a construction certificate, the board shall only consider 77406
the criteria and make the findings and determinations set forth 77407
in divisions (A) (2), (3), (5), and (7) and division (B) of 77408
section 4906.10 of the Revised Code. 77409

(F) Notwithstanding sections 4906.06 to 4906.14 of the 77410
Revised Code, the board shall adopt rules to provide for an 77411
accelerated review of an application for a construction 77412
certificate for any of the following: 77413

(1) An electric transmission line that is: 77414

(a) Not more than two miles in length; 77415

(b) Primarily needed to attract or meet the requirements 77416
of a specific customer or specific customers; 77417

(c) Necessary to maintain reliable electric service as a 77418
result of the retirement or shutdown of an electric generating 77419
facility located within the state; or 77420

(d) A rebuilding of an existing transmission line. 77421

(2) An electric generating facility that uses waste heat 77422
or natural gas and is primarily within the current boundary of 77423
an existing industrial or electric generating facility; 77424

(3) A gas pipeline that is not more than five miles in 77425
length or is primarily needed to meet the requirements of a 77426

specific customer or specific customers. 77427

The board shall adopt rules that provide for the automatic 77428
certification to any entity described in this division when an 77429
application by any such entity is not suspended by the board, an 77430
administrative law judge, or the chairperson or executive 77431
director of the board for good cause shown, within ninety days 77432
of submission of the application. If an application is 77433
suspended, the board shall approve, disapprove, or modify and 77434
approve the application not later than ninety days after the 77435
date of the suspension. 77436

(G) Notwithstanding sections 4906.06 to 4906.14 of the 77437
Revised Code, the board shall adopt rules to provide for the 77438
accelerated review of an application for a construction 77439
certificate for any of the following that are located in a 77440
priority investment area designated and approved under section 77441
122.161 of the Revised Code: 77442

(1) An electric generating plant and associated 77443
facilities; 77444

(2) An electric transmission line and associated 77445
facilities; 77446

(3) Gas pipeline infrastructure. 77447

The chairperson of the board, not later than forty-five 77448
days after receipt of an application submitted under division 77449
(G) of this section, shall determine if it complies with all 77450
application requirements set by the public utilities commission 77451
by rule. If the chairperson does not issue a determination 77452
within the time period required by this division, the 77453
application shall be deemed in compliance by operation of law. 77454

The board shall render a decision on an application 77455

submitted under this division not later than forty-five days 77456
after the application is determined in compliance with all 77457
requirements set by the commission. If the board does not render 77458
a decision within forty-five days, the application shall be 77459
considered approved by operation of law, and the board shall 77460
issue a certificate to the applicant. 77461

The board shall adopt rules to implement this division, 77462
including rules that prioritize applications for construction on 77463
areas negatively impacted by the decline of the coal industry. 77464

(H) Notwithstanding sections 4906.06 to 4906.14 of the 77465
Revised Code, the board shall adopt rules to provide for the 77466
accelerated review of an application for a construction 77467
certificate for a major utility facility if at the time the 77468
application is filed the construction will be located on the 77469
following: 77470

(1) In whole, on property owned by, or under a lease with 77471
a term of twenty-five years or more with, the applicant; 77472

(2) In whole or in part, on an easement or right-of-way; 77473

(3) On any combination of such property, easement, or 77474
right-of-way described in divisions (H) (1) and (2) of this 77475
section. 77476

No accelerated application shall be granted under the 77477
rules adopted under division (H) of this section for 77478
construction of a major utility facility, in whole or in part, 77479
on property under a lease or an easement or right-of-way, if 77480
additional consent for construction on the property, easement, 77481
or right-of-way is required by any person or entity other than 77482
the power siting board. 77483

The board shall render a decision on an application 77484

submitted under this division not later than sixty days after 77485
receipt of the application. If the board does not render a 77486
decision within sixty days, the application shall be considered 77487
approved by operation of law, and the board shall issue a 77488
certificate to the applicant. 77489

Sec. 4909.172. (A) A waterworks company, or a sewage 77490
disposal system company, that is a public utility may file an 77491
application with the public utilities commission for approval to 77492
collect an infrastructure improvement surcharge, determined in 77493
accordance with this section, from customers located in the 77494
company's affected service areas and subject to affected 77495
schedules filed by the company under section 4905.32 of the 77496
Revised Code. The application shall be in such form and contain 77497
such information as the commission prescribes. At the time of 77498
filing, the company shall serve a copy of the application upon 77499
the chief executive of each municipal corporation, the board of 77500
township trustees of each township, and the board of county 77501
commissioners of each county in which affected customers are 77502
located. A company for which an infrastructure improvement 77503
surcharge is authorized under this section may file an 77504
application for another such surcharge not sooner than twelve 77505
months after the filing date of its most recent infrastructure 77506
improvement surcharge application. 77507

(B) The commission shall provide an opportunity for the 77508
filing of comments on an application filed under division (A) of 77509
this section. After considering those comments, the commission 77510
may authorize an infrastructure improvement surcharge for the 77511
company that is just and reasonable and is sufficient, but does 77512
not exceed, the revenue requirement necessary to do both of the 77513
following: 77514

(1) Cover such infrastructure plant costs of the company 77515
as are described in division (C) of this section, incurred after 77516
March 1, 2003, and before the date of filing, and not already 77517
reflected in the affected schedules filed by the company under 77518
section 4905.32 of the Revised Code; 77519

(2) Provide a fair and reasonable rate of return on the 77520
filing date valuation of that particular infrastructure plant. 77521

Each infrastructure improvement surcharge chargeable to 77522
each affected customer class within any single tariff of the 77523
company shall not exceed three per cent, for a sewage disposal 77524
system company, and four and one-quarter per cent, for a 77525
waterworks company, of the rates and charges applicable to the 77526
class and for the tariff in effect on the date the application 77527
was filed and, as to the allowed percentage increase, shall be 77528
uniform for each such class. The commission shall not authorize 77529
a company to have more than three infrastructure improvement 77530
surcharges for any single company tariff in effect at any time. 77531

Additionally, the commission shall not authorize an 77532
infrastructure improvement surcharge under this section if it 77533
determines that the surcharge causes the company to earn an 77534
excessive rate of return on its valuation under section 4909.15 77535
of the Revised Code. 77536

(C) For purposes of this section, a company's costs of 77537
infrastructure plant may include depreciation expenses. Such 77538
infrastructure plant may consist of the following capital 77539
improvements that the commission determines are prudent and used 77540
and useful in rendering public utility service and that are 77541
properly classified in the uniform system of accounts adopted by 77542
the National Association of Regulatory Utility Commissioners as 77543
identified in rule 4901:1-15-32 of the Administrative Code: 77544

(1) In the case of a waterworks company, replacement of an existing plant included in accounts 323, 324, 325, 326, 327, 328, 332, 342, 343, 345, 346, 347, and 348, as well as main extensions that eliminate dead ends to resolve documented water supply problems presenting significant health or safety issues to then existing customers, and main cleaning or relining;

(2) In the case of a sewage disposal system company, replacement of an existing plant included in accounts 352, 352.1, 352.2, 353, 354, 355, 356, 362, 363, 364, 365, 372, 373, 374, and 375, as well as main extensions that resolve documented sewage disposal problems presenting significant health or safety issues to then existing customers, and main cleaning, inflow and infiltration elimination, or relining;

(3) Unreimbursed capital expenditures made by the waterworks company, or the sewage disposal system company, for waterworks, or sewage disposal, facility relocation required by a governmental entity due to a street or highway project;

(4) Capital expenditures made by the waterworks company or sewage disposal system company to comply with any consent decree, final order, or final rule of the United States environmental protection agency or the Ohio environmental protection agency-;

(5) Minimum land or land rights acquired by the company as necessary for any service line, equipment, or facility described in divisions (C) (1) to (4) of this section.

As used in divisions (C) (1) and (2) of this section, "replacement of an existing plant" includes replacements that result in an upgrade or improvement of the previously existing plant, provided that the replacement plant is prudent, qualifies

for recovery under this section, and performs the same or 77574
similar function or purpose as it did prior to the replacement. 77575

(D) (1) If the commission fails to issue a final order 77576
within one hundred eighty days after the date the application is 77577
filed under this section, and at the waterworks or sewage 77578
disposal company's discretion, a surcharge not to exceed the 77579
proposed surcharge shall go into effect upon the filing of the 77580
revised affected rate schedules by the company, subject to 77581
refund of amounts collected that exceed those authorized by the 77582
final order of the commission. 77583

(2) All refunds shall include interest at the rate stated 77584
in section 1343.03 of the Revised Code and shall be accomplished 77585
in a manner as prescribed by the commission in its final order. 77586
The commission may require an undertaking to secure the refund 77587
under this division if it finds it is warranted by the financial 77588
condition of the waterworks or sewage disposal system company. 77589

(3) This division shall only apply to applications filed 77590
by a waterworks or sewage disposal system company that has 77591
annual operating revenues of two hundred fifty thousand dollars 77592
or more. 77593

(E) During the period that an authorized infrastructure 77594
improvement surcharge is in effect, the commission, by order and 77595
on its own motion or upon good cause shown, may reduce the 77596
amount of or terminate an infrastructure improvement surcharge 77597
if it determines that the surcharge causes the company to earn 77598
an excessive rate of return on its valuation under section 77599
4909.15 of the Revised Code. 77600

(F) An order issued by the commission deciding an 77601
application by a waterworks company or a sewage disposal system 77602

company for an increase in rates and charges pursuant to an 77603
application filed by the company under section 4909.18 of the 77604
Revised Code shall provide for the termination, as of the 77605
earlier of the effective date of the increase or the date 77606
specified in division (F) of this section, of any infrastructure 77607
improvement surcharges of the company authorized under this 77608
section. 77609

(G) All surcharges authorized under this section shall 77610
terminate by operation of law not later than December 31, 2036. 77611

(H) The company shall provide notice of any infrastructure 77612
improvement surcharge authorized under this section to each 77613
affected customer with or on the customer's first bill 77614
containing the surcharge. 77615

~~(I) The commission may adopt such rules as it considers 77616
necessary to carry out this section. 77617~~

Sec. 4921.25. (A) Any person, firm, copartnership, 77618
voluntary association, joint-stock association, company, or 77619
corporation, wherever organized or incorporated, that is engaged 77620
in the towing of motor vehicles is subject to regulation by the 77621
public utilities commission as a for-hire motor carrier under 77622
this chapter. 77623

(B) The commission shall adopt rules under Chapter 119. of 77624
the Revised Code that do all of the following: 77625

(1) Establish the acceptable scope of public safety 77626
regulations applicable to a for-hire motor carrier engaged in 77627
the towing of motor vehicles under section 4513.60, 4513.601, or 77628
4513.61 of the Revised Code that a county or township may adopt 77629
pursuant to a resolution; 77630

(2) Establish safety standards for the type of equipment 77631

necessary to safely remove and tow vehicles based on the type of 77632
vehicle being removed or towed; 77633

(3) Establish standards for the removal of a vehicle from 77634
a private tow-away zone by a for-hire motor carrier engaged in 77635
the towing of motor vehicles in addition to standards and 77636
requirements established under section 4513.601 of the Revised 77637
Code. The standards may vary based on whether the private tow- 77638
away zone is located on residential, retail, or other commercial 77639
property. 77640

(4) Within one year of ~~the effective date of this~~ 77641
~~amendment~~ April 6, 2017, establish maximum fees that may be 77642
charged by a for-hire motor carrier engaged in the towing of 77643
motor vehicles or a storage facility that accepts such vehicles 77644
under sections 4513.60 and 4513.601 of the Revised Code. 77645

With respect to vehicles removed under section 4513.60 of 77646
the Revised Code, the fees established under division (B)(4) of 77647
this section do not apply to a vehicle that is removed or stored 77648
within a municipal corporation that has established fees for 77649
vehicle removal and storage. 77650

(5) Establish a process for reviewing the fees established 77651
under division (B)(4) of this section every five years, 77652
beginning on the five-year anniversary of the date the initial 77653
rules are adopted, to determine whether the fees are just, 77654
reasonable, and compensatory. If the commission determines that 77655
any existing fee is not just, reasonable, or compensatory, the 77656
commission shall, by rule, adjust the fee so that it is equal to 77657
an amount that the commission determines to be appropriate. 77658

(6) Establish an after-hours retrieval fee that may be 77659
charged for purposes of retrieving a vehicle under section 77660

4513.69 of the Revised Code or retrieving personal items under 77661
section 4513.60 or 4513.61 of the Revised Code. The rules shall 77662
permit an after-hours retrieval fee to be charged only if the 77663
entity in possession of a vehicle is not open to the public and 77664
is not required to be open under division (A) of section 4513.69 77665
of the Revised Code. 77666

~~(7) Adopt any other rules necessary to carry out the 77667
purposes of this section. 77668~~

Sec. 4921.30. Except as otherwise provided in sections 77669
4921.32 to 4921.38 of the Revised Code, a for-hire motor carrier 77670
engaged in the transportation of household goods in intrastate 77671
commerce: 77672

(A) Is subject to Chapter 4921. of the Revised Code and to 77673
all other provisions of the Revised Code applicable to a for- 77674
hire motor carrier, including sections ~~4506.22,~~ 4511.78, 77675
5502.01, 5503.02, and 5503.34 of the Revised Code; 77676

(B) Is not a public utility as defined in section 4911.01 77677
of the Revised Code. 77678

Sec. 4927.03. (A) Except as provided in divisions (A) and 77679
(B) of section 4927.04 of the Revised Code and except to the 77680
extent required to exercise authority under federal law, the 77681
public utilities commission has no authority over any 77682
interconnected voice over internet protocol-enabled service or 77683
any telecommunications service that is not commercially 77684
available on September 13, 2010, and that employs technology 77685
that became available for commercial use only after September 77686
13, 2010, unless the commission, upon a finding that the 77687
exercise of the commission's authority is necessary for the 77688
protection, welfare, and safety of the public, adopts rules 77689

specifying the necessary regulation. A consumer purchase of a 77690
service that is not commercially available on September 13, 77691
2010, and that employs technology that became available for 77692
commercial use only after September 13, 2010, shall constitute a 77693
consumer transaction for purposes of sections 1345.01 to 1345.13 77694
of the Revised Code, notwithstanding any provision of those 77695
sections to the contrary, unless the commission exercises 77696
jurisdiction over the service in accordance with this division. 77697
Notwithstanding any contrary provision of Chapter 4911. of the 77698
Revised Code, to the extent that the commission adopts rules 77699
under division (A) of this section regarding any interconnected 77700
voice over internet protocol enabled service provided to 77701
residential customers or regarding any telecommunications 77702
service that is provided to residential customers, that is not 77703
commercially available on September 13, 2010, and that employs 77704
technology that became available for commercial use only after 77705
September 13, 2010, the office of the consumers' counsel shall 77706
have authority to assist and represent residential customers in 77707
the implementation and enforcement of those rules. 77708

(B) (1) The commission has no authority over wireless 77709
service, resellers of wireless service, or wireless service 77710
providers, except as follows: 77711

(a) As provided under section 4905.84 of the Revised Code; 77712

(b) With respect to division (C) of section 4927.15 of the 77713
Revised Code; 77714

(c) As provided in divisions (B) (2), (3), and (4) of this 77715
section. 77716

(2) The commission has authority over wireless service and 77717
wireless service providers as follows, but only to the extent 77718

authorized by federal law, including federal regulations: 77719

(a) To the extent that the commission carries out the acts 77720
described in divisions (A), (B), (C), (D), and (F) of section 77721
4927.04 of the Revised Code; 77722

(b) As provided in sections 4927.05, 4927.20, and 4927.21 77723
of the Revised Code. 77724

(3) The requirements of sections 4905.10, 4905.14, and 77725
4911.18 of the Revised Code shall apply to a wireless service 77726
provider. 77727

(4) The commission has such authority as is necessary to 77728
enforce division (B) of this section. 77729

(C) For purposes of sections 4927.01 to 4927.21 of the 77730
Revised Code, sections 4903.02, 4903.03, 4903.24, 4903.25, 77731
4905.04, 4905.05, 4905.06, 4905.13, 4905.15, 4905.16, 4905.17, 77732
4905.22, 4905.26, 4905.27, 4905.28, 4905.29, 4905.31, 4905.32, 77733
4905.33, 4905.35, 4905.37, 4905.38, 4905.39, 4905.48, 4905.54, 77734
4905.55, 4905.56, and 4905.60 of the Revised Code do not apply 77735
to a telephone company or, as applicable, to an officer, 77736
employee, or agent of such company or provider, except to the 77737
extent necessary for the commission to carry out sections 77738
4927.01 to 4927.21 of the Revised Code. 77739

(D) Except as specifically authorized in sections 4927.01 77740
to 4927.21 of the Revised Code, the commission has no authority 77741
over the quality of service and the service rates, terms, and 77742
conditions of telecommunications service provided to end users 77743
by a telephone company. 77744

(E) The commission shall initially adopt the rules 77745
required by this chapter not later than one hundred twenty days 77746
after September 13, 2010. Subject to the authority granted to 77747

the commission under this chapter, the commission may adopt 77748
~~other rules, including rules~~ regarding the removal from tariffs 77749
of services that were required to be filed in tariffs prior to 77750
September 13, 2010, ~~as it finds necessary to carry out this~~ 77751
~~chapter.~~ 77752

Sec. 4927.06. (A) No telephone company shall commit any 77753
unfair or deceptive act or practice in connection with the 77754
offering or provision of any telecommunications service in this 77755
state. A failure to comply with any of the following 77756
requirements shall constitute an unfair or deceptive act or 77757
practice by a telephone company: 77758

(1) Any communication by the company, including, but not 77759
limited to, a solicitation, offer, or contract term or 77760
condition, shall be truthful, clear, conspicuous, and accurate 77761
in disclosing any material terms and conditions of service and 77762
any material exclusions or limitations. The public utilities 77763
commission may prescribe, by rule, a commission review process 77764
to determine when disclosing such information is not 77765
practicable, and therefore nondisclosure does not result in an 77766
unfair or deceptive act or practice. 77767

(2) Any written service solicitation, marketing material, 77768
offer, contract, or agreement, as well as any written response 77769
from the company to a service-related inquiry or complaint that 77770
the company receives from a customer or others, shall disclose 77771
the company's name and contact information. The commission may 77772
prescribe, by rule, a commission review process to determine 77773
when disclosing such information is not practicable, and 77774
therefore nondisclosure does not result in an unfair or 77775
deceptive act or practice. 77776

(3) The company shall inform its customers, as applicable 77777

and in any reasonable manner, of their rights and 77778
responsibilities concerning inside wire, the repair and 77779
maintenance of customer-owned equipment, and the use of a 77780
network interface device, and of any charges that the company 77781
imposes for a diagnostic visit, consistent with rules adopted by 77782
the public utilities commission. 77783

(4) The company shall not commit any act, practice, or 77784
omission that the commission determines, by rulemaking ~~under~~ 77785
~~section 4927.03 of the Revised Code~~ or adjudication under 77786
section 4927.21 of the Revised Code, constitutes an unfair or 77787
deceptive act or practice in connection with the offering or 77788
provision of telecommunications service in this state. 77789

(B) The commission shall provide notice to all telephone 77790
companies specifying any act, practice, or omission that it 77791
prescribes pursuant to division (A) (4) of this section. No 77792
telephone company is liable for any act, practice, or omission 77793
absent that notice and adequate time for implementation. 77794

(C) This section does not apply to wireless service. A 77795
consumer purchase of wireless service or a related product shall 77796
constitute a consumer transaction for purposes of sections 77797
1345.01 to 1345.13 of the Revised Code, notwithstanding any 77798
provision of those sections to the contrary. 77799

Sec. 4928.06. (A) Beginning on the starting date of 77800
competitive retail electric service, the public utilities 77801
commission shall ensure that the policy specified in section 77802
4928.02 of the Revised Code is effectuated. ~~To the extent~~ 77803
~~necessary, the commission shall adopt rules to carry out this~~ 77804
~~chapter.~~ Initial rules necessary for the commencement of the 77805
competitive retail electric service under this chapter shall be 77806
adopted within one hundred eighty days after the effective date 77807

of this section. Except as otherwise provided in this chapter, 77808
the proceedings and orders of the commission under the chapter 77809
shall be subject to and governed by Chapter 4903. of the Revised 77810
Code. 77811

(B) If the commission determines, on or after the starting 77812
date of competitive retail electric service, that there is a 77813
decline or loss of effective competition with respect to a 77814
competitive retail electric service of an electric utility, 77815
which service was declared competitive by commission order 77816
issued pursuant to division (A) of section 4928.04 of the 77817
Revised Code, the commission shall ensure that that service is 77818
provided at compensatory, fair, and nondiscriminatory prices and 77819
terms and conditions. 77820

(C) In addition to its authority under section 4928.04 of 77821
the Revised Code and divisions (A) and (B) of this section, the 77822
commission, on an ongoing basis, shall monitor and evaluate the 77823
provision of retail electric service in this state for the 77824
purpose of discerning any noncompetitive retail electric service 77825
that should be available on a competitive basis on or after the 77826
starting date of competitive retail electric service pursuant to 77827
a declaration in the Revised Code, and for the purpose of 77828
discerning any competitive retail electric service that is no 77829
longer subject to effective competition on or after that date. 77830
Upon such evaluation, the commission periodically shall report 77831
its findings and any recommendations for legislation to the 77832
standing committees of both houses of the general assembly that 77833
have primary jurisdiction regarding public utility legislation. 77834

(D) In determining, for purposes of division (B) or (C) of 77835
this section, whether there is effective competition in the 77836
provision of a retail electric service or reasonably available 77837

alternatives for that service, the commission shall consider 77838
factors including, but not limited to, all of the following: 77839

(1) The number and size of alternative providers of that 77840
service; 77841

(2) The extent to which the service is available from 77842
alternative suppliers in the relevant market; 77843

(3) The ability of alternative suppliers to make 77844
functionally equivalent or substitute services readily available 77845
at competitive prices, terms, and conditions; 77846

(4) Other indicators of market power, which may include 77847
market share, growth in market share, ease of entry, and the 77848
affiliation of suppliers of services. 77849

The burden of proof shall be on any entity requesting, 77850
under division (B) or (C) of this section, a determination by 77851
the commission of the existence of or a lack of effective 77852
competition or reasonably available alternatives. 77853

(E) (1) Beginning on the starting date of competitive 77854
retail electric service, the commission has authority under 77855
Chapters 4901. to 4909. of the Revised Code, and shall exercise 77856
that authority, to resolve abuses of market power by any 77857
electric utility that interfere with effective competition in 77858
the provision of retail electric service. 77859

(2) In addition to the commission's authority under 77860
division (E) (1) of this section, the commission, beginning the 77861
first year after the market development period of a particular 77862
electric utility and after reasonable notice and opportunity for 77863
hearing, may take such measures within a transmission 77864
constrained area in the utility's certified territory as are 77865
necessary to ensure that retail electric generation service is 77866

provided at reasonable rates within that area. The commission 77867
may exercise this authority only upon findings that an electric 77868
utility is or has engaged in the abuse of market power and that 77869
that abuse is not adequately mitigated by rules and practices of 77870
any independent transmission entity controlling the transmission 77871
facilities. Any such measure shall be taken only to the extent 77872
necessary to protect customers in the area from the particular 77873
abuse of market power and to the extent the commission's 77874
authority is not preempted by federal law. The measure shall 77875
remain in effect until the commission, after reasonable notice 77876
and opportunity for hearing, determines that the particular 77877
abuse of market power has been mitigated. 77878

(F) An electric utility, electric services company, 77879
electric cooperative, or governmental aggregator subject to 77880
certification under section 4928.08 of the Revised Code shall 77881
provide the commission with such information, regarding a 77882
competitive retail electric service for which it is subject to 77883
certification, as the commission considers necessary to carry 77884
out this chapter. An electric utility shall provide the 77885
commission with such information as the commission considers 77886
necessary to carry out divisions (B) to (E) of this section. The 77887
commission shall take such measures as it considers necessary to 77888
protect the confidentiality of any such information. 77889

The commission shall require each electric utility to file 77890
with the commission on and after the starting date of 77891
competitive retail electric service an annual report of its 77892
intrastate gross receipts and sales of kilowatt hours of 77893
electricity, and shall require each electric services company, 77894
electric cooperative, and governmental aggregator subject to 77895
certification to file an annual report on and after that 77896
starting date of such receipts and sales from the provision of 77897

those retail electric services for which it is subject to 77898
certification. For the purpose of the reports, sales of kilowatt 77899
hours of electricity are deemed to occur at the meter of the 77900
retail customer. 77901

Sec. 4928.10. For the protection of consumers in this 77902
state, the public utilities commission shall adopt rules ~~under~~ 77903
~~division (A) of section 4928.06 of the Revised Code~~ specifying 77904
the necessary minimum service requirements, on or after the 77905
starting date of competitive retail electric service, of an 77906
electric utility, electric services company, electric 77907
cooperative, or governmental aggregator subject to certification 77908
under section 4928.08 of the Revised Code regarding the 77909
provision directly or through its billing and collection agent 77910
of competitive retail electric services for which it is subject 77911
to certification. Rules adopted under this section shall include 77912
a prohibition against unfair, deceptive, and unconscionable acts 77913
and practices in the marketing, solicitation, and sale of such a 77914
competitive retail electric service and in the administration of 77915
any contract for service, and also shall include additional 77916
consumer protections concerning all of the following: 77917

(A) Contract disclosure. The rules shall include 77918
requirements that an electric utility, electric services 77919
company, electric cooperative, or governmental aggregator 77920
subject to certification under section 4928.08 of the Revised 77921
Code do both of the following: 77922

(1) Provide consumers with adequate, accurate, and 77923
understandable pricing and terms and conditions of service, 77924
including any switching fees, and with a document containing the 77925
terms and conditions of pricing and service before the consumer 77926
enters into the contract for service; 77927

(2) Disclose the conditions under which a customer may rescind a contract without penalty. 77928
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(B) Service termination. The rules shall include disclosure of the terms identifying how customers may switch or terminate service, including any required notice and any penalties. 77930
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(C) Minimum content of customer bills. The rules shall include all of the following requirements, which shall be standardized: 77934
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77936

(1) Price disclosure and disclosures of total billing units for the billing period and historical annual usage; 77937
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(2) To the maximum extent practicable, separate listing of each service component to enable a customer to recalculate its bill for accuracy; 77939
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77941

(3) Identification of the supplier of each service; 77942

(4) Statement of where and how payment may be made and provision of a toll-free or local customer assistance and complaint number for the electric utility, electric services company, electric cooperative, or governmental aggregator, as well as a consumer assistance telephone number or numbers for state agencies, such as the commission, the office of the consumers' counsel, and the attorney general's office, with the available hours noted; 77943
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(5) Other than for the first billing after the starting date of competitive retail electric service, highlighting and clear explanation on each customer bill, for two consecutive billing periods, of any changes in the rates, terms, and conditions of service. 77951
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(D) Disconnection and service termination, including 77956
requirements with respect to master-metered buildings. The rules 77957
shall include policies and procedures that are consistent with 77958
sections 4933.121 and 4933.122 of the Revised Code and the 77959
commission's rules adopted under those sections, and that 77960
provide for all of the following: 77961

(1) Coordination between suppliers for the purpose of 77962
maintaining service; 77963

(2) The allocation of partial payments between suppliers 77964
when service components are jointly billed; 77965

(3) A prohibition against blocking, or authorizing the 77966
blocking of, customer access to a noncompetitive retail electric 77967
service when a customer is delinquent in payments to the 77968
electric utility or electric services company for a competitive 77969
retail electric service; 77970

(4) A prohibition against switching, or authorizing the 77971
switching of, a customer's supplier of competitive retail 77972
electric service without the prior consent of the customer in 77973
accordance with appropriate confirmation practices, which may 77974
include independent, third-party verification procedures. 77975

(5) A requirement of disclosure of the conditions under 77976
which a customer may rescind a decision to switch its supplier 77977
without penalty; 77978

(6) Specification of any required notice and any penalty 77979
for early termination of contract. 77980

(E) Minimum service quality, safety, and reliability. 77981
However, service quality, safety, and reliability requirements 77982
for electric generation service shall be determined primarily 77983
through market expectations and contractual relationships. 77984

(F) Generation resource mix and environmental characteristics of power supplies. The rules shall include requirements for determination of the approximate generation resource mix and environmental characteristics of the power supplies and disclosure to the customer prior to the customer entering into a contract to purchase and four times per year under the contract. The rules also shall require that the electric utility, electric services company, electric cooperative, or governmental aggregator provide, or cause its billing and collection agent to provide, a customer with standardized information comparing the projected, with the actual and verifiable, resource mix and environmental characteristics. This disclosure shall occur not less than annually or not less than once during the contract period if the contract period is less than one year, and prior to any renewal of a contract.

(G) Customer information. The rules shall include requirements that the electric utility, electric services company, electric cooperative, or governmental aggregator make generic customer load pattern information available to other electric light companies on a comparable and nondiscriminatory basis, and make customer-specific information available to other electric light companies on a comparable and nondiscriminatory basis unless, as to customer-specific information, the customer objects. The rules shall ensure that each such utility, company, cooperative, or aggregator provide clear and frequent notice to its customers of the right to object and of applicable procedures. The rules shall establish the exact language that shall be used in all such notices.

Sec. 4928.11. (A) For the protection of consumers in this state, the public utilities commission shall adopt rules ~~under~~

~~division (A) of section 4928.06 of the Revised Code~~ that specify 78016
minimum service quality, safety, and reliability requirements 78017
for noncompetitive retail electric services supplied by an 78018
electric utility in this state, to the extent such authority is 78019
not preempted by federal law. The rules shall include 78020
prescriptive standards for inspection, maintenance, repair, and 78021
replacement of the transmission and distribution systems of 78022
electric utilities; shall apply to each substantial type of 78023
transmission or distribution equipment or facility; shall 78024
establish uniform interconnection standards to ensure 78025
transmission and distribution system safety and reliability and 78026
shall otherwise provide for high quality, safe, and reliable 78027
electric service; shall include standards for operation, 78028
reliability, and safety during periods of emergency and 78029
disaster; and shall include voltage standards for efficient 78030
operation of single-phase motors. The rules regarding 78031
interconnection shall seek to prevent barriers to new technology 78032
and shall not make compliance unduly burdensome or expensive. 78033
When questions arise about specific equipment to meet 78034
interconnection standards, the commission shall initiate 78035
proceedings open to the public to solicit comments from all 78036
interested parties. Additionally, rules under this division 78037
shall include nondiscriminatory metering standards. 78038

(B) The commission shall require each electric utility to 78039
report annually to the commission on and after the starting date 78040
of competitive retail electric service, regarding its compliance 78041
with the rules required under division (A) of this section. The 78042
commission shall make the filed reports available to the public. 78043
Periodically as determined by commission rule ~~under division (A)~~ 78044
~~of section 4928.06 of the Revised Code~~ and in a proceeding 78045
initiated under division (B) of section 4928.16 of the Revised 78046

Code, the commission shall review a utility's report to 78047
determine the utility's compliance and may act pursuant to 78048
division (B) of section 4928.16 of the Revised Code to enforce 78049
compliance. 78050

Sec. 4928.12. (A) Except as otherwise provided in sections 78051
4928.31 to 4928.40 of the Revised Code, no entity shall own or 78052
control transmission facilities as defined under federal law and 78053
located in this state on or after the starting date of 78054
competitive retail electric service unless that entity is a 78055
member of, and transfers control of those facilities to, one or 78056
more qualifying transmission entities, as described in division 78057
(B) of this section, that are operational. 78058

(B) An entity that owns or controls transmission 78059
facilities located in this state complies with division (A) of 78060
this section if each transmission entity of which it is a member 78061
meets all of the following specifications: 78062

(1) The transmission entity is approved by the federal 78063
energy regulatory commission. 78064

(2) The transmission entity effects separate control of 78065
transmission facilities from control of generation facilities. 78066

(3) The transmission entity implements, to the extent 78067
reasonably possible, policies and procedures designed to 78068
minimize pancaked transmission rates within this state. 78069

(4) The transmission entity improves service reliability 78070
within this state. 78071

(5) The transmission entity achieves the objectives of an 78072
open and competitive electric generation marketplace, 78073
elimination of barriers to market entry, and preclusion of 78074
control of bottleneck electric transmission facilities in the 78075

provision of retail electric service. 78076

(6) The transmission entity is of sufficient scope or 78077
otherwise operates to substantially increase economical supply 78078
options for consumers. 78079

(7) The governance structure or control of the 78080
transmission entity is independent of the users of the 78081
transmission facilities, and no member of its board of directors 78082
has an affiliation, with such a user or with an affiliate of a 78083
user during the member's tenure on the board, such as to unduly 78084
affect the transmission entity's performance. For the purpose of 78085
division (B) (7) of this section, a "user" is any entity or 78086
affiliate of that entity that buys or sells electric energy in 78087
the transmission entity's region or in a neighboring region. 78088

(8) The transmission entity operates under policies that 78089
promote positive performance designed to satisfy the electricity 78090
requirements of customers. 78091

(9) The transmission entity is capable of maintaining 78092
real-time reliability of the electric transmission system, 78093
ensuring comparable and nondiscriminatory transmission access 78094
and necessary services, minimizing system congestion, and 78095
further addressing real or potential transmission constraints. 78096

(C) To the extent that a transmission entity under 78097
division (A) of this section is authorized to build transmission 78098
facilities, that transmission entity has the powers provided in 78099
and is subject to sections 1723.01 to 1723.08 of the Revised 78100
Code. 78101

(D) For the purpose of forming or participating in a 78102
regional regulatory oversight body or mechanism developed for 78103
any transmission entity under division (A) of this section that 78104

is of regional scope and operates within this state: 78105

(1) The commission shall make joint investigations, hold 78106
joint hearings, within or outside this state, and issue joint or 78107
concurrent orders in conjunction or concurrence with any 78108
official or agency of any state or of the United States, whether 78109
in the holding of those investigations or hearings, or in the 78110
making of those orders, the commission is functioning under 78111
agreements or compacts between states, under the concurrent 78112
power of states to regulate interstate commerce, as an agency of 78113
the United States, or otherwise. 78114

(2) The commission shall negotiate and enter into 78115
agreements or compacts with agencies of other states for 78116
cooperative regulatory efforts and for the enforcement of the 78117
respective state laws regarding the transmission entity. 78118

(E) If a qualifying transmission entity is not operational 78119
as contemplated in division (A) of this section, division ~~(A)~~ 78120
~~(13)~~ (12) of section 4928.34 of the Revised Code, or division 78121
(G) of section 4928.35 of the Revised Code, the commission by 78122
rule or order shall take such measures or impose such 78123
requirements on all for-profit entities that own or control 78124
electric transmission facilities located in this state as the 78125
commission determines necessary and proper to achieve 78126
independent, nondiscriminatory operation of, and separate 78127
ownership and control of, such electric transmission facilities 78128
on or after the starting date of competitive retail electric 78129
service. 78130

Sec. 4928.13. Through a periodic filing with the public 78131
utilities commission in such form as the commission shall 78132
prescribe by rule ~~under division (A) of section 4928.06 of the~~ 78133
~~Revised Code~~, each electric utility that owns nuclear generation 78134

facilities located in this state shall demonstrate compliance 78135
with decommissioning requirements of the nuclear regulatory 78136
commission and public utilities commission and shall demonstrate 78137
adequate financing mechanisms to fund facility decommissioning. 78138

Sec. 4928.14. (A) Except as provided in division (C) of 78139
this section, the failure of a supplier to provide retail 78140
electric generation service to customers within the certified 78141
territory of an electric distribution utility shall result in 78142
the supplier's customers, after reasonable notice, defaulting to 78143
the utility's standard service offer under sections 4928.141 and 78144
4928.142 of the Revised Code until the customer chooses an 78145
alternative supplier. 78146

(B) A supplier is deemed under this section to have failed 78147
to provide retail electric generation service if the commission 78148
finds, after reasonable notice and opportunity for hearing, that 78149
any of the following conditions are met: 78150

(1) The supplier has defaulted on its contracts with 78151
customers, is in receivership, or has filed for bankruptcy. 78152

(2) The supplier is no longer capable of providing the 78153
service. 78154

(3) The supplier is unable to provide delivery to 78155
transmission or distribution facilities for such period of time 78156
as may be reasonably specified by commission rule ~~adopted under~~ 78157
~~division (A) of section 4928.06 of the Revised Code.~~ 78158

(4) The supplier's certification has been suspended, 78159
conditionally rescinded, or rescinded under division (D) of 78160
section 4928.08 of the Revised Code. 78161

(C) If an electric distribution utility has an electric 78162
security plan that was approved under section 4928.143 of the 78163

Revised Code as that section existed prior to the amendments to 78164
this section by ~~this act~~ H.B. 15 of the 136th general assembly, 78165
the failure of a supplier to provide retail electric generation 78166
service to customers within the certified territory of that 78167
utility shall result in the supplier's customers, after 78168
reasonable notice, defaulting to the utility's standard service 78169
offer under that electric security plan until the customer 78170
chooses an alternative supplier or until the utility's standard 78171
service offer is authorized under section 4928.142 of the 78172
Revised Code. 78173

Sec. 4928.16. (A) (1) The public utilities commission has 78174
jurisdiction under section 4905.26 of the Revised Code, upon 78175
complaint of any person or upon complaint or initiative of the 78176
commission on or after the starting date of competitive retail 78177
electric service, regarding the provision by an electric 78178
utility, electric services company, electric cooperative, or 78179
governmental aggregator subject to certification under section 78180
4928.08 of the Revised Code of any service for which it is 78181
subject to certification. 78182

(2) The commission also has jurisdiction under section 78183
4905.26 of the Revised Code, upon complaint of any person or 78184
upon complaint or initiative of the commission on or after the 78185
starting date of competitive retail electric service, to 78186
determine whether an electric utility has violated or failed to 78187
comply with any provision of sections 4928.01 to 4928.15, any 78188
provision of divisions (A) to (D) of section 4928.35 of the 78189
Revised Code, or any rule or order adopted or issued under those 78190
sections; or whether an electric services company, electric 78191
cooperative, or governmental aggregator subject to certification 78192
under section 4928.08 of the Revised Code has violated or failed 78193
to comply with any provision of sections 4928.01 to 4928.10 of 78194

the Revised Code regarding a competitive retail electric service 78195
for which it is subject to certification or any rule or order 78196
adopted or issued under those sections. 78197

(3) If a contract between a mercantile commercial customer 78198
and an electric services company states that the forum for a 78199
commercial dispute involving that company is through a certified 78200
commercial arbitration process, that process set forth in the 78201
contract and agreed to by the signatories shall be the exclusive 78202
forum unless all parties to the contract agree in writing to an 78203
amended process. The company shall notify the commission for 78204
informational purposes of all matters for which a contract 78205
remedy is invoked to resolve a dispute. 78206

(4) The commission, by rule ~~adopted pursuant to division~~ 78207
~~(A) of section 4928.06 of the Revised Code~~, shall adopt 78208
alternative dispute resolution procedures for complaints by 78209
nonmercantile, nonresidential customers, including arbitration 78210
through a certified commercial arbitration process and at the 78211
commission. The commission also by such rule may adopt 78212
alternative dispute resolution procedures for complaints by 78213
residential customers. 78214

(B) In addition to its authority under division (C) of 78215
section 4928.08 of the Revised Code and to any other remedies 78216
provided by law, the commission, after reasonable notice and 78217
opportunity for hearing in accordance with section 4905.26 of 78218
the Revised Code, may do any of the following: 78219

(1) Order rescission of a contract, or restitution to 78220
customers including damages due to electric power fluctuations, 78221
in any complaint brought pursuant to division (A)(1) or (2) of 78222
this section; 78223

(2) Order any remedy or forfeiture provided under sections 78224
4905.54 to 4905.60 and 4905.64 of the Revised Code upon a 78225
finding under division (A) (2) of this section that the electric 78226
utility has violated or failed to comply with any provision of 78227
sections 4928.01 to 4928.15, any provision of divisions (A) to 78228
(D) of section 4928.35 of the Revised Code, or any rule or order 78229
adopted or issued under those sections. in addition, the 78230
commission may order any remedy provided under section 4905.22, 78231
4905.37, or 4905.38 of the Revised Code if the violation or 78232
failure to comply by an electric utility related to the 78233
provision of a noncompetitive retail electric service. 78234

(3) Order any remedy or forfeiture provided under sections 78235
4905.54 to 4905.60 and 4905.64 of the Revised Code upon a 78236
finding under division (A) (2) of this section that the electric 78237
services company, electric cooperative, or governmental 78238
aggregator subject to certification under section 4928.08 of the 78239
Revised Code has violated or failed to comply, regarding a 78240
competitive retail electric service for which it is subject to 78241
certification, with any provision of sections 4928.01 to 4928.10 78242
of the Revised Code or any rule or order adopted or issued under 78243
those sections. 78244

(C) (1) In addition to the authority conferred under 78245
section 4911.15 of the Revised Code, the consumers' counsel may 78246
file a complaint under division (A) (1) or (2) of this section on 78247
behalf of residential consumers in this state or appear before 78248
the commission as a representative of those consumers pursuant 78249
to any complaint filed under division (A) (1) or (2) of this 78250
section. 78251

(2) In addition to the authority conferred under section 78252
4911.19 of the Revised Code, the consumers' counsel, upon 78253

reasonable grounds on and after the starting date of competitive retail electric service, may file with the commission under section 4905.26 of the Revised Code a complaint for discovery if the recipient of an inquiry under section 4911.19 of the Revised Code fails to provide a response within the time specified in that section.

(D) Section 4905.61 of the Revised Code applies to a violation by an electric utility of, or to a failure of an electric utility to comply with, any provision of sections 4928.01 to 4928.15, any provision of divisions (A) to (D) of section 4928.35 of the Revised Code, or any rule or order adopted or issued under those sections.

Sec. 4928.17. (A) Except as otherwise provided in sections 4928.141 or 4928.142 or 4928.31 to 4928.40 of the Revised Code, no electric utility shall engage in this state, either directly or through an affiliate, in the businesses of supplying a noncompetitive retail electric service and supplying a product or service other than retail electric service, unless the utility implements and operates under a corporate separation plan that is approved by the public utilities commission under this section, is consistent with the policy specified in section 4928.02 of the Revised Code, and achieves all of the following:

(1) The plan provides, at minimum, for the provision of the nonelectric product or service through a fully separated affiliate of the utility, and the plan includes separate accounting requirements, the code of conduct as ordered by the commission pursuant to a rule it shall adopt ~~under division (A) of section 4928.06 of the Revised Code,~~ and such other measures as are necessary to effectuate the policy specified in section 4928.02 of the Revised Code.

(2) The plan satisfies the public interest in preventing 78284
the abuse of market power. 78285

(3) The plan is sufficient to ensure that the utility will 78286
not extend any undue preference or advantage to any affiliate, 78287
division, or part of its own business engaged in the business of 78288
supplying the nonelectric product or service, including, but not 78289
limited to, utility resources such as trucks, tools, office 78290
equipment, office space, supplies, customer and marketing 78291
information, advertising, billing and mailing systems, 78292
personnel, and training, without compensation based upon fully 78293
loaded embedded costs charged to the affiliate; and to ensure 78294
that any such affiliate, division, or part will not receive 78295
undue preference or advantage from any affiliate, division, or 78296
part of the business engaged in business of supplying the 78297
noncompetitive retail electric service. No such utility, 78298
affiliate, division, or part shall extend such undue preference. 78299

(B) The commission may approve, modify and approve, or 78300
disapprove a corporate separation plan filed with the commission 78301
under division (A) of this section. As part of the code of 78302
conduct required under division (A) (1) of this section, the 78303
commission shall adopt rules ~~pursuant to division (A) of section~~ 78304
~~4928.06 of the Revised Code~~ regarding corporate separation and 78305
procedures for plan filing and approval. The rules shall include 78306
limitations on affiliate practices solely for the purpose of 78307
maintaining a separation of the affiliate's business from the 78308
business of the utility to prevent abuse of market power by 78309
virtue of that relationship. The rules also shall include an 78310
opportunity for any person having a real and substantial 78311
interest in the corporate separation plan to file specific 78312
objections to the plan and propose specific responses to issues 78313
raised in the objections, which objections and responses the 78314

commission shall address in its final order. Prior to commission 78315
approval of the plan, the commission shall afford a hearing upon 78316
those aspects of the plan that the commission determines 78317
reasonably require a hearing. The commission may reject and 78318
require refiling of a substantially inadequate plan under this 78319
section. 78320

(C) The commission shall issue an order approving or 78321
modifying and approving a corporate separation plan under this 78322
section, to be effective on the date specified in the order, 78323
only upon findings that the plan reasonably complies with the 78324
requirements of division (A) of this section and will provide 78325
for ongoing compliance with the policy specified in section 78326
4928.02 of the Revised Code. However, for good cause shown, the 78327
commission may issue an order approving or modifying and 78328
approving a corporate separation plan under this section that 78329
does not comply with division (A) (1) of this section but 78330
complies with such functional separation requirements as the 78331
commission authorizes to apply for an interim period prescribed 78332
in the order, upon a finding that such alternative plan will 78333
provide for ongoing compliance with the policy specified in 78334
section 4928.02 of the Revised Code. 78335

(D) Any party may seek an amendment to a corporate 78336
separation plan approved under this section, and the commission, 78337
pursuant to a request from any party or on its own initiative, 78338
may order as it considers necessary the filing of an amended 78339
corporate separation plan to reflect changed circumstances. 78340

Sec. 4928.31. (A) Not later than ninety days after the 78341
effective date of this section, an electric utility supplying 78342
retail electric service in this state on that date shall file 78343
with the public utilities commission a plan for the utility's 78344

provision of retail electric service in this state during the 78345
market development period. This transition plan shall be in such 78346
form as the commission shall prescribe by rule ~~adopted under~~ 78347
~~division (A) of section 4928.06 of the Revised Code~~ and shall 78348
include all of the following: 78349

(1) A rate unbundling plan that specifies, consistent with 78350
divisions (A) (1) to ~~(7)~~(6) of section 4928.34 of the Revised 78351
~~Code and any rules adopted by the commission under division (A)~~ 78352
~~of section 4928.06 of the Revised Code, the unbundles~~ unbundled 78353
components for electric generation, transmission, and 78354
distribution service and such other unbundled service components 78355
as the commission requires, to be charged by the utility 78356
beginning on the starting date of competitive retail electric 78357
service and that includes information the commission requires to 78358
fix and determine those components; 78359

(2) A corporate separation plan consistent with section 78360
4928.17 of the Revised Code ~~and any rules adopted by the~~ 78361
~~commission under division (A) of section 4928.06 of the Revised~~ 78362
~~Code;~~ 78363

(3) Such plan or plans as the commission requires to 78364
address operational support systems and any other technical 78365
implementation issues pertaining to competitive retail electric 78366
service ~~consistent with any rules adopted by the commission~~ 78367
~~under division (A) of section 4928.06 of the Revised Code;~~ 78368

(4) An employee assistance plan for providing severance, 78369
retraining, early retirement, retention, outplacement, and other 78370
assistance for the utility's employees whose employment is 78371
affected by electric industry restructuring under this chapter; 78372

(5) A consumer education plan consistent with former 78373

section 4928.42 of the Revised Code ~~and any rules adopted by the~~ 78374
~~commission under division (A) of section 4928.06 of the Revised~~ 78375
~~Code.~~ 78376

A transition plan under this section may include tariff 78377
terms and conditions to address reasonable requirements for 78378
changing suppliers, length of commitment by a customer for 78379
service, and such other matters as are necessary to accommodate 78380
electric restructuring. Additionally, a transition plan under 78381
this section may include an application for the opportunity to 78382
receive transition revenues as authorized under sections 4928.31 78383
to 4928.40 of the Revised Code, which application shall be 78384
consistent with those sections ~~and any rules adopted by the~~ 78385
~~commission under division (A) of section 4928.06 of the Revised~~ 78386
~~Code.~~ The transition plan also may include a plan for the 78387
independent operation of the utility's transmission facilities 78388
consistent with section 4928.12 of the Revised Code, and 78389
division ~~(A) (13)~~ (A) (12) of section 4928.34 of the Revised Code, ~~and~~ 78390
~~and any rules adopted by the commission under division (A) of~~ 78391
~~section 4928.06 of the Revised Code.~~ 78392

The commission may reject and require refileing, in whole 78393
or in part, of any substantially inadequate transition plan. 78394

(B) The electric utility shall provide public notice of 78395
its filing under division (A) of this section, in a form and 78396
manner that the commission shall prescribe by rule adopted under 78397
division (A) of section 4928.06 of the Revised Code. However, 78398
the adoption of rules regarding the public notice under this 78399
division, regarding the form of the transition plan under 78400
division (A) of this section, and regarding procedures for 78401
expedited discovery under division (A) of section 4928.32 of the 78402
Revised Code are not subject to division (D) of section 111.15 78403

of the Revised Code. 78404

Sec. 4928.34. (A) The public utilities commission shall 78405
not approve or prescribe a transition plan under division (A) or 78406
(B) of section 4928.33 of the Revised Code unless the commission 78407
first makes all of the following determinations: 78408

(1) The unbundled components for the electric transmission 78409
component of retail electric service, as specified in the 78410
utility's rate unbundling plan required by division (A)(1) of 78411
section 4928.31 of the Revised Code, equal the tariff rates 78412
determined by the federal energy regulatory commission that are 78413
in effect on the date of the approval of the transition plan 78414
under sections 4928.31 to 4928.40 of the Revised Code, as each 78415
such rate is determined applicable to each particular customer 78416
class and rate schedule by the commission. The unbundled 78417
transmission component shall include a sliding scale of charges 78418
under division (B) of section 4905.31 of the Revised Code to 78419
ensure that refunds determined or approved by the federal energy 78420
regulatory commission are flowed through to retail electric 78421
customers. 78422

(2) The unbundled components for retail electric 78423
distribution service in the rate unbundling plan equal the 78424
difference between the costs attributable to the utility's 78425
transmission and distribution rates and charges under its 78426
schedule of rates and charges in effect on the effective date of 78427
this section, based upon the record in the most recent rate 78428
proceeding of the utility for which the utility's schedule was 78429
established, and the tariff rates for electric transmission 78430
service determined by the federal energy regulatory commission 78431
as described in division (A)(1) of this section. 78432

(3) All other unbundled components required by the 78433

commission in the rate unbundling plan equal the costs 78434
attributable to the particular service as reflected in the 78435
utility's schedule of rates and charges in effect on the 78436
effective date of this section. 78437

(4) The unbundled components for retail electric 78438
generation service in the rate unbundling plan equal the 78439
residual amount remaining after the determination of the 78440
transmission, distribution, and other unbundled components, and 78441
after any adjustments necessary to reflect the effects of the 78442
amendment of section 5727.111 of the Revised Code by Sub. S.B. 78443
No. 3 of the 123rd general assembly. 78444

(5) All unbundled components in the rate unbundling plan 78445
have been adjusted to reflect any base rate reductions on file 78446
with the commission and as scheduled to be in effect by December 78447
31, 2005, under rate settlements in effect on the effective date 78448
of this section. However, all earnings obligations, 78449
restrictions, or caps imposed on an electric utility in a 78450
commission order prior to the effective date of this section are 78451
void. 78452

(6) Subject to division (A)(5) of this section, the total 78453
of all unbundled components in the rate unbundling plan are 78454
capped and shall equal during the market development period, 78455
except as specifically provided in this chapter, the total of 78456
all rates and charges in effect under the applicable bundled 78457
schedule of the electric utility pursuant to section 4905.30 of 78458
the Revised Code in effect on the day before the effective date 78459
of this section, including the transition charge determined 78460
under section 4928.40 of the Revised Code, adjusted for any 78461
changes in the taxation of electric utilities and retail 78462
electric service under Sub. S.B. No. 3 of the 123rd General 78463

Assembly and the percentage of income payment plan rider 78464
authorized by section 4928.52 of the Revised Code. For the 78465
purpose of this division, the rate cap applicable to a customer 78466
receiving electric service pursuant to an arrangement approved 78467
by the commission under section 4905.31 of the Revised Code is, 78468
for the term of the arrangement, the total of all rates and 78469
charges in effect under the arrangement. For any rate schedule 78470
filed pursuant to section 4905.30 of the Revised Code or any 78471
arrangement subject to approval pursuant to section 4905.31 of 78472
the Revised Code, the initial tax-related adjustment to the rate 78473
cap required by this division shall be equal to the rate of 78474
taxation specified in section 5727.81 of the Revised Code and 78475
applicable to the schedule or arrangement. To the extent such 78476
total annual amount of the tax-related adjustment is greater 78477
than or less than the comparable amount of the total annual tax 78478
reduction experienced by the electric utility as a result of the 78479
provisions of Sub. S.B. No. 3 of the 123rd general assembly, 78480
such difference shall be addressed by the commission through 78481
accounting procedures, refunds, or an annual surcharge or credit 78482
to customers, or through other appropriate means, to avoid 78483
placing the financial responsibility for the difference upon the 78484
electric utility or its shareholders. Any adjustments in the 78485
rate of taxation specified in section 5727.81 of the Revised 78486
Code shall not occur without a corresponding adjustment to the 78487
rate cap for each such rate schedule or arrangement. The 78488
department of taxation shall advise the commission and self- 78489
assessors under section 5727.81 of the Revised Code prior to the 78490
effective date of any change in the rate of taxation specified 78491
under that section, and the commission shall modify the rate cap 78492
to reflect that adjustment so that the rate cap adjustment is 78493
effective as of the effective date of the change in the rate of 78494
taxation. This division shall be applied, to the extent 78495

possible, to eliminate any increase in the price of electricity 78496
for customers that otherwise may occur as a result of 78497
establishing the taxes contemplated in section 5727.81 of the 78498
Revised Code. 78499

~~(7) The rate unbundling plan complies with any rules 78500
adopted by the commission under division (A) of section 4928.06 78501
of the Revised Code. 78502~~

~~(8) The corporate separation plan required by division (A) 78503
(2) of section 4928.31 of the Revised Code complies with section 78504
4928.17 of the Revised Code and any rules adopted by the 78505
commission under division (A) of section 4928.06 of the Revised 78506
Code. 78507~~

~~(9)~~ (8) Any plan or plans the commission requires to 78508
address operational support systems and any other technical 78509
implementation issues pertaining to competitive retail electric 78510
service comply with ~~any rules adopted by the commission under 78511
division (A) of section 4928.06 of the Revised Code~~ requirements. 78512

~~(10)~~ (9) The employee assistance plan required by division 78513
(A) (4) of section 4928.31 of the Revised Code sufficiently 78514
provides severance, retraining, early retirement, retention, 78515
outplacement, and other assistance for the utility's employees 78516
whose employment is affected by electric industry restructuring 78517
under this chapter. 78518

~~(11)~~ (10) The consumer education plan required under 78519
division (A) (5) of section 4928.31 of the Revised Code complies 78520
with former section 4928.42 of the Revised Code and any rules 78521
adopted by the commission under division (A) of section 4928.06 78522
of the Revised Code. 78523

~~(12)~~ (11) The transition revenues for which an electric 78524

utility is authorized a revenue opportunity under sections 78525
4928.31 to 4928.40 of the Revised Code are the allowable 78526
transition costs of the utility as such costs are determined by 78527
the commission pursuant to section 4928.39 of the Revised Code, 78528
and the transition charges for the customer classes and rate 78529
schedules of the utility are the charges determined pursuant to 78530
section 4928.40 of the Revised Code. 78531

~~(13)~~ (12) Any independent transmission plan included in the 78532
transition plan filed under section 4928.31 of the Revised Code 78533
reasonably complies with section 4928.12 of the Revised Code ~~and~~ 78534
~~any rules adopted by the commission under division (A) of~~ 78535
~~section 4928.06 of the Revised Code~~, unless the commission, for 78536
good cause shown, authorizes the utility to defer compliance 78537
until an order is issued under division (G) of section 4928.35 78538
of the Revised Code. 78539

~~(14)~~ (13) The utility is in compliance with sections 78540
4928.01 to 4928.11 of the Revised Code and any rules or orders 78541
of the commission adopted or issued under those sections. 78542

~~(15)~~ (14) All unbundled components in the rate unbundling 78543
plan have been adjusted to reflect the elimination of the tax on 78544
gross receipts imposed by section 5727.30 of the Revised Code. 78545

In addition, a transition plan approved by the commission 78546
under section 4928.33 of the Revised Code but not containing an 78547
approved independent transmission plan shall contain the express 78548
conditions that the utility will comply with an order issued 78549
under division (G) of section 4928.35 of the Revised Code. 78550

(B) If the commission finds that any part of the 78551
transition plan would constitute an abandonment under sections 78552
4905.20 and 4905.21 of the Revised Code, the commission shall 78553

not approve that part of the transition plan unless it makes the finding required for approval of an abandonment application under section 4905.21 of the Revised Code. Sections 4905.20 and 4905.21 of the Revised Code otherwise shall not apply to a transition plan under sections 4928.31 to 4928.40 of the Revised Code.

Sec. 4928.35. (A) Upon approval of its transition plan under sections 4928.31 to 4928.40 of the Revised Code, an electric utility shall file in accordance with section 4905.30 of the Revised Code schedules containing the unbundled rate components set in the approved plan in accordance with section 4928.34 of the Revised Code. The schedules shall be in effect for the duration of the utility's market development period, shall be subject to the cap specified in division (A) (6) of section 4928.34 of the Revised Code, and shall not be adjusted during that period by the public utilities commission except as otherwise authorized by division (B) of this section or as otherwise authorized by federal law or except to reflect any change in tax law or tax regulation that has a material effect on the electric utility.

(B) Efforts shall be made to reach agreements with electric utilities in matters of litigation regarding property valuation issues. Irrespective of those efforts, the unbundled components for an electric utility's retail electric generation service and distribution service, as provided in division (A) of this section, are not subject to adjustment for the utility's market development period, except that the commission shall order an equitable reduction in those components for all customer classes to reflect any refund a utility receives as a result of the resolution of utility personal property tax valuation litigation that is resolved on or after the effective

date of this section and not later than December 31, 2005. 78585
Immediately upon the issuance of that order, the electric 78586
utility shall file revised rate schedules under section 4909.18 78587
of the Revised Code to effect the order. 78588

(C) The schedule under division (A) of this section 78589
containing the unbundled distribution components shall provide 78590
that electric distribution service under the schedule will be 78591
available to all retail electric service customers in the 78592
electric utility's certified territory and their suppliers on a 78593
nondiscriminatory and comparable basis on and after the starting 78594
date of competitive retail electric service. The schedule also 78595
shall include an obligation to build distribution facilities 78596
when necessary to provide adequate distribution service, 78597
provided that a customer requesting that service may be required 78598
to pay all or part of the reasonable incremental cost of the new 78599
facilities, in accordance with rules, policy, precedents, or 78600
orders of the commission. 78601

(D) During the market development period, an electric 78602
distribution utility shall provide consumers on a comparable and 78603
nondiscriminatory basis within its certified territory a 78604
standard service offer of all competitive retail electric 78605
services necessary to maintain essential electric service to 78606
consumers, including a firm supply of electric generation 78607
service priced in accordance with the schedule containing the 78608
utility's unbundled generation service component. Immediately 78609
upon approval of its transition plan, the utility shall file the 78610
standard service offer with the commission under section 4909.18 78611
of the Revised Code, during the market development period. The 78612
failure of a supplier to deliver retail electric generation 78613
service shall result in the supplier's customers, after 78614
reasonable notice, defaulting to the utility's standard service 78615

offer filed under this division until the customer chooses an 78616
alternative supplier. A supplier is deemed under this section to 78617
have failed to deliver such service if any of the conditions 78618
specified in section 4928.14 of the Revised Code is met. 78619

(E) An amendment of a corporate separation plan contained 78620
in a transition plan approved by the commission under section 78621
4928.33 of the Revised Code shall be filed and approved as a 78622
corporate separation plan pursuant to section 4928.17 of the 78623
Revised Code. 78624

(F) Any change to an electric utility's opportunity to 78625
receive transition revenues under a transition plan approved in 78626
accordance with section 4928.33 of the Revised Code shall be 78627
authorized only as provided in sections 4928.31 to 4928.40 of 78628
the Revised Code. 78629

(G) The commission, by order, shall require each electric 78630
utility whose approved transition plan did not include an 78631
independent transmission plan as described in division ~~(A)(13)~~ 78632
(A) (12) of section 4928.34 of the Revised Code to be a member 78633
of, and transfer control of transmission facilities it owns or 78634
controls in this state to, one or more qualifying transmission 78635
entities, as described in division (B) of section 4928.12 of the 78636
Revised Code, that are planned to be operational on and after 78637
December 31, 2003. However, the commission may extend that date 78638
if, for reasons beyond the control of the utility, a qualifying 78639
transmission entity is not planned to be operational on that 78640
date. The commission's order may specify an earlier date on 78641
which the transmission entity or entities are planned to be 78642
operational if the commission considers it necessary to carry 78643
out the policy specified in section 4928.02 of the Revised Code 78644
or to encourage effective competition in retail electric service 78645

in this state. 78646

Upon the issuance of the order, each such utility shall 78647
file with the commission a plan for such independent operation 78648
of the utility's transmission facilities consistent with this 78649
division. The commission may reject and require refiling of any 78650
substantially inadequate plan submitted under this division. 78651

After reasonable notice and opportunity for hearing, the 78652
commission shall approve the plan upon a finding that the plan 78653
will result in the utility's compliance with the order, this 78654
division, and any rules adopted under division (A) of section 78655
4928.06 of the Revised Code. The approved independent 78656
transmission plan shall be deemed a part of the utility's 78657
transition plan for purposes of sections 4928.31 to 4928.40 of 78658
the Revised Code. 78659

Sec. 4928.37. (A) (1) Sections 4928.31 to 4928.40 of the 78660
Revised Code provide an electric utility the opportunity to 78661
receive transition revenues that may assist it in making the 78662
transition to a fully competitive retail electric generation 78663
market. An electric Utility for which transition revenues are 78664
approved pursuant to sections 4928.31 to 4928.40 of the Revised 78665
Code shall receive those revenues through both of the following 78666
mechanisms beginning on the starting date of competitive retail 78667
electric service and ending on the expiration date of its market 78668
development period as determined under section 4928.40 of the 78669
Revised Code: 78670

(a) Payment of unbundled rates for retail electric 78671
services by each customer that is supplied retail electric 78672
generation service during the market development period by the 78673
customer's electric distribution utility, which rates shall be 78674
specified in schedules filed under section 4928.35 of the 78675

Revised Code; 78676

(b) Payment of a nonbypassable and competitively neutral 78677
transition charge by each customer that is supplied retail 78678
electric generation service during the market development period 78679
by an entity other than the customer's electric distribution 78680
utility, as such transition charge is determined under section 78681
4928.40 of the Revised Code. The transition charge shall be 78682
payable by each such retail electric distribution service 78683
customer in the certified territory of the electric utility for 78684
which the transition revenues are approved and shall be billed 78685
on each kilowatt hour of electricity delivered to the customer 78686
by the electric distribution utility as registered on the 78687
customer's meter during the utility's market development period 78688
as kilowatt hour is defined in section 4909.161 of the Revised 78689
Code or, if no meter is used, as based on an estimate of 78690
kilowatt hours used or consumed by the customer. The transition 78691
charge for each customer class shall reflect the cost allocation 78692
to that class as provided under bundled rates and charges in 78693
effect on the day before the effective date of this section. 78694
Additionally, as reflected in section 4928.40 of the Revised 78695
Code, the transition charges shall be structured to provide 78696
shopping incentives to customers sufficient to encourage the 78697
development of effective competition in the supply of retail 78698
electric generation service. To the extent possible, the level 78699
and structure of the transition charge shall be designed to 78700
avoid revenue responsibility shifts among the utility's customer 78701
classes and rate schedules. 78702

(2) (a) Notwithstanding division (A) (1) (b) of this section, 78703
the transition charge shall not be payable on electricity 78704
supplied by a municipal electric utility to a retail electric 78705
distribution service customer in the certified territory of the 78706

electric utility for which the transition revenues are approved, 78707
if the municipal electric utility provides electric transmission 78708
or distribution service, or both services, through transmission 78709
or distribution facilities singly or jointly owned or operated 78710
by the municipal electric utility, and if the municipal electric 78711
utility was in existence, operating, and providing service as of 78712
January 1, 1999. 78713

(b) The transition charge shall not be payable on 78714
electricity supplied or consumed in this state except such 78715
electricity as is delivered to a retail customer by an electric 78716
distribution utility and is registered on the customer's meter 78717
during the utility's market development period or, if no meter 78718
is used, is based on an estimate of kilowatt hours used or 78719
consumed by the customer. However, no transition charge shall be 78720
payable on electricity that is both produced and consumed in 78721
this state by a self-generator. 78722

(3) The transition charge shall not be discounted by any 78723
party. 78724

(4) Nothing prevents payment of all or part of the 78725
transition charge by another party on a customer's behalf if 78726
that payment does not contravene sections 4905.33 to 4905.35 of 78727
the Revised Code or this chapter. 78728

(B) The electric utility shall separately itemize and 78729
disclose, or cause its billing and collection agent to 78730
separately itemize and disclose, the transition charge on the 78731
customer's bill in accordance with reasonable specifications the 78732
commission shall prescribe by rule ~~under division (A) of section~~ 78733
~~4928.06 of the Revised Code.~~ 78734

Sec. 4928.543. The public utilities commission shall adopt 78735

rules to ~~implement sections 4928.54, 4928.541, and 4928.542 of~~ 78736
~~the Revised Code. The rules shall ensure a fair and unbiased~~ 78737
auction process and the performance of the winning bidder or 78738
bidders under sections 4928.54, 4928.541, and 4928.542 of the 78739
Revised Code. 78740

Sec. 4928.62. (A) There is hereby created the advanced 78741
energy program, which shall be administered by the director of 78742
development. Under the program, the director may authorize the 78743
use of moneys in the advanced energy fund for financial, 78744
technical, and related assistance for advanced energy projects 78745
in this state or for economic development assistance, in 78746
furtherance of the purposes set forth in section 4928.63 of the 78747
Revised Code. 78748

(1) To the extent feasible given approved applications for 78749
assistance, the assistance shall be distributed among the 78750
certified territories of electric distribution utilities and 78751
participating electric cooperatives, and among the service areas 78752
of participating municipal electric utilities, in amounts 78753
proportionate to the remittances of each utility and cooperative 78754
under division (B) (2) of section 4928.61 of the Revised Code. 78755

(2) The funds described in division (B) (5) of section 78756
4928.61 of the Revised Code shall not be subject to the 78757
territorial requirements of division (A) (1) of this section. 78758

(3) The director shall not authorize financial assistance 78759
for an advanced energy project under the program unless the 78760
director first determines that the project will create new jobs 78761
or preserve existing jobs in this state or use innovative 78762
technologies or materials. 78763

(B) In carrying out sections 4928.61 to 4928.63 of the 78764

Revised Code, the director may do all of the following to 78765
further the public interest in advanced energy projects and 78766
economic development: 78767

(1) Award grants, contracts, loans, loan participation 78768
agreements, linked deposits, and energy production incentives; 78769

(2) Acquire in the name of the director any property of 78770
any kind or character in accordance with this section, by 78771
purchase, purchase at foreclosure, or exchange, on such terms 78772
and in such manner as the director considers proper; 78773

(3) Make and enter into all contracts and agreements 78774
necessary or incidental to the performance of the director's 78775
duties and the exercise of the director's powers under sections 78776
4928.61 to 4928.63 of the Revised Code; 78777

(4) Employ or enter into contracts with financial 78778
consultants, marketing consultants, consulting engineers, 78779
architects, managers, construction experts, attorneys, technical 78780
monitors, energy evaluators, or other employees or agents as the 78781
director considers necessary, and fix their compensation; 78782

(5) Adopt rules prescribing the application procedures for 78783
financial assistance under the advanced energy program; the 78784
fees, charges, interest rates, payment schedules, local match 78785
requirements, and other terms and conditions of any grants, 78786
contracts, loans, loan participation agreements, linked 78787
deposits, and energy production incentives; and criteria 78788
pertaining to the eligibility of participating lending 78789
institutions; ~~and any other matters necessary for the~~ 78790
~~implementation of the program;~~ 78791

(6) Do all things necessary and appropriate for the 78792
operation of the program. 78793

(C) The department of development may hold ownership to 78794
any unclaimed energy efficiency and renewable energy emission 78795
allowances provided for in Chapter 3745-14 of the Administrative 78796
Code or otherwise, that result from advanced energy projects 78797
that receive funding from the advanced energy fund, and it may 78798
use the allowances to further the public interest in advanced 78799
energy projects or for economic development. 78800

(D) Financial statements, financial data, and trade 78801
secrets submitted to or received by the director from an 78802
applicant or recipient of financial assistance under sections 78803
4928.61 to 4928.63 of the Revised Code, or any information taken 78804
from those statements, data, or trade secrets for any purpose, 78805
are not public records for the purpose of section 149.43 of the 78806
Revised Code. 78807

(E) Nothing in the amendments of sections 4928.61, 78808
4928.62, and 4928.63 of the Revised Code by Sub. H.B. 251 of the 78809
126th general assembly shall affect any pending or effected 78810
assistance, pending or effected purchases or exchanges of 78811
property made, or pending or effected contracts or agreements 78812
entered into pursuant to division (A) or (B) of this section as 78813
the section existed prior to the effective date of those 78814
amendments, January 4, 2007, or shall affect the exemption 78815
provided under division (C) of this section as the section 78816
existed prior to that effective date. 78817

(F) Any assistance a school district receives for an 78818
advanced energy project, including a geothermal heating, 78819
ventilating, and air conditioning system, shall be in addition 78820
to any assistance provided under Chapter 3318. of the Revised 78821
Code and shall not be included as part of the district or state 78822
portion of the basic project cost under that chapter. 78823

Sec. 4928.70. ~~(A)~~ The public utilities commission may 78824
periodically review any green pricing program offered in this 78825
state as part of competitive retail electric service. At the 78826
conclusion of a review, the commission may make recommendations 78827
to improve or expand the program subject of the review. 78828

~~(B) The commission shall adopt rules necessary to carry 78829
out purposes of this section. 78830~~

Sec. 4928.73. (A) As used in this section: 78831

(1) "Mercantile customer member" means a mercantile 78832
customer connected to a mercantile customer self-power system. 78833

(2) "Mercantile customer self-power system" means one or 78834
more electric generation facilities, electric storage 78835
facilities, or both, along with any associated facilities, that 78836
meet all of the following: 78837

(a) Produce electricity primarily for the consumption of a 78838
mercantile customer member or a group of mercantile customer 78839
members; 78840

(b) Connect directly to the mercantile customer member's 78841
side of the electric meter; 78842

(c) Deliver electricity to the mercantile customer 78843
member's side of the electric meter without the use of an 78844
electric distribution utility's or electric cooperative's 78845
distribution system or transmission system; 78846

(d) Is located on either of the following: 78847

(i) A property owned or controlled by a mercantile 78848
customer member or the entity that owns or operates the 78849
mercantile customer self-power system; 78850

(ii) Land adjacent to a mercantile customer member if the facilities connect directly with the customer. 78851
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(B) The mercantile customer self-power system may be owned or operated by a mercantile customer member, group of mercantile customer members, or an entity that is not a mercantile customer member. 78853
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(C) A mercantile customer self-power system may provide electric generation service to one or more mercantile customers. 78857
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~~(D) The public utilities commission shall adopt rules to implement this section that are applicable to electric distribution utilities.~~ 78859
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~~(E)~~ Nothing in this section prohibits an electric distribution utility or an electric cooperative from charging a mercantile customer for distribution or transmission service used by a mercantile customer. 78862
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Sec. 4929.221. (A) If a competitive retail natural gas service supplier offers a residential customer or non-mercantile commercial customer a contract for a fixed introductory rate that converts to a variable rate upon the expiration of the fixed rate, the supplier shall send two notices to each residential customer and non-mercantile commercial customer that enters into such a contract. Each notice shall provide all of the following information to the customer: 78866
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(1) The fixed rate that is expiring under the contract; 78874

(2) The expiration date of the contract's fixed rate; 78875

(3) The public utilities commission web site that, as a comparison tool, lists rates offered by competitive retail natural gas service suppliers. 78876
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(B) The second notice shall include all the information 78879
required under division (A) of this section and shall also 78880
identify the initial rate to be charged upon the contract's 78881
conversion to a variable rate. 78882

(C) The notices shall be sent by standard United States 78883
mail or electronically with a customer's verifiable consent as 78884
follows: 78885

(1) The supplier shall send the first notice not earlier 78886
than ninety days and not later than sixty days prior to the 78887
expiration of the fixed rate. 78888

(2) The supplier shall send the second notice not earlier 78889
than forty-five days and not later than fifteen days prior to 78890
the expiration of the fixed rate. 78891

(D) A competitive retail natural gas service supplier 78892
shall provide an annual notice, by standard United States mail 78893
or electronically with a customer's verifiable consent, to each 78894
residential customer and non-mercantile commercial customer that 78895
has entered into a contract with the supplier that has converted 78896
to a variable rate upon the expiration of the contract's fixed 78897
introductory rate. The notice shall inform the customer that the 78898
customer is currently subject to a variable rate and that other 78899
fixed rate contracts are available. 78900

~~(E) Not later than one hundred fifty days after the 78901
effective date of this section, the commission shall adopt rules 78902
in order to implement divisions (A) to (D) of this section. The 78903
rules, at a minimum, shall include the following requirements 78904
regarding the notices required under divisions (A) to (D) of 78905
this section: 78906~~

~~(1) To use clear and unambiguous language in order to 78907~~

~~enable the customer to make an informed decision;~~ 78908

~~(2) To design the notices in a way to ensure that they cannot be confused with marketing materials.~~ 78909
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~~(F) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under section 4929.221 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code.~~ 78911
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Sec. 4935.04. (A) As used in this chapter: 78915

(1) "Major utility facility" means: 78916

(a) An electric transmission line and associated facilities of a design capacity of one hundred twenty-five kilovolts or more; 78917
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(b) A gas or natural gas transmission line and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of one hundred twenty-five pounds per square inch. 78920
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"Major utility facility" does not include electric, gas, or natural gas distributing lines and gas or natural gas gathering lines and associated facilities as defined by the public utilities commission; facilities owned or operated by industrial firms, persons, or institutions that produce or transmit gas or natural gas, or electricity primarily for their own use or as a byproduct of their operations; gas or natural gas transmission lines and associated facilities over which an agency of the United States has certificate jurisdiction; facilities owned or operated by a person furnishing gas or natural gas directly to fifteen thousand or fewer customers within this state. 78924
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(2) "Person" has the meaning set forth in section 4906.01 of the Revised Code. 78936
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(3) "Advanced transmission technologies" has the same meaning as in section 4906.01 of the Revised Code. 78938
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(B) Each person owning or operating a gas or natural gas transmission line and associated facilities within this state over which an agency of the United States has certificate jurisdiction shall furnish to the commission a copy of the energy information filed by the person with that agency of the United States. 78940
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(C) Each person owning or operating a major utility facility within this state, or furnishing gas, natural gas, or electricity directly to more than fifteen thousand customers within this state shall furnish a report to the commission for its review. The report shall be furnished annually, except that for a gas or natural gas company the report shall be furnished every three years. The report shall be termed the long-term forecast report and shall contain: 78946
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(1) A year-by-year, ten-year forecast of annual energy demand, peak load, reserves, and a general description of the resource planning projections to meet demand; 78954
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(2) A range of projected loads during the period; 78957

(3) A description of major utility facilities planned to be added or taken out of service in the next ten years, including, to the extent the information is available, prospective sites for transmission line locations; 78958
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(4) For gas and natural gas, a projection of anticipated supply, supply prices, and sources of supply over the forecast period; 78962
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(5) A description of proposed changes in the transmission system planned for the next five years; 78965
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(6) A month-by-month forecast of both energy demand and peak load for electric utilities, and gas sendout for gas and natural gas utilities, for the next two years. The report shall describe the major utility facilities that, in the judgment of such person, will be required to supply system demands during the forecast period. The report from a gas or natural gas utility shall cover the ten- and five-year periods next succeeding the date of the report, and the report from an electric utility shall cover the twenty-, ten-, and five-year periods next succeeding the date of the report. Each report shall be made available to the public and furnished upon request to municipal corporations and governmental agencies charged with the duty of protecting the environment or of planning land use. The report shall be in such form and shall contain such information as may be prescribed by the commission. 78967
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Each person not owning or operating a major utility facility within this state and serving fifteen thousand or fewer gas or natural gas, or electric customers within this state shall furnish such information as the commission requires. 78982
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(7) For electric transmission, a person shall include an evaluation and report of the potential use of, or investment in, one or more advanced transmission technologies to enable the electric utility to safely, reliably, efficiently, and cost-effectively meet electric system demand through its major utility facilities. 78986
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The report shall identify which advanced transmission technologies were considered as a part of the review of the major utility facilities for the next five years. A person shall 78992
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also include a cost evaluation comparing costs of traditional 78995
transmission investments and costs of advanced transmission 78996
technologies for the projects considered on the major utility 78997
facilities applied individually, together, or in sequence. The 78998
report shall also include an advanced transmission technology 78999
congestion mitigation study to cost-effectively maximize the 79000
delivery of energy resources in the near term that: 79001

(a) Identifies locations on the entity's transmission 79002
system where congestion has occurred for a total of fifty hours 79003
per year or more during the last three years or is likely to 79004
occur during the next five years, including due to planned 79005
transmission outages or other factors; 79006

(b) Estimates the frequency of congestion at each location 79007
and the increased cost to ratepayers resulting from the 79008
substitution of higher-priced electricity; 79009

(c) Evaluates the technical feasibility and estimates the 79010
cost of installing one or more advanced transmission 79011
technologies to address each instance of grid congestion 79012
identified in division (C) (7) (a) of this section and projects 79013
the grid-enhancing technology's efficacy in reducing congestion; 79014

(d) Analyzes the cost-effectiveness of installing grid- 79015
enhancing technologies to address each instance of congestion 79016
identified in division (C) (7) (a) of this section by using the 79017
information developed in division (C) (7) (c) of this section to 79018
calculate the payback period of each installation, using a 79019
methodology developed by the commission; 79020

(e) Proposes an implementation plan, including a schedule 79021
and cost estimate, to install grid-enhancing technologies at 79022
each congestion point at which the payback period is less than 79023

or equal to a value determined by the commission, in order to 79024
maximize transmission system capacity, and explains the entity's 79025
current line rating methodology. 79026

(D) The commission shall: 79027

(1) Review and comment on the reports filed under division 79028
(C) of this section, and make the information contained in the 79029
reports readily available to the public and other interested 79030
government agencies; 79031

(2) Compile and publish each year the general locations of 79032
proposed and existing transmission line routes within its 79033
jurisdiction as identified in the reports filed under division 79034
(C) of this section, identifying the general location of such 79035
sites and routes and the approximate year when construction is 79036
expected to commence, and to make such information readily 79037
available to the public, to each newspaper of daily or weekly 79038
circulation within the area affected by the proposed site and 79039
route, and to interested federal, state, and local agencies; 79040

(3) Hold a public hearing upon the showing of good cause 79041
to the commission by an interested party. 79042

If a hearing is held, the commission shall fix a time for 79043
the hearing, which shall be not later than ninety days after the 79044
report is filed, and publish notice of the date, time of day, 79045
and location of the hearing in a newspaper of general 79046
circulation in each county in which the person furnishing the 79047
report has or intends to locate a major utility facility and 79048
will provide service during the period covered by the report. 79049
The notice shall be published not less than fifteen nor more 79050
than thirty days before the hearing and shall state the matters 79051
to be considered. 79052

(4) Require such information from persons subject to its jurisdiction as necessary to assist in the conduct of hearings and any investigation or studies it may undertake;

(5) Conduct any studies or investigations that are necessary or appropriate to carry out its responsibilities under this section.

(6) Review and evaluate that advanced transmission technologies were properly reported in accordance with division (C) (7) of this section and allow stakeholders to provide comments.

(7) Approve advanced transmission technology congestion mitigation implementation plans, including cost recovery.

(E) (1) The scope of the hearing held under division (D) (3) of this section shall be limited to issues relating to forecasting. The power siting board, the office of consumers' counsel, and all other persons having an interest in the proceedings shall be afforded the opportunity to be heard and to be represented by counsel. The commission may adjourn the hearing from time to time.

(2) The hearing shall include, but not be limited to, a review of:

(a) The projected loads and energy requirements for each year of the period;

(b) The estimated installed capacity and supplies to meet the projected load requirements.

(F) Based upon the report furnished pursuant to division (C) of this section and the hearing record, the commission, within ninety days from the close of the record in the hearing,

shall determine if: 79081

(1) All information relating to current activities, 79082
facilities agreements, and published energy policies of the 79083
state has been completely and accurately represented; 79084

(2) The load requirements are based on substantially 79085
accurate historical information and adequate methodology; 79086

(3) The forecasting methods consider the relationships 79087
between price and energy consumption; 79088

(4) The report identifies and projects reductions in 79089
energy demands due to energy conservation measures in the 79090
industrial, commercial, residential, transportation, and energy 79091
production sectors in the service area; 79092

(5) Utility company forecasts of loads and resources are 79093
reasonable in relation to population growth estimates made by 79094
state and federal agencies, transportation, and economic 79095
development plans and forecasts, and make recommendations where 79096
possible for necessary and reasonable alternatives to meet 79097
forecasted electric power demand; 79098

(6) The report considers plans for expansion of the 79099
regional power grid and the planned facilities of other 79100
utilities in the state; 79101

(7) All assumptions made in the forecast are reasonable 79102
and adequately documented. 79103

(G) The commission shall adopt rules under section 111.15 79104
of the Revised Code to establish criteria for evaluating the 79105
long-term forecasts of needs for gas and electric transmission 79106
service, to conduct hearings held under this section, and to 79107
establish reasonable fees to defray the direct cost of the 79108

hearings and the review process, ~~and such other rules as are~~ 79109
~~necessary and convenient to implement this section.~~ 79110

(H) The hearing record produced under this section and the 79111
determinations of the commission shall be introduced into 79112
evidence and shall be considered in determining the basis of 79113
need for power siting board deliberations under division (A) (1) 79114
of section 4906.10 of the Revised Code. The hearing record 79115
produced under this section shall be introduced into evidence 79116
and shall be considered by the commission in its initiation of 79117
programs, examinations, and findings under section 4905.70 of 79118
the Revised Code, and shall be considered in the commission's 79119
determinations with respect to the establishment of just and 79120
reasonable rates under section 4909.15 of the Revised Code and 79121
financing utility facilities and authorizing issuance of all 79122
securities under sections 4905.40, 4905.401, 4905.41, and 79123
4905.42 of the Revised Code. The forecast findings also shall 79124
serve as the basis for all other energy planning and development 79125
activities of the state government where electric and gas data 79126
are required. 79127

(I) (1) No court other than the supreme court shall have 79128
power to review, suspend, or delay any determination made by the 79129
commission under this section, or enjoin, restrain, or interfere 79130
with the commission in the performance of official duties. A 79131
writ of mandamus shall not be issued against the commission by 79132
any court other than the supreme court. 79133

(2) A final determination made by the commission shall be 79134
reversed, vacated, or modified by the supreme court on appeal, 79135
if, upon consideration of the record, such court is of the 79136
opinion that such determination was unreasonable or unlawful. 79137

The proceeding to obtain such reversal, vacation, or 79138

modification shall be by notice of appeal, filed with the 79139
commission by any party to the proceeding before it, against the 79140
commission, setting forth the determination appealed from and 79141
errors complained of. The notice of appeal shall be served, 79142
unless waived, upon the commission by leaving a copy at the 79143
office of the chairperson of the commission at Columbus. The 79144
court may permit an interested party to intervene by cross- 79145
appeal. 79146

(3) No proceeding to reverse, vacate, or modify a 79147
determination of the commission is commenced unless the notice 79148
of appeal is filed within sixty days after the date of the 79149
determination. 79150

Sec. 4939.07. (A) As used in this section, "most recent," 79151
with respect to any rate proceeding, means the rate proceeding 79152
most immediately preceding the date of any final order issued by 79153
the public utilities commission under this section. 79154

(B) (1) Notwithstanding any other provision of law or any 79155
agreement establishing price caps, rate freezes, or rate 79156
increase moratoria, a public utility subject to the rate-making 79157
jurisdiction of the commission may file an application with the 79158
commission for, and the commission shall then authorize by 79159
order, timely and full recovery of a public way fee levied upon 79160
and payable by the public utility both after January 1, 2002, 79161
and after the test year of the public utility's most recent rate 79162
proceeding or the initial effective date of rates in effect but 79163
not established through a proceeding for an increase in rates. 79164

(2) Any order issued by the commission pursuant to its 79165
consideration of an application under division (B) (1) of this 79166
section shall establish a cost recovery mechanism including, but 79167
not limited to, an adder, tracker, rider, or percentage 79168

surcharge, for recovering the amount to be recovered; specify 79169
that amount; limit the amount to not more and not less than the 79170
amount of the total public way fee incurred; and require 79171
periodic adjustment of the mechanism based on revenues 79172
recovered. 79173

(a) In the case of a cost recovery mechanism for a public 79174
way fee levied on and payable by a public utility but determined 79175
unreasonable, unjust, unjustly discriminatory, or unlawful by 79176
the commission pursuant to division (C) of section 4939.06 of 79177
the Revised Code, the mechanism shall provide for recovery, only 79178
from those customers of the public utility that receive its 79179
service within the municipal corporation, of the difference 79180
between that public way fee and the just and reasonable public 79181
way fee determined by the commission under division (C) of 79182
section 4939.06 of the Revised Code. 79183

(b) In all other cases, recovery shall be from all 79184
customers of the public utility generally. 79185

(c) In the case of recovery under division (B) (2) (a) or 79186
(b) of this section, the recovery mechanism payable by sale-for- 79187
resale or wholesale telecommunications customers shall provide 79188
for recovery limited to any public way fee not included in 79189
established rates and prices for those customers and to the pro 79190
rata share of the public way fee applicable to the portion of 79191
the facilities that are sold, leased, or rented to the customers 79192
and are located in the public way. The recovery shall be in a 79193
nondiscriminatory and competitively neutral manner and prorated 79194
on a per-line or per-line equivalent basis among all retail, 79195
sale-for-resale, and wholesale telecommunications customers 79196
subject to the recovery. 79197

(D) (1) Notwithstanding any other provision of law or any 79198

agreement establishing price caps, rate freezes, or rate 79199
increase moratoria, a public utility subject to the rate-making 79200
jurisdiction of the commission may file an application with the 79201
commission for, and the commission by order shall authorize, 79202
such accounting authority as may be reasonably necessary to 79203
classify any cost described in division (D)(2) of this section 79204
as a regulatory asset for the purpose of recovering that cost. 79205

(2) A cost eligible for recovery under division (D) of 79206
this section shall be only such cost as meets both of the 79207
following: 79208

(a) The cost is directly incurred by the public utility as 79209
a result of municipal corporation regulation of its occupancy or 79210
use of a public way or an appropriate allocation and assignment 79211
of costs related to implementation of this section, excluding 79212
any cost arising from a public way fee levied upon and payable 79213
by the public utility. 79214

(b) The cost is incurred by the public utility both after 79215
January 1, 2002, and after the test year of the public utility's 79216
most recent rate proceeding or the initial effective date of 79217
rates in effect but not established through a proceeding for an 79218
increase in rates. 79219

(3) If the commission determines, upon an application 79220
under division (D)(1) of this section or its own initiative, 79221
that classification of a cost described in division (D)(2) of 79222
this section as a regulatory asset is not practical or that 79223
deferred recovery of that cost would impose a hardship on the 79224
public utility or its customers, the commission shall establish 79225
a charge and collection mechanism to permit the public utility 79226
full recovery of that cost. A hardship shall be presumed for any 79227
public utility with less than fifteen thousand bundled sales 79228

service customers in this state and for any public utility for 79229
which the annualized aggregate amount of additional cost that 79230
otherwise may be eligible for such classification exceeds the 79231
greater of five hundred thousand dollars or fifteen per cent of 79232
the total costs that are described in division (D) (2) (a) of this 79233
section and were considered by the commission for the purpose of 79234
establishing rates in the public utility's most recent rate 79235
increase proceeding or the rate increase proceeding of the 79236
public utility's predecessor, whichever is later. 79237

(E) Any application submitted to the commission under 79238
divisions (B) to (D) of this section shall be processed by the 79239
commission as an application not for an increase in rates under 79240
section 4909.18 of the Revised Code. The application shall 79241
include such information as the commission reasonably requires. 79242
The commission shall conclude its consideration of the 79243
application and issue a final order not later than one hundred 79244
twenty days after the date that the application was submitted to 79245
the commission. A final order regarding a recovery mechanism 79246
authorized pursuant to this section shall provide for such 79247
retroactive adjustment as the commission determines appropriate. 79248

(F) A public utility shall not be required to waive any 79249
rights under this section as a condition of occupancy or use of 79250
a public way. 79251

~~(G) The commission may issue such rules as it considers~~ 79252
~~necessary to carry out this section.~~ 79253

Sec. 4981.14. (A) The Ohio rail development commission may 79254
exercise all powers necessary or appropriate to carry out its 79255
corporate purposes. 79256

(B) The commission may do all of the following: 79257

(1) Adopt, and from time to time, ratify, amend, and	79258
repeal bylaws necessary and proper for the regulation of its	79259
affairs and the conduct of its business and rules to implement	79260
and make effective its powers and duties;	79261
(2) Adopt an official seal;	79262
(3) <u>(2)</u> Maintain a principal office in Columbus and, if	79263
necessary, regional sub-offices at locations properly designated	79264
or provided;	79265
(4) <u>(3)</u> Sue and be sued in its own name and plead and be	79266
impleaded in its own name, particularly to enforce the	79267
obligations and covenants made under this section and sections	79268
4981.13 and 4981.29 of the Revised Code. Any actions against the	79269
commission shall be brought in the court of common pleas in	79270
Franklin county, in which the principal office of the commission	79271
shall be located.	79272
(5) <u>(4)</u> Undertake or cause to be undertaken the	79273
acquisition, renovation, repair, refunding, operation,	79274
maintenance, or construction of any rail service project;	79275
(6) <u>(5)</u> Establish and operate a revolving loan fund for the	79276
purpose of making loans to qualifying subdivisions, local or	79277
regional transportation authorities, or other persons for the	79278
acquisition, renovation, repair, refunding, or construction of	79279
rail service projects by such qualifying subdivisions, local or	79280
regional transportation authorities, and private corporations or	79281
organizations, and the repayment thereof from project financing	79282
proceeds and revenues; purchase the obligations of counties and	79283
municipal corporations issued for the acquisition, renovation,	79284
repair, or construction of rail service projects by such	79285
qualifying subdivisions and local or regional transportation	79286

authorities; and adopt rules and procedures for making those 79287
loans or purchasing those obligations; 79288

~~(7)~~(6) Issue bonds and notes and refunding obligations of 79289
the state, payable as provided in this chapter unless the bonds 79290
are refunded by refunding bonds, for the purpose of borrowing 79291
money to implement any power granted by divisions ~~(B)~~~~(5)~~(B) (4) 79292
and ~~(6)~~(5) of this section for one or more rail service projects 79293
or parts thereof; 79294

~~(8)~~(7) Acquire by gift or purchase, hold, or dispose of 79295
real and personal property in the exercise of its powers and 79296
performance of its duties as set forth in this chapter; 79297

~~(9)~~(8) Make and enter into all contracts and agreements 79298
and execute all instruments necessary or incidental to the 79299
performance of its duties and the execution of its powers and to 79300
employ natural persons to act on behalf of the commission, and 79301
to establish the terms and conditions of such employment; 79302

~~(10)~~(9) Receive and accept from any federal agency or 79303
other person, subject to the approval of the governor, grants 79304
for or in aid of the construction, repair, renovation, 79305
operation, maintenance, or acquisition of rail service projects, 79306
and receive and accept aid or contributions from any source of 79307
money, property, labor, or other things of value, to be held, 79308
used, and applied only for the purposes for which the grants and 79309
contributions are made; 79310

~~(11)~~(10) Purchase property coverage and liability 79311
insurance for any rail service project and for any offices of 79312
the commission, insurance protecting the commission and its 79313
officers and employees against liability, if any, or damage to 79314
property or injury to or death of persons arising from its 79315

operations, and any other insurance the commission may agree to 79316
provide under any resolution authorizing the issuance of bonds 79317
in accordance with sections 4981.11 to 4981.26 of the Revised 79318
Code, or in any trust agreement securing the same; 79319

~~(12)~~(11) Establish or increase reserves from moneys 79320
received or to be received by the commission to secure or pay 79321
the principal of and interest on bonds, notes, or other 79322
obligations issued by the commission pursuant to this chapter or 79323
other law. Moneys, funds, and accounts of the commission, 79324
however, are subject only to audit by the auditor of state and 79325
all moneys, funds, and accounts shall be held in custody or 79326
deposited as directed by resolution of the commission and unless 79327
otherwise provided by law all moneys of the commission not 79328
pledged to the holders of bonds of the commission shall be 79329
appropriated by the general assembly. 79330

~~(13)~~(12) Receive and disburse the proceeds of general 79331
obligation or other bonds of the state or agencies thereof as 79332
may be allowed by law pursuant to any resolution or act of the 79333
general assembly; 79334

~~(14)~~(13) To the extent permitted under its contracts with 79335
the holders of bonds or notes of the commission, consent to 79336
modification of the rate of interest, time and payment of 79337
installment of principal or interest, security, or any other 79338
term of a bond, contract, or agreement of any kind to which the 79339
commission is a party; 79340

~~(15)~~(14) Make grants to counties or municipal 79341
corporations, qualifying subdivisions, local or regional 79342
transportation authorities, or other persons for one or more 79343
rail service projects or parts thereof; 79344

~~(16)~~ (15) Provide consultation services to any qualifying subdivision, local or regional transportation authority, or other person in connection with the acquisition, renovation, repair, or construction of any rail service project;

~~(17)~~ (16) Establish and amend the criteria and qualifications for the making of any loan to or the purchasing of any bond from any qualifying subdivision, local or regional transportation authority, or other person and the terms not inconsistent with this chapter of any loan or bond purchase agreement with any qualifying subdivision, local or regional transportation authority, or other person;

~~(18)~~ (17) Deposit money received from the repayment of loans and recoveries from the sale, lease, or other disposition of property acquired or constructed from amounts loaned by the commission pursuant to section 4981.13 of the Revised Code or division (B) of this section, in an account pledged to secure, and applied to the repayment, without the need for appropriation, of, obligations issued under section 166.08 of the Revised Code to pay the costs of property, facilities, or equipment that qualifies as rail service projects; enter into agreements with the treasurer of state or a corporate trustee for such obligations to provide for the deposit and pledge of such money as specified in the agreement, to permit the withdrawal of money by the treasurer of state or corporate trustee from the account as necessary for application to the payment of debt service on such obligations, and to permit the investment of those amounts, without regard to Chapter 131. or 135. of the Revised Code, pending their application to the payment of debt service; and enter into agreements with persons to provide for the repayment of any amounts paid from any pledged account in connection with obligations issued under

section 166.08 of the Revised Code; 79376

~~(19)~~(18) Do all acts necessary and proper to carry out the 79377
powers expressly granted to the commission in this chapter. 79378

(C) Any instrument by which real property is acquired 79379
pursuant to this section shall identify the agency of the state 79380
that has the use and benefit of the real property as specified 79381
in section 5301.012 of the Revised Code. 79382

Sec. 5101.11. (A) As used in this section: 79383

(1) "Entity" includes an agency, board, commission, or 79384
department of the state or a political subdivision of the state; 79385
a private, nonprofit entity; a school district; a private 79386
school; or a public or private institution of higher education. 79387

(2) "Federal financial participation" means the federal 79388
government's share of expenditures made by an entity in 79389
implementing a program administered by the department of job and 79390
family services. 79391

(B) At the request of any public entity having authority 79392
to implement a program administered by the department of job and 79393
family services or the department of children and youth, or any 79394
private entity under contract with a public entity to implement 79395
a program administered by the applicable department, the 79396
applicable department may seek to obtain federal financial 79397
participation for costs incurred by the entity. Federal 79398
financial participation may be sought from programs operated 79399
pursuant to Title IV-A of the "Social Security Act," 42 U.S.C. 79400
601 et seq.; Title IV-E of the "Social Security Act," 42 U.S.C. 79401
670 et seq.; the Food and Nutrition Act of 2008, 7 U.S.C. 2011 79402
et seq.; and any other statute or regulation under which federal 79403
financial participation may be available, except that federal 79404

financial participation may be sought only for expenditures made 79405
with funds for which federal financial participation is 79406
available under federal law. 79407

(C) All funds collected by the department of job and 79408
family services or the department of children and youth pursuant 79409
to division (B) of this section shall be distributed to the 79410
entities that incurred the costs, except for any amounts 79411
retained by the applicable department pursuant to division (D) 79412
(3) of this section. 79413

(D) In distributing federal financial participation 79414
pursuant to this section, the department of job and family 79415
services or the department of children and youth may either 79416
enter into an agreement with the entity that is to receive the 79417
funds or distribute the funds in accordance with rules adopted 79418
under division (F) of this section. If an agreement to 79419
distribute the funds is entered into, the agreement may include 79420
terms that do any of the following: 79421

(1) Provide for the whole or partial reimbursement of any 79422
cost incurred by the entity in implementing the program; 79423

(2) In the event that federal financial participation is 79424
disallowed or otherwise unavailable for any expenditure, require 79425
the applicable department or the entity, whichever party caused 79426
the disallowance or unavailability of federal financial 79427
participation, to assume responsibility for the expenditures; 79428

(3) Permit the applicable department to retain not more 79429
than five per cent of the amount of the federal financial 79430
participation to be distributed to the entity; 79431

(4) Require the public entity to certify the availability 79432
of sufficient unencumbered funds to match the federal financial 79433

participation it receives under this section; 79434

(5) Establish the length of the agreement, which may be 79435
for a fixed or a continuing period of time; 79436

(6) Establish any other requirements determined by the 79437
applicable department to be necessary for the efficient 79438
administration of the agreement. 79439

(E) An entity that receives federal financial 79440
participation pursuant to this section for a program aiding 79441
children and their families shall establish a process for 79442
collaborative planning with the department of job and family 79443
services or the department of children and youth for the use of 79444
the funds to improve and expand the program. 79445

(F) The director of job and family services and the 79446
director of children and youth each shall adopt rules ~~as~~ 79447
~~necessary to implement this section, including rules for the~~ 79448
distribution of federal financial participation pursuant to this 79449
section. The rules shall be adopted in accordance with Chapter 79450
119. of the Revised Code. Each director may adopt or amend any 79451
statewide plan required by the federal government for a program 79452
administered by that department, as necessary to implement this 79453
section. 79454

(G) Federal financial participation received pursuant to 79455
this section shall not be included in any calculation made under 79456
section 5101.16 or 5101.161 of the Revised Code. 79457

Sec. 5101.16. (A) As used in this section and sections 79458
5101.161 and 5101.162 of the Revised Code: 79459

(1) "Disability financial assistance" means the financial 79460
assistance program established under former Chapter 5115. of the 79461
Revised Code. 79462

- (2) "Supplemental nutrition assistance program" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code. 79463
79464
79465
- (3) "Ohio works first" means the program established by Chapter 5107. of the Revised Code. 79466
79467
- (4) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code. 79468
79469
- (5) "Public assistance expenditures" means expenditures for all of the following: 79470
79471
- (a) Ohio works first; 79472
 - (b) County administration of Ohio works first; 79473
 - (c) Prevention, retention, and contingency; 79474
 - (d) County administration of prevention, retention, and contingency; 79475
79476
 - (e) Disability financial assistance; 79477
 - (f) County administration of disability financial assistance; 79478
79479
 - (g) County administration of the supplemental nutrition assistance program; 79480
79481
 - (h) County administration of medicaid, excluding administrative expenditures for transportation services covered by the medicaid program. 79482
79483
79484
- (6) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code. 79485
79486
- (B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance 79487
79488

with section 5101.161 of the Revised Code. Except as provided in 79489
division (C) of this section, a county's share of public 79490
assistance expenditures is the sum of all of the following for 79491
state fiscal year 1998 and each state fiscal year thereafter: 79492

(1) The amount that is twenty-five per cent of the 79493
county's total expenditures for disability financial assistance 79494
and county administration of that program during the state 79495
fiscal year ending in the previous calendar year that the 79496
department of job and family services determines are allowable. 79497

(2) The amount that is ten per cent, or other percentage 79498
determined under division (D) of this section, of the county's 79499
total expenditures for county administration of the supplemental 79500
nutrition assistance program and medicaid (excluding 79501
administrative expenditures for transportation services covered 79502
by the medicaid program) during the state fiscal year ending in 79503
the previous calendar year that the department determines are 79504
allowable, less the amount of federal reimbursement credited to 79505
the county under division (E) of this section for the state 79506
fiscal year ending in the previous calendar year; 79507

(3) A percentage of the actual amount of the county share 79508
of program and administrative expenditures during federal fiscal 79509
year 1994 for assistance and services, other than child care, 79510
provided under Titles IV-A and IV-F of the "Social Security 79511
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles 79512
existed prior to the enactment of the "Personal Responsibility 79513
and Work Opportunity Reconciliation Act of 1996," 110 Stat. 79514
2105. The department of job and family services shall determine 79515
the actual amount of the county share from expenditure reports 79516
submitted to the United States department of health and human 79517
services. The percentage shall be the percentage established in 79518

rules adopted under division (F) of this section. 79519

(C) (1) If a county's share of public assistance 79520
expenditures determined under division (B) of this section for a 79521
state fiscal year exceeds one hundred five per cent of the 79522
county's share for those expenditures for the immediately 79523
preceding state fiscal year, the department of job and family 79524
services shall reduce the county's share for expenditures under 79525
divisions (B) (1) and (2) of this section so that the total of 79526
the county's share for expenditures under division (B) of this 79527
section equals one hundred five per cent of the county's share 79528
of those expenditures for the immediately preceding state fiscal 79529
year. 79530

(2) A county's share of public assistance expenditures 79531
determined under division (B) of this section may be increased 79532
pursuant to section 5101.163 of the Revised Code and a sanction 79533
under section 5101.24 of the Revised Code. An increase made 79534
pursuant to section 5101.163 of the Revised Code may cause the 79535
county's share to exceed the limit established by division (C) 79536
(1) of this section. 79537

(D) (1) If the per capita tax duplicate of a county is less 79538
than the per capita tax duplicate of the state as a whole and 79539
division (D) (2) of this section does not apply to the county, 79540
the percentage to be used for the purpose of division (B) (2) of 79541
this section is the product of ten multiplied by a fraction of 79542
which the numerator is the per capita tax duplicate of the 79543
county and the denominator is the per capita tax duplicate of 79544
the state as a whole. The department of job and family services 79545
shall compute the per capita tax duplicate for the state and for 79546
each county by dividing the tax duplicate for the most recent 79547
available year by the current estimate of population prepared by 79548

the development services agency. 79549

(2) If the percentage of families in a county with an 79550
annual income of less than three thousand dollars is greater 79551
than the percentage of such families in the state and division 79552
(D) (1) of this section does not apply to the county, the 79553
percentage to be used for the purpose of division (B) (2) of this 79554
section is the product of ten multiplied by a fraction of which 79555
the numerator is the percentage of families in the state with an 79556
annual income of less than three thousand dollars a year and the 79557
denominator is the percentage of such families in the county. 79558
The department of job and family services shall compute the 79559
percentage of families with an annual income of less than three 79560
thousand dollars for the state and for each county by 79561
multiplying the most recent estimate of such families published 79562
by the development services agency, by a fraction, the numerator 79563
of which is the estimate of average annual personal income 79564
published by the bureau of economic analysis of the United 79565
States department of commerce for the year on which the census 79566
estimate is based and the denominator of which is the most 79567
recent such estimate published by the bureau. 79568

(3) If the per capita tax duplicate of a county is less 79569
than the per capita tax duplicate of the state as a whole and 79570
the percentage of families in the county with an annual income 79571
of less than three thousand dollars is greater than the 79572
percentage of such families in the state, the percentage to be 79573
used for the purpose of division (B) (2) of this section shall be 79574
determined as follows: 79575

(a) Multiply ten by the fraction determined under division 79576
(D) (1) of this section; 79577

(b) Multiply the product determined under division (D) (3) 79578

(a) of this section by the fraction determined under division 79579
(D) (2) of this section. 79580

(4) The department of job and family services shall 79581
determine, for each county, the percentage to be used for the 79582
purpose of division (B) (2) of this section not later than the 79583
first day of July of the year preceding the state fiscal year 79584
for which the percentage is used. 79585

(E) The department of job and family services shall credit 79586
to a county the amount of federal reimbursement the department 79587
receives from the United States departments of agriculture and 79588
health and human services for the county's expenditures for 79589
administration of the supplemental nutrition assistance program 79590
and medicaid (excluding administrative expenditures for 79591
transportation services covered by the medicaid program) that 79592
the department determines are allowable administrative 79593
expenditures. 79594

(F) (1) The director of job and family services shall adopt 79595
rules in accordance with section 111.15 of the Revised Code to 79596
establish all of the following: 79597

(a) The method the department is to use to change a 79598
county's share of public assistance expenditures determined 79599
under division (B) of this section as provided in division (C) 79600
of this section; 79601

(b) The allocation methodology and formula the department 79602
will use to determine the amount of funds to credit to a county 79603
under this section; 79604

(c) The method the department will use to change the 79605
payment of the county share of public assistance expenditures 79606
from a calendar-year basis to a state fiscal year basis; 79607

(d) The percentage to be used for the purpose of division 79608
(B) (3) of this section, which shall, except as provided in 79609
section 5101.163 of the Revised Code, meet both of the following 79610
requirements: 79611

(i) The percentage shall not be less than seventy-five per 79612
cent nor more than eighty-two per cent; 79613

(ii) The percentage shall not exceed the percentage that 79614
the state's qualified state expenditures is of the state's 79615
historic state expenditures as those terms are defined in 42 79616
U.S.C. 609(a) (7). 79617

~~(e) Other procedures and requirements necessary to 79618
implement this section. 79619~~

(2) The director of job and family services may amend the 79620
rule adopted under division (F) (1) (d) of this section to modify 79621
the percentage on determination that the amount the general 79622
assembly appropriates for Title IV-A programs makes the 79623
modification necessary. The rule shall be adopted and amended as 79624
if an internal management rule and in consultation with the 79625
director of budget and management. 79626

Sec. 5101.214. The director of job and family services and 79627
the director of children and youth may enter into a written 79628
agreement with one or more state agencies, as defined in section 79629
117.01 of the Revised Code, and state universities and colleges 79630
to assist in the coordination, provision, or enhancement of the 79631
family services duties of a county family services agency or the 79632
workforce development activities of a local board, as defined in 79633
section 6301.01 of the Revised Code. The directors also may 79634
enter into written agreements or contracts with, or issue grants 79635
to, private and government entities under which funds are 79636

provided for the enhancement or innovation of family services 79637
duties or workforce development activities on the state or local 79638
level. 79639

~~The directors may adopt internal management rules in 79640
accordance with section 111.15 of the Revised Code to implement 79641
this section. 79642~~

Sec. 5101.24. (A) As used in this section, "responsible 79643
county grantee" means whichever county grantee, as defined in 79644
section 5101.21 of the Revised Code, the director of job and 79645
family services and the director of children and youth determine 79646
is appropriate to take action against under division (C) of this 79647
section. 79648

(B) Regardless of whether a family services duty is 79649
performed by a county family services agency, private or 79650
government entity pursuant to a contract entered into under 79651
section 307.982 of the Revised Code or division (C) (2) of 79652
section 5153.16 of the Revised Code, or private or government 79653
provider of a family service duty, the department of job and 79654
family services or the department of children and youth may take 79655
action under division (C) of this section against the 79656
responsible county grantee if the department determines any of 79657
the following are the case: 79658

(1) A requirement of a grant agreement entered into under 79659
section 5101.21 of the Revised Code that includes a grant for 79660
the family services duty, including a requirement for grant 79661
agreements established by rules adopted under that section, is 79662
not complied with; 79663

(2) A county family services agency fails to develop, 79664
submit to the department, or comply with a corrective action 79665

plan under division (B) of section 5101.221 of the Revised Code, 79666
or the department disapproves the agency's corrective action 79667
plan developed under division (B) of section 5101.221 of the 79668
Revised Code; 79669

(3) A requirement for the family services duty established 79670
by the department or any of the following is not complied with: 79671
a federal or state law, state plan for receipt of federal 79672
financial participation, grant agreement between the department 79673
and a federal agency, or executive order issued by the governor; 79674

(4) The responsible county grantee is solely or partially 79675
responsible, as determined by the director of job and family 79676
services or the director of children and youth, for an adverse 79677
audit finding, adverse quality control finding, final 79678
disallowance of federal financial participation, or other 79679
sanction or penalty regarding the family services duty. 79680

(C) The department may take one or more of the following 79681
actions against the responsible county grantee when authorized 79682
by division (B)(1), (2), (3), or (4) of this section: 79683

(1) Require the responsible county grantee to comply with 79684
a corrective action plan pursuant to a time schedule specified 79685
by the department. The corrective action plan shall be 79686
established or approved by the department and shall not require 79687
a county grantee to commit resources to the plan. 79688

(2) Require the responsible county grantee to comply with 79689
a corrective action plan pursuant to a time schedule specified 79690
by the department. The corrective action plan shall be 79691
established or approved by the department and require a county 79692
grantee to commit to the plan existing resources identified by 79693
the agency. 79694

- (3) Require the responsible county grantee to do one of the following: 79695
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- (a) Share with the department a final disallowance of federal financial participation or other sanction or penalty; 79697
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- (b) Reimburse the department the final amount the department pays to the federal government or another entity that represents the amount the responsible county grantee is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity; 79699
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- (c) Pay the federal government or another entity the final amount that represents the amount the responsible county grantee is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity; 79706
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- (d) Pay the department the final amount that represents the amount the responsible county grantee is responsible for of an adverse audit finding or adverse quality control finding. 79712
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- (4) Impose an administrative sanction issued by the department against the responsible county grantee. A sanction may be increased if the department has previously taken action against the responsible entity under this division. 79715
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- (5) Perform, or contract with a government or private entity for the entity to perform, the family services duty until the department is satisfied that the responsible county grantee ensures that the duty will be performed satisfactorily. If the department performs or contracts with an entity to perform a 79719
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family services duty under division (C) (5) of this section, the 79724
department may do either or both of the following: 79725

(a) Spend funds in the county treasury appropriated by the 79726
board of county commissioners for the duty; 79727

(b) Withhold funds allocated or reimbursements due to the 79728
responsible county grantee for the duty and spend the funds for 79729
the duty. 79730

(6) Request that the attorney general bring mandamus 79731
proceedings to compel the responsible county grantee to take or 79732
cease the action that causes division (B) (1), (2), (3), or (4) 79733
of this section to apply. The attorney general shall bring 79734
mandamus proceedings in the Franklin county court of appeals at 79735
the department's request. 79736

(7) If the department takes action under this division 79737
because of division (B) (3) of this section, temporarily withhold 79738
funds allocated or reimbursement due to the responsible county 79739
grantee until the department determines that the responsible 79740
county grantee is in compliance with the requirement. The 79741
department shall release the funds when the department 79742
determines that compliance has been achieved. 79743

(D) If the department proposes to take action against the 79744
responsible county grantee under division (C) of this section, 79745
the department shall notify the responsible county grantee, 79746
director of the appropriate county family services agency, and 79747
county auditor. The notice shall be in writing and specify the 79748
action the department proposes to take. The department shall 79749
send the notice by regular United States mail. 79750

Except as provided by division (E) of this section, the 79751
responsible county grantee may request an administrative review 79752

of a proposed action in accordance with administrative review 79753
procedures the department shall establish. The administrative 79754
review procedures shall comply with all of the following: 79755

(1) A request for an administrative review shall state 79756
specifically all of the following: 79757

(a) The proposed action specified in the notice from the 79758
department for which the review is requested; 79759

(b) The reason why the responsible county grantee believes 79760
the proposed action is inappropriate; 79761

(c) All facts and legal arguments that the responsible 79762
county grantee wants the department to consider; 79763

(d) The name of the person who will serve as the 79764
responsible county grantee's representative in the review. 79765

(2) If the department's notice specifies more than one 79766
proposed action and the responsible county grantee does not 79767
specify all of the proposed actions in its request pursuant to 79768
division (D)(1)(a) of this section, the proposed actions not 79769
specified in the request shall not be subject to administrative 79770
review and the parts of the notice regarding those proposed 79771
actions shall be final and binding on the responsible county 79772
grantee. 79773

(3) In the case of a proposed action under division (C)(1) 79774
of this section, the responsible county grantee shall have 79775
fifteen calendar days after the department mails the notice to 79776
the responsible county grantee to send a written request to the 79777
department for an administrative review. If it receives such a 79778
request within the required time, the department shall postpone 79779
taking action under division (C)(1) of this section for fifteen 79780
calendar days following the day it receives the request or 79781

extended period of time provided for in division (D) (5) of this section to allow a representative of the department and a representative of the responsible county grantee an informal opportunity to resolve any dispute during that fifteen-day or extended period.

(4) In the case of a proposed action under division (C) (2), (3), (4), (5), or (7) of this section, the responsible county grantee shall have thirty calendar days after the department mails the notice to the responsible county grantee to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C) (2), (3), (4), (5), or (7) of this section for thirty calendar days following the day it receives the request or extended period of time provided for in division (D) (5) of this section to allow a representative of the department and a representative of the responsible county grantee an informal opportunity to resolve any dispute during that thirty-day or extended period.

(5) If the informal opportunity provided in division (D) (3) or (4) of this section does not result in a written resolution to the dispute within the fifteen- or thirty-day period, the director of job and family services or the director of children and youth and representative of the responsible county grantee may enter into a written agreement extending the time period for attempting an informal resolution of the dispute under division (D) (3) or (4) of this section.

(6) In the case of a proposed action under division (C) (3) of this section, the responsible county grantee may not include in its request disputes over a finding, final disallowance of federal financial participation, or other sanction or penalty

issued by the federal government, auditor of state, or entity 79812
other than the department. 79813

(7) If the responsible county grantee fails to request an 79814
administrative review within the required time, the responsible 79815
county grantee loses the right to request an administrative 79816
review of the proposed actions specified in the notice and the 79817
notice becomes final and binding on the responsible county 79818
grantee. 79819

(8) If the informal opportunity provided in division (D) 79820
(3) or (4) of this section does not result in a written 79821
resolution to the dispute within the time provided by division 79822
(D) (3), (4), or (5) of this section, the director shall appoint 79823
an administrative review panel to conduct the administrative 79824
review. The review panel shall consist of department employees 79825
and one director or other representative of the type of county 79826
family services agency that is responsible for the kind of 79827
family services duty that is the subject of the dispute and 79828
serves a different county than the county served by the 79829
responsible county grantee. No individual involved in the 79830
department's proposal to take action against the responsible 79831
county grantee may serve on the review panel. The review panel 79832
shall review the responsible county grantee's request. The 79833
review panel may require that the department or responsible 79834
county grantee submit additional information and schedule and 79835
conduct an informal hearing to obtain testimony or additional 79836
evidence. A review of a proposal to take action under division 79837
(C) (3) of this section shall be limited solely to the issue of 79838
the amount the responsible county grantee shall share with the 79839
department, reimburse the department, or pay to the federal 79840
government, department, or other entity under division (C) (3) of 79841
this section. The review panel is not required to make a 79842

stenographic record of its hearing or other proceedings. 79843

(9) After finishing an administrative review, an 79844
administrative review panel appointed under division (D) (8) of 79845
this section shall submit a written report to the director 79846
setting forth its findings of fact, conclusions of law, and 79847
recommendations for action. The director may approve, modify, or 79848
disapprove the recommendations. If the director modifies or 79849
disapproves the recommendations, the director shall state the 79850
reasons for the modification or disapproval and the actions to 79851
be taken against the responsible county grantee. 79852

(10) The director's approval, modification, or disapproval 79853
under division (D) (9) of this section shall be final and binding 79854
on the responsible county grantee and shall not be subject to 79855
further departmental review. 79856

(E) The responsible county grantee is not entitled to an 79857
administrative review under division (D) of this section for any 79858
of the following: 79859

(1) An action taken under division (C) (6) of this section; 79860

(2) An action taken under section 5101.242 of the Revised 79861
Code; 79862

(3) An action taken under division (C) (3) of this section 79863
if the federal government, auditor of state, or entity other 79864
than the department has identified the responsible county 79865
grantee as being solely or partially responsible for an adverse 79866
audit finding, adverse quality control finding, final 79867
disallowance of federal financial participation, or other 79868
sanction or penalty; 79869

(4) An adjustment to an allocation, cash draw, advance, or 79870
reimbursement to a responsible county grantee that the 79871

department determines necessary for budgetary reasons; 79872

(5) Withholding of a cash draw or reimbursement due to 79873
noncompliance with a reporting requirement established in rules 79874
adopted under section 5101.243 of the Revised Code; 79875

(6) An action taken under division (C) (5) of this section 79876
if the department determines that an emergency exists. 79877

(F) This section does not apply to other actions the 79878
department takes against the responsible county grantee pursuant 79879
to authority granted by another state law unless the other state 79880
law requires the department to take the action in accordance 79881
with this section. 79882

~~(G) The director of job and family services and children- 79883
and youth may adopt rules in accordance with Chapter 119. of the 79884
Revised Code as necessary to implement this section. 79885~~

Sec. 5101.241. (A) As used in this section: 79886

(1) "Local area" and "chief elected official" have the 79887
same meaning as in section 5101.20 of the Revised Code. 79888

(2) "Responsible entity" means the chief elected officials 79889
of a local area. 79890

(B) The department of job and family services may take 79891
action under division (C) of this section against the 79892
responsible entity, regardless of who performs the workforce 79893
development activity, if the department determines any of the 79894
following are the case: 79895

(1) An entity has failed to comply with the terms and 79896
conditions of a grant agreement executed between the department 79897
and a local area under section 5101.20 of the Revised Code. 79898

(2) A performance standard for the workforce development activity established by the federal government or the department is not met. 79899
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(3) An entity has failed to comply with a workforce development activity requirement established by the department, a federal or state law, a state plan for receipt of federal financial participation, a grant agreement between the department and a federal agency, or an executive order. 79902
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(4) The responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the workforce development activity. 79907
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(C) The department may take one or more of the following actions against the responsible entity when authorized by division (B) (1), (2), (3), or (4) of this section: 79913
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(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the department, pursuant to a time schedule specified by the department; 79916
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(2) Require the responsible entity to do one of the following: 79920
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(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty; 79922
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(b) Reimburse the department the amount the department pays to the federal government or another entity that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final 79924
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disallowance of federal financial participation, or other 79928
sanction or penalty issued by the federal government, auditor of 79929
state, or other entity; 79930

(c) Pay the federal government or another entity the 79931
amount that represents the amount the responsible entity is 79932
responsible for of an adverse audit finding, adverse quality 79933
control finding, final disallowance of federal financial 79934
participation, or other sanction or penalty issued by the 79935
federal government, auditor of state, or other entity; 79936

(d) Pay the department the amount that represents the 79937
amount the responsible entity is responsible for of an adverse 79938
audit finding, adverse quality control finding, or other 79939
sanction or penalty issued by the department. 79940

(3) Impose a financial or administrative sanction or 79941
adverse audit finding issued by the department against the 79942
responsible entity, which may be increased with each subsequent 79943
action taken against the responsible entity; 79944

(4) Perform or contract with a government or private 79945
entity for the entity to perform the workforce development 79946
activity until the department is satisfied that the responsible 79947
entity ensures that the activity will be performed to the 79948
department's satisfaction. If the department performs or 79949
contracts with an entity to perform the workforce development 79950
activity under division (C)(4) of this section, the department 79951
may withhold funds allocated to or reimbursements due to the 79952
responsible entity for the activity and use those funds to 79953
implement division (C)(4) of this section. 79954

(5) Request the attorney general to bring mandamus 79955
proceedings to compel the responsible entity to take or cease 79956

the actions listed in division (B) of this section. The attorney 79957
general shall bring any mandamus proceedings in the Franklin 79958
county court of appeals at the department's request. 79959

(6) If the department takes action under this division 79960
because of division (B) (3) of this section, withhold funds 79961
allocated or reimbursement due to the responsible entity until 79962
the department determines that the responsible entity is in 79963
compliance with the requirement. The department shall release 79964
the funds when the department determines that compliance has 79965
been achieved. 79966

(7) Issue a notice of intent to revoke approval of all or 79967
part of the local plan effected that conflicts with state or 79968
federal law and effectuate the revocation. 79969

(D) The department shall notify the responsible entity and 79970
the appropriate county auditor before taking action under 79971
division (C) of this section. The notice shall be in writing and 79972
specify the proposed action. The department shall send the 79973
notice by regular United States mail. Except as provided in 79974
division (E) of this section, the responsible entity may request 79975
an administrative review of a proposed action in accordance with 79976
administrative review procedures the department shall establish. 79977
The administrative review procedures shall comply with all of 79978
the following: 79979

(1) A request for an administrative review shall state 79980
specifically all of the following: 79981

(a) The proposed action specified in the notice from the 79982
department for which the review is requested; 79983

(b) The reason why the responsible entity believes the 79984
proposed action is inappropriate; 79985

(c) All facts and legal arguments that the responsible entity wants the department to consider; 79986
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(d) The name of the person who will serve as the responsible entity's representative in the review. 79988
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(2) If the department's notice specifies more than one proposed action and the responsible entity does not specify all of the proposed actions in its request pursuant to division (D) (1) (a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible entity. 79990
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(3) The responsible entity shall have fifteen calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. The responsible entity and the department shall attempt to resolve informally any dispute and may develop a written resolution to the dispute at any time prior to submitting the written report described in division (D) (7) of this section to the director. 79997
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(4) In the case of a proposed action under division (C) (2) of this section, the responsible entity may not include in its request disputes over a finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity other than the department. 80005
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(5) If the responsible entity fails to request an administrative review within the required time, the responsible entity loses the right to request an administrative review of the proposed actions specified in the notice and the notice 80011
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becomes final and binding on the responsible entity. 80015

(6) The director of job and family services shall appoint 80016
an administrative review panel to conduct the administrative 80017
review. The review panel shall consist of department employees 80018
who are not involved in the department's proposal to take action 80019
against the responsible entity. The review panel shall review 80020
the responsible entity's request. The review panel may require 80021
that the department or responsible entity submit additional 80022
information and schedule and conduct an informal hearing to 80023
obtain testimony or additional evidence. A review of a proposal 80024
to take action under division (C) (2) of this section shall be 80025
limited solely to the issue of the amount the responsible entity 80026
shall share with the department, reimburse the department, or 80027
pay to the federal government, department, or other entity under 80028
division (C) (2) of this section. The review panel is not 80029
required to make a stenographic record of its hearing or other 80030
proceedings. 80031

(7) After finishing an administrative review, an 80032
administrative review panel appointed under division (D) (6) of 80033
this section shall submit a written report to the director 80034
setting forth its findings of fact, conclusions of law, and 80035
recommendations for action. The director may approve, modify, or 80036
disapprove the recommendations. 80037

(8) The director's approval, modification, or disapproval 80038
under division (D) (7) of this section shall be final and binding 80039
on the responsible entity and shall not be subject to further 80040
review. 80041

(E) The responsible entity is not entitled to an 80042
administrative review under division (D) of this section for any 80043
of the following: 80044

(1) An action taken under division (C) (5) or (6) of this section;	80045 80046
(2) An action taken under section 5101.242 of the Revised Code;	80047 80048
(3) An action taken under division (C) (2) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible entity as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;	80049 80050 80051 80052 80053 80054
(4) An adjustment to an allocation, cash draw, advance, or reimbursement to the responsible entity's local area that the department determines necessary for budgetary reasons;	80055 80056 80057
(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code.	80058 80059 80060
(F) This section does not apply to other actions the department takes against the responsible entity pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.	80061 80062 80063 80064 80065
(G) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.	80066 80067 80068
(H) The governor may decertify a local board for any of the following reasons in accordance with subsection (c) (3) of section 107 of the "Workforce Innovation and Opportunity Act," 29 U.S.C. 3122:	80069 80070 80071 80072

(1) Fraud or abuse;	80073
(2) Failure to carry out the requirements of the federal "Workforce Innovation and Opportunity Act," 29 U.S.C. 3101 et seq.;	80074 80075 80076
(3) Failure to meet local performance accountability measures for the local area for two consecutive program years, as specified in subsection (c) (3) (B) of section 107 of the "Workforce Innovation and Opportunity Act," 29 U.S.C. 3122.	80077 80078 80079 80080
(I) (1) <u>(H) (1)</u> If the governor determines that there has been a substantial violation of a specific provision of the "Workforce Innovation and Opportunity Act," 29 U.S.C. 3101 et seq., and that corrective action has not been taken, the governor shall take one of the following actions:	80081 80082 80083 80084 80085
(a) Issue a notice of intent to revoke approval of all or part of a local plan affected by the violation;	80086 80087
(b) Impose a reorganization plan.	80088
(2) A reorganization plan imposed under division (I) (1) <u>(H) (1)</u> of this section may include any of the following:	80089 80090
(a) Decertifying the local board involved in the violation;	80091 80092
(b) Prohibiting the use of eligible providers;	80093
(c) Selecting an alternate entity to administer the program for the local area involved in the violation;	80094 80095
(d) Merging the local area with one or more other local areas;	80096 80097
(e) Making other changes that the governor determines to be necessary to secure compliance with the specific provision.	80098 80099

An action taken by the governor pursuant to this section 80100
may be appealed and shall not become effective until the time 80101
for appeal has expired or a final decision has been issued on 80102
the appeal. 80103

Sec. 5101.244. (A) If the department of job and family 80104
services or the department of children and youth determines that 80105
a grant awarded to a county grantee in a grant agreement entered 80106
into under section 5101.21 of the Revised Code, an allocation, 80107
advance, or reimbursement the department makes to a county 80108
family services agency, or a cash draw a county family services 80109
agency makes exceeds the allowable amount for the grant, 80110
allocation, advance, reimbursement, or cash draw, the department 80111
may take one or more of the following actions to recover the 80112
excess amount: 80113

(1) The department may adjust, offset, withhold, or reduce 80114
an allocation, cash draw, advance, reimbursement, or other 80115
financial assistance to the county grantee or county family 80116
services agency as necessary to recover the excess amount. 80117

(2) The department may enter into an agreement with the 80118
county grantee or county family services agency for repayment of 80119
the excess amount by the grantee or agency. The department may 80120
require that the repayment include interest on the excess 80121
amount, calculated from the day that the excess occurred at a 80122
rate not exceeding the rate per annum prescribed by section 80123
5703.47 of the Revised Code. 80124

(3) The department may certify a claim to the attorney 80125
general under section 131.02 of the Revised Code for the 80126
attorney general to take action under that section against the 80127
county grantee or county family services agency to recover the 80128
excess amount. 80129

(B) In taking an action authorized under this section, the department is not required to take the action in accordance with section 5101.24 of the Revised Code.

~~(C) The director of job and family services and the director of children and youth may adopt rules under section 111.15 of the Revised Code as necessary to implement this section. The directors shall adopt the rules as if they were internal management rules.~~

Sec. 5101.33. (A) As used in this section, "benefits" means any of the following:

(1) Cash assistance paid under Chapter 5107. of the Revised Code;

(2) Supplemental nutrition assistance program benefits provided under section 5101.54 of the Revised Code;

(3) Any other program administered by the department of job and family services or the department of children and youth under which assistance is provided or service rendered;

(4) Any other program, service, or assistance administered by a person or government entity that the department determines may be delivered through the medium of electronic benefit transfer.

(B) The department of job and family services or department of children and youth may make any payment or delivery of benefits to eligible individuals through the medium of electronic benefit transfer by doing all of the following:

(1) Contracting with an agent to supply debit cards to the department of job and family services or the department of children and youth for use by such individuals in accessing

their benefits and to credit such cards electronically with the 80158
amounts specified by the director of job and family services or 80159
the director of children and youth pursuant to law; 80160

(2) Informing such individuals about the use of the 80161
electronic benefit transfer system and furnishing them with 80162
debit cards and information that will enable them to access 80163
their benefits through the system; 80164

(3) Arranging with specific financial institutions or 80165
vendors, county departments of job and family services, or 80166
persons or government entities for individuals to have their 80167
cards credited electronically with the proper amounts at their 80168
facilities; 80169

(4) Periodically preparing vouchers for the payment of 80170
such benefits by electronic benefit transfer; 80171

(5) Satisfying any applicable requirements of federal and 80172
state law. 80173

(C) The department may enter into a written agreement with 80174
any person or government entity to provide benefits administered 80175
by that person or entity through the medium of electronic 80176
benefit transfer. A written agreement may require the person or 80177
government entity to pay to the department either or both of the 80178
following: 80179

(1) A charge that reimburses the department for all costs 80180
the department incurs in having the benefits administered by the 80181
person or entity provided through the electronic benefit 80182
transfer system; 80183

(2) A fee for having the benefits provided through the 80184
electronic benefit transfer system. 80185

(D) The department may designate which counties will participate in the medium of electronic benefit transfer, specify the date a designated county will begin participation, and specify which benefits will be provided through the medium of electronic benefit transfer in a designated county.

~~(E) The department of job and family services or the department of children and youth may adopt rules in accordance with Chapter 119. of the Revised Code for the efficient administration of this section.~~

Sec. 5101.35. (A) As used in this section:

(1) (a) "Agency" means the following entities that administer a family services program:

- (i) The department of job and family services;
- (ii) The department of children and youth;
- (iii) A county department of job and family services;
- (iv) A public children services agency;

(v) A private or government entity administering, in whole or in part, a family services program for or on behalf of the department of job and family services, the department of children and youth, or a county department of job and family services or public children services agency.

(b) If the department of medicaid contracts with the department of job and family services to hear appeals authorized by section 5160.31 of the Revised Code regarding medical assistance programs, "agency" includes the department of medicaid.

(2) "Appellant" means an applicant, participant, former

participant, recipient, or former recipient of a family services program who is entitled by federal or state law to a hearing regarding a decision or order of the agency that administers the program. 80213
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(3) (a) "Family services program" means all of the following: 80217
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(i) A Title IV-A program as defined in section 5101.80 of the Revised Code; 80219
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(ii) Programs that provide assistance under Chapter 5104. of the Revised Code; 80221
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(iii) Programs that provide assistance under section 5101.461, 5101.54, 5119.41, 5153.163, 5153.165, or 5180.42 of the Revised Code; 80223
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(iv) Title XX social services provided under section 5101.46 of the Revised Code, other than such services provided by the department of mental health and addiction services, the department of developmental disabilities, a board of alcohol, drug addiction, and mental health services, or a county board of developmental disabilities. 80226
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(b) If the department of medicaid contracts with the department of job and family services to hear appeals authorized by section 5160.31 of the Revised Code regarding medical assistance programs, "family services program" includes medical assistance programs. 80232
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(4) "Medical assistance program" has the same meaning as in section 5160.01 of the Revised Code. 80237
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(B) Except as provided by divisions (G) and (H) of this section, an appellant who appeals under federal or state law a 80239
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decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services or the department of children and youth, as appropriate. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be recorded, but neither the recording nor a transcript of the recording shall be part of the official record of the proceeding. Except as provided in section 5160.31 of the Revised Code, a state hearing decision is binding upon the agency and department, unless it is reversed or modified on appeal to the director of job and family services, director of children and youth, or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services or director of children and youth in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. An administrative appeal decision is the final decision of the department and, except as provided in section 5160.31 of the Revised Code, is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

(D) An agency shall comply with a decision issued pursuant to division (B) or (C) of this section within the time limits established by rules adopted under this section. If a county department of job and family services or a public children services agency fails to comply within these time limits, the

department may take action pursuant to section 5101.24 of the Revised Code. If another agency, other than the department of medicaid, fails to comply within the time limits, the department may force compliance by withholding funds due the agency or imposing another sanction established by rules adopted under this section.

(E) An appellant who disagrees with an administrative appeal decision of the director of job and family services, the director of children and youth, or either director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:

(1) The person may apply to the court for designation as an indigent and, if the court grants this application, the appellant shall not be required to furnish the costs of the appeal.

(2) The appellant shall mail the notice of appeal to the department of job and family services or director of children and youth, as appropriate, and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court.

(3) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court

shall make such an order only if it finds that the department 80302
and the appellant are unable to stipulate to the facts of the 80303
case and that the transcript is essential to a determination of 80304
the appeal. The department shall file the transcript not later 80305
than thirty days after the day such an order is issued. 80306

(F) The department of job and family service and 80307
department of children and youth, as applicable, shall adopt 80308
rules in accordance with Chapter 119. of the Revised Code to 80309
implement ~~this section, including rules governing~~ the following: 80310

(1) State hearings under division (B) of this section. The 80311
rules shall include provisions regarding notice of eligibility 80312
termination and the opportunity of an appellant appealing a 80313
decision or order of a county department of job and family 80314
services to request a county conference with the county 80315
department before the state hearing is held. 80316

(2) Administrative appeals under division (C) of this 80317
section; 80318

(3) Time limits for complying with a decision issued under 80319
division (B) or (C) of this section; 80320

(4) Sanctions that may be applied against an agency under 80321
division (D) of this section. 80322

(G) The department of job and family services and the 80323
department of children and youth, as applicable, may adopt rules 80324
in accordance with Chapter 119. of the Revised Code establishing 80325
an appeals process for an appellant who appeals a decision or 80326
order regarding a Title IV-A program identified under division 80327
(A) (4) (c), (d), (e), (f), (g), or (h) of section 5101.80 of the 80328
Revised Code that is different from the appeals process 80329
established by this section. The different appeals process may 80330

include having a state agency that administers the Title IV-A 80331
program pursuant to an interagency agreement entered into under 80332
section 5101.801 of the Revised Code administer the appeals 80333
process. 80334

(H) If an appellant receiving medicaid through a health 80335
insuring corporation that holds a certificate of authority under 80336
Chapter 1751. of the Revised Code is appealing a denial of 80337
medicaid services based on lack of medical necessity or other 80338
clinical issues regarding coverage by the health insuring 80339
corporation, the person hearing the appeal may order an 80340
independent medical review if that person determines that a 80341
review is necessary. The review shall be performed by a health 80342
care professional with appropriate clinical expertise in 80343
treating the recipient's condition or disease. The department 80344
shall pay the costs associated with the review. 80345

A review ordered under this division shall be part of the 80346
record of the hearing and shall be given appropriate evidentiary 80347
consideration by the person hearing the appeal. 80348

(I) The requirements of Chapter 119. of the Revised Code 80349
apply to a state hearing or administrative appeal under this 80350
section only to the extent, if any, specifically provided by 80351
rules adopted under this section. 80352

Sec. 5101.37. (A) The department of job and family 80353
services or the department of children and youth and each county 80354
department of job and family services and child support 80355
enforcement agency may conduct any audits or investigations that 80356
are necessary in the performance of their duties, and to that 80357
end they shall have the same power as a judge of a county court 80358
to administer oaths and to enforce the attendance and testimony 80359
of witnesses and the production of books or papers. 80360

The applicable department and each county department and agency shall keep a record of their audits and investigations stating the time, place, charges, or subject; witnesses summoned and examined; and their conclusions. 80361
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Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. 80365
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(B) In conducting hearings pursuant to Chapters 3119., 3121., and 3123. or pursuant to division (B) of section 5101.35 of the Revised Code, the applicable department and each child support enforcement agency have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers. The applicable department and each agency shall keep a record of those hearings stating the time, place, charges, or subject; witnesses summoned and examined; and their conclusions. 80367
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The issuance of a subpoena by the applicable department or a child support enforcement agency to enforce attendance and testimony of witnesses and the production of books or papers at a hearing is discretionary and the applicable department or agency is not required to pay the fees of witnesses for attendance and travel. 80376
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(C) Any judge of any division of the court of common pleas, upon application of the applicable department or a county department or child support enforcement agency, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the applicable department, county department, or agency, by a judgment for contempt or otherwise, in the same manner as in cases before those courts. 80382
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(D) Until an audit report is formally released by the 80389

applicable department, the audit report or any working paper or 80390
other document or record prepared by the applicable department 80391
and related to the audit that is the subject of the audit report 80392
is not a public record under section 149.43 of the Revised Code. 80393

~~(E) The director of job and family services or director of 80394
children and youth may adopt rules as necessary to implement 80395
this section. The rules shall be adopted in accordance with 80396
section 111.15 of the Revised Code as if they were internal 80397
management rules. 80398~~

Sec. 5101.46. (A) As used in this section: 80399

(1) "Title XX" means Title XX of the "Social Security 80400
Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 80401

(2) "Respective local agency" means, with respect to the 80402
department of job and family services and the department of 80403
children and youth, a county department of job and family 80404
services; with respect to the department of mental health and 80405
addiction services, a board of alcohol, drug addiction, and 80406
mental health services; and with respect to the department of 80407
developmental disabilities, a county board of developmental 80408
disabilities. 80409

(3) "Federal poverty guidelines" means the poverty 80410
guidelines as revised annually by the United States department 80411
of health and human services in accordance with section 673(2) 80412
of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 80413
511, 42 U.S.C.A. 9902, as amended, for a family size equal to 80414
the size of the family of the person whose income is being 80415
determined. 80416

(B) The departments of job and family services, children 80417
and youth, mental health, and developmental disabilities, with 80418

their respective local agencies, shall administer the provision 80419
of social services funded through grants made under Title XX. 80420
The social services furnished with Title XX funds shall be 80421
directed at the following goals: 80422

(1) Achieving or maintaining economic self-support to 80423
prevent, reduce, or eliminate dependency; 80424

(2) Achieving or maintaining self-sufficiency, including 80425
reduction or prevention of dependency; 80426

(3) Preventing or remedying neglect, abuse, or 80427
exploitation of children and adults unable to protect their own 80428
interests, or preserving, rehabilitating, or reuniting families; 80429

(4) Preventing or reducing inappropriate institutional 80430
care by providing for community-based care, home-based care, or 80431
other forms of less intensive care; 80432

(5) Securing referral or admission for institutional care 80433
when other forms of care are not appropriate, or providing 80434
services to individuals in institutions. 80435

(C) (1) All federal funds received under Title XX shall be 80436
appropriated as follows: 80437

(a) Seventy-two and one-half per cent to the department of 80438
job and family services and the department of children and 80439
youth; 80440

(b) Twelve and ninety-three one-hundredths per cent to the 80441
department of mental health and addiction services; 80442

(c) Fourteen and fifty-seven one-hundredths per cent to 80443
the department of developmental disabilities. 80444

(2) Each of the state departments shall, subject to the 80445

approval of the controlling board, develop a formula for the 80446
distribution of the Title XX funds appropriated to the 80447
department to its respective local agencies. The formula 80448
developed by each state department shall take into account all 80449
of the following for each of its respective local agencies: 80450

(a) The total population of the area that is served by the 80451
respective local agency; 80452

(b) The percentage of the population in the area served 80453
that falls below the federal poverty guidelines; 80454

(c) The respective local agency's history of and ability 80455
to utilize Title XX funds. 80456

(3) Each of the state departments shall expend for state 80457
administrative costs not more than three per cent of the Title 80458
XX funds appropriated to the department. 80459

Each state department shall establish for each of its 80460
respective local agencies the maximum percentage of the Title XX 80461
funds distributed to the respective local agency that the 80462
respective local agency may expend for local administrative 80463
costs. The percentage shall be established by rule and shall 80464
comply with federal law governing the use of Title XX funds. The 80465
rules shall be adopted in accordance with section 111.15 of the 80466
Revised Code as if they were internal management rules. 80467

(4) The department of job and family services and the 80468
department of children and youth, as applicable, shall expend 80469
for the training of the following not more than two per cent of 80470
the Title XX funds appropriated to the department: 80471

(a) Employees of county departments of job and family 80472
services; 80473

(b) Providers of services under contract with the state departments' respective local agencies; 80474
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(c) Employees of a public children services agency directly engaged in providing Title XX services. 80476
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(5) Title XX funds distributed for the purpose of providing family planning services shall be distributed by the respective local agencies according to the same order of priority that applies to the department of job and family services under section 5101.101 of the Revised Code. 80478
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(D) The department of job and family services and the department of children and youth shall prepare an annual comprehensive Title XX social services plan on the intended use of Title XX funds. The departments shall develop a method for obtaining public comment during the development of the plan and following its completion. 80483
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For each federal fiscal year, the department of job and family services and the department of children and youth shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection. 80489
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The departments of mental health and addiction services and developmental disabilities shall prepare and submit to the department of job and family services the portions of each annual plan and report that apply to services for mental health and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of annual plans and reports. 80494
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(E) Each county department of job and family services shall adopt a county profile for the administration and 80501
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provision of Title XX social services in the county. In 80503
developing its county profile, the county department shall take 80504
into consideration the comments and recommendations received 80505
from the public by the county family services planning committee 80506
pursuant to section 329.06 of the Revised Code. As part of its 80507
preparation of the county profile, the county department may 80508
prepare a local needs report analyzing the need for Title XX 80509
social services. 80510

The county department shall submit the county profile to 80511
the board of county commissioners for its review. Once the 80512
county profile has been approved by the board, the county 80513
department shall file a copy of the county profile with the 80514
department of job and family services. The department shall 80515
approve the county profile if the department determines the 80516
profile provides for the Title XX social services to meet the 80517
goals specified in division (B) of this section. 80518

(F) Any of the three state departments and their 80519
respective local agencies may require that an entity under 80520
contract to provide social services with Title XX funds submit 80521
to an audit on the basis of alleged misuse or improper 80522
accounting of funds. If an audit is required, the social 80523
services provider shall reimburse the state department or 80524
respective local agency for the cost it incurred in conducting 80525
the audit or having the audit conducted. 80526

If an audit demonstrates that a social services provider 80527
is responsible for one or more adverse findings, the provider 80528
shall reimburse the appropriate state department or its 80529
respective local agency the amount of the adverse findings. The 80530
amount shall not be reimbursed with Title XX funds received 80531
under this section. The three state departments and their 80532

respective local agencies may terminate or refuse to enter into 80533
a Title XX contract with a social services provider if there are 80534
adverse findings in an audit that are the responsibility of the 80535
provider. 80536

(G) ~~Except with respect to the matters for which each of~~ 80537
~~the state departments must adopt rules under division (C) (3) of~~ 80538
~~this section, the department of job and family services and the~~ 80539
~~department of children and youth may adopt any rules they~~ 80540
~~consider necessary to implement and carry out the purposes of~~ 80541
~~this section.~~ Rules governing adopted under this section that 80542
govern financial and operational matters of the departments or 80543
matters between the departments and county departments of job 80544
and family services shall be adopted as internal management 80545
rules in accordance with section 111.15 of the Revised Code. 80546
Rules governing adopted under this section that govern 80547
eligibility for services, program participation, and other 80548
matters pertaining to applicants and participants shall be 80549
adopted in accordance with Chapter 119. of the Revised Code. 80550

Sec. 5101.461. (A) As used in this section: 80551

(1) "Title IV-A" means Title IV-A of the "Social Security 80552
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 80553

(2) "Title XX" has the same meaning as in section 5101.46 80554
of the Revised Code. 80555

(B) To the extent authorized by federal law, the 80556
department of job and family services or the department of 80557
children and youth may use funds received through the Title IV-A 80558
temporary assistance for needy families block grant for purposes 80559
of providing Title XX social services. The amount used under 80560
this section shall not exceed the maximum amount permitted by 80561

federal law. The funds and provision of Title XX social services 80562
with the funds are not subject to section 5101.46 of the Revised 80563
Code. 80564

Funds distributed under this section for the purpose of 80565
providing family planning services shall be distributed by a 80566
county department of job and family services according to the 80567
same order of priority that applies to the department of job and 80568
family services under section 5101.101 of the Revised Code. 80569

(C) The department and any county department of job and 80570
family services may require an entity under contract to provide 80571
Title XX social services with funds used under this section to 80572
submit to an audit on the basis of alleged misuse or improper 80573
accounting of funds. If an audit is required, the social 80574
services provider shall reimburse the state department or county 80575
department for the cost it incurred in conducting the audit or 80576
having the audit conducted. 80577

If an audit demonstrates that a social services provider 80578
is responsible for one or more adverse findings, the provider 80579
shall reimburse the state department or county department the 80580
amount of the adverse findings. The amount shall not be 80581
reimbursed with funds received under this section. The state 80582
department and county departments may terminate or refuse to 80583
enter into a contract with a social services provider to provide 80584
services with funds available pursuant to this section if there 80585
are adverse findings in an audit that are the responsibility of 80586
the provider. 80587

~~(D) The state department of job and family services or the 80588
department of children and youth may adopt rules to implement 80589
and carry out the purposes of this section. Rules governing 80590
adopted under this section that govern financial and operational 80591~~

matters of the department or matters between the department and 80592
county departments of job and family services shall be adopted 80593
as internal management rules in accordance with section 111.15 80594
of the Revised Code. Rules ~~governing~~ adopted under this section 80595
that govern eligibility for services, program participation, and 80596
other matters pertaining to applicants and participants shall be 80597
adopted in accordance with Chapter 119. of the Revised Code. 80598

Sec. 5101.47. (A) Except as provided in divisions (B) and 80599
(C) of this section, both of the following apply to the 80600
department of job and family services: 80601

(1) The department shall accept applications, determine 80602
eligibility, redetermine eligibility, and perform related 80603
administrative activities for the supplemental nutrition 80604
assistance program administered by the department pursuant to 80605
section 5101.54 of the Revised Code. 80606

The department may assign the duties described in division 80607
(A) (1) of this section to any county department of job and 80608
family services. 80609

(2) The department may accept applications, determine 80610
eligibility, redetermine eligibility, and perform related 80611
administrative activities for either of the following: 80612

(a) Programs administered by the department that the 80613
director of job and family services determines are supportive of 80614
children, adults, or families; 80615

(b) Other programs administered by the department 80616
regarding which the director determines administrative cost 80617
savings and efficiency may be achieved through the department 80618
accepting applications, determining eligibility, redetermining 80619
eligibility, or performing related administrative activities. 80620

(B) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services.

(C) Subject to division (B) of this section, if the department is required or elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply:

(1) An individual seeking services under the program may apply for the program to the department or to the entity that state law governing the program authorizes to accept applications for the program.

(2) The department is subject to federal statutes and regulations and state statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program.

(D) (1) The department of children and youth may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for publicly funded child care provided under Chapter 5104. of the Revised Code.

(2) If the department elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for publicly funded child care, both of the following apply:

(a) An individual seeking publicly funded child care may 80650
apply to the department or to the entity that state law 80651
governing the program authorizes to accept applications for 80652
publicly funded child care. 80653

(b) The department is subject to federal statutes and 80654
regulations and state statutes and rules that require, permit, 80655
or prohibit an action regarding accepting applications, 80656
determining or redetermining eligibility, and performing related 80657
administrative activities for publicly funded childcare. 80658

~~(E) The director of job and family services and the 80659
director of children and youth may adopt rules as necessary to 80660
implement this section. 80661~~

Sec. 5101.48. The department of job and family services 80662
shall administer the distribution of food commodities received 80663
under the "Agricultural Adjustment Act," 48 Stat. 31, 7 U.S.C.A. 80664
612c, as amended. ~~The director of job and family services may 80665
adopt rules in accordance with section 111.15 of the Revised 80666
Code and issue appropriate orders as necessary for 80667
administration of the distribution program. 80668~~

Sec. 5101.49. The department of job and family services 80669
shall administer funds received under the "Refugee Act of 1980," 80670
94 Stat. 102, 8 U.S.C.A. 1521, as amended. In administering the 80671
funds, the department may establish a refugee cash assistance 80672
program and a state legalization impact assistance program. ~~The 80673
director of job and family services may adopt rules in 80674
accordance with section 111.15 of the Revised Code and issue 80675
appropriate orders as necessary for administration of these 80676
funds and programs. 80677~~

Sec. 5101.544. If the benefits of a household are reduced 80678

under a federal, state, or local means-tested public assistance 80679
program for failure of a member of the household to perform an 80680
action required under the program, the household may not 80681
receive, for the duration of the reduction, an increased 80682
allotment of supplemental nutrition assistance program benefits 80683
as the result of a decrease in the income of the household to 80684
the extent that the decrease is the result of the reduction. 80685

~~The department of job and family services shall adopt 80686
rules in accordance with Chapter 119. of the Revised Code to 80687
implement this section. The rules shall be consistent with 7- 80688
U.S.C. 2017(d) and federal regulations. 80689~~

Sec. 5101.61. (A) The county departments of job and family 80690
services shall implement sections 5101.60 to 5101.71 of the 80691
Revised Code. 80692

(B) The director of job and family services may adopt 80693
~~rules in accordance with section 111.15 of the Revised Code to 80694
carry out the purposes of sections 5101.60 to 5101.71 of the 80695
Revised Code. The rules adopted pursuant to this division may 80696
include a requirement requiring that the county departments 80697
provide on forms prescribed by the rules a plan of proposed 80698
expenditures, and a report of actual expenditures, of funds 80699
necessary to implement sections 5101.60 to 5101.71 of the 80700
Revised Code and other requirements for intake procedures, 80701
investigations, case management, and the provision of protective 80702
services. 80703~~

Sec. 5101.71. (A) If it appears that an adult in need of 80704
protective services has the financial means sufficient to pay 80705
for such services, the county department of job and family 80706
services shall make an evaluation regarding such means. If the 80707
evaluation establishes that the adult has such financial means, 80708

the department shall initiate procedures for reimbursement— 80709
~~pursuant to rules adopted under section 5101.61 of the Revised~~ 80710
~~Code.~~ If the evaluation establishes that the adult does not have 80711
such financial means, the services shall be provided in 80712
accordance with the policies and procedures established by the 80713
department of job and family services for the provision of 80714
welfare assistance. An adult shall not be required to pay for 80715
court-ordered protective services unless the court determines 80716
that the adult is financially able to pay and the court orders 80717
the adult to pay. 80718

(B) Whenever the county department of job and family 80719
services or the county prosecutor has petitioned the court to 80720
authorize the provision of protective services and the adult who 80721
is the subject of the petition is indigent, the court shall 80722
appoint legal counsel. 80723

Sec. 5101.741. (A) The elder abuse commission shall 80724
formulate and recommend strategies on all of the following: 80725

(1) Increasing awareness of and improving education on 80726
elder abuse; 80727

(2) Increasing research on elder abuse; 80728

(3) Improving policy, funding, and programming related to 80729
elder abuse, including estimated funding necessary to implement 80730
specific recommendations; 80731

(4) Improving the judicial response to elder abuse 80732
victims; 80733

(5) Identifying ways to coordinate statewide efforts to 80734
address elder abuse. 80735

(B) The commission shall prepare and issue a biennial 80736

report on a plan of action that may be used by local communities 80737
to aid in the development of efforts to combat elder abuse. The 80738
report shall include the commission's recommendations made under 80739
division (A) of this section. 80740

~~(C) The attorney general may adopt rules as necessary for 80741
the commission to carry out its duties. The rules shall be 80742
adopted in accordance with section 111.15 of the Revised Code. 80743~~

Sec. 5101.801. (A) Except as otherwise provided by the law 80744
enacted by the general assembly or executive order issued by the 80745
governor establishing the Title IV-A program, a Title IV-A 80746
program identified under division (A) (4) (c), (d), (e), (f), (g), 80747
or (h) of section 5101.80 of the Revised Code shall provide 80748
benefits and services that are not "assistance" as defined in 45 80749
C.F.R. 260.31(a) and are benefits and services that 45 C.F.R. 80750
260.31(b) excludes from the definition of assistance. 80751

(B) (1) Except as otherwise provided by the law enacted by 80752
the general assembly or executive order issued by the governor 80753
establishing the Title IV-A program, the department of job and 80754
family services or the department of children and youth, as 80755
appropriate, shall do either of the following regarding a Title 80756
IV-A program identified under division (A) (4) (c), (d), (e), (f), 80757
(g), or (h) of section 5101.80 of the Revised Code: 80758

(a) Administer the program or supervise a county family 80759
services agency's administration of the program; 80760

(b) Enter into an interagency agreement with a state 80761
agency for the state agency to administer the program under the 80762
department's supervision. 80763

(2) The department of job and family services and the 80764
department of children and youth may enter into an agreement 80765

with a government entity and, to the extent permitted by federal law, a private, not-for-profit entity for the entity to receive funding for a project under the Title IV-A demonstration program created under section 5101.803 of the Revised Code.

(3) To the extent permitted by federal law, the department of children and youth may enter into an agreement with a private, not-for-profit entity for the entity to receive funds under the Ohio parenting and pregnancy program created under section 5180.71 of the Revised Code.

(4) To the extent permitted by federal law, the department of children and youth may enter into an agreement with a private, not-for-profit entity for the entity to receive funds as recommended by the Ohio commission on fatherhood under section 5180.704 of the Revised Code.

(C) The department of job and family services and the department of children and youth, may adopt rules ~~governing Title IV-A programs identified under divisions (A) (4) (c), (d), (e), (f), (g), and (h) of section 5101.80 of the Revised Code.~~ Rules governing that govern financial and operational matters of either department or between either department and county family services agencies shall be adopted as internal management rules adopted in accordance with section 111.15 of the Revised Code. All other rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(D) If the department of job and family services or the department of children and youth, enters into an agreement regarding a Title IV-A program identified under division (A) (4) (c), (e), (f), (g), or (h) of section 5101.80 of the Revised Code pursuant to division (B) (1) (b) or (2) of this section, the agreement shall include at least all of the following:

(1) A requirement that the state agency or entity comply with the requirements for the program or project, including all of the following requirements established by federal statutes and regulations, state statutes and rules, the United States office of management and budget, and the Title IV-A state plan prepared under section 5101.80 of the Revised Code:

- (a) Eligibility;
- (b) Reports;
- (c) Benefits and services;
- (d) Use of funds;
- (e) Appeals for applicants for, and recipients and former recipients of, the benefits and services;
- (f) Audits.

(2) A complete description of all of the following:

- (a) The benefits and services that the program or project is to provide;
- (b) The methods of program or project administration;
- (c) The appeals process under section 5101.35 of the Revised Code for applicants for, and recipients and former recipients of, the program or project's benefits and services;
- (d) Other requirements that the department of job and family services or the department of children and youth, as applicable, requires be included.

(3) Procedures for the department of job and family services or the department of children and youth, as applicable, to approve a policy, established by rule or otherwise, that the state agency or entity establishes for the program or project

before the policy is established; 80823

(4) Provisions regarding how the department of job and 80824
family services or the department of children and youth, as 80825
applicable, is to reimburse the state agency or entity for 80826
allowable expenditures under the program or project that the 80827
applicable department approves, including all of the following: 80828

(a) Limitations on administrative costs; 80829

(b) The department of job and family services or the 80830
department of children and youth, as applicable, at its 80831
discretion, doing either of the following: 80832

(i) Withholding no more than five per cent of the funds 80833
that the department of job and family services or the department 80834
of children and youth, as applicable, would otherwise provide to 80835
the state agency or entity for the program or project; 80836

(ii) Charging the state agency or entity for the costs to 80837
the department of job and family services or the department of 80838
children and youth, as applicable, of performing, or contracting 80839
for the performance of, audits and other administrative 80840
functions associated with the program or project. 80841

(5) If the state agency or entity arranges by contract, 80842
grant, or other agreement for another entity to perform a 80843
function the state agency or entity would otherwise perform 80844
regarding the program or project, the state agency or entity's 80845
responsibilities for both of the following: 80846

(a) Ensuring that the other entity complies with the 80847
agreement between the state agency or entity and the department 80848
of job and family services or the department of children and 80849
youth, as applicable and federal statutes and regulations and 80850
state statutes and rules governing the use of funds for the 80851

program or project; 80852

(b) Auditing the other entity in accordance with 80853
requirements established by the United States office of 80854
management and budget. 80855

(6) The state agency or entity's responsibilities 80856
regarding the prompt payment, including any interest assessed, 80857
of any adverse audit finding, final disallowance of federal 80858
funds, or other sanction or penalty imposed by the federal 80859
government, auditor of state, department of job and family 80860
services or the department of children and youth, as applicable, 80861
a court, or other entity regarding funds for the program or 80862
project; 80863

(7) Provisions for the department of job and family 80864
services or the department of children and youth, as applicable, 80865
to terminate the agreement or withhold reimbursement from the 80866
state agency or entity if either of the following occur: 80867

(a) The federal government disapproves the program or 80868
project or reduces federal funds for the program or project; 80869

(b) The state agency or entity fails to comply with the 80870
terms of the agreement. 80871

(8) Provisions for both of the following: 80872

(a) The department of job and family services or the 80873
department of children and youth, as applicable, and state 80874
agency or entity determining the performance outcomes expected 80875
for the program or project; 80876

(b) An evaluation of the program or project to determine 80877
its success in achieving the performance outcomes determined 80878
under division (D) (8) (a) of this section. 80879

(E) To the extent consistent with the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program and subject to the approval of the director of budget and management, the director of job and family services or the director of children and youth, as applicable, may terminate a Title IV-A program identified under division (A)(4)(c), (d), (e), (f), (g), or (h) of section 5101.80 of the Revised Code or reduce funding for the program if the applicable director determines that federal or state funds are insufficient to fund the program. If the director of budget and management approves the termination or reduction in funding for such a program, the director of job and family services or the department of children and youth, as applicable, shall issue instructions for the termination or funding reduction. If a Title IV-A administrative agency is administering the program, the agency is bound by the termination or funding reduction and shall comply with the applicable director's instructions.

~~(F) The director of job and family services and the director of children and youth may adopt internal management rules in accordance with section 111.15 of the Revised Code as necessary to implement this section. The rules are binding on each Title IV-A administrative agency.~~

Sec. 5101.83. (A) As used in this section:

(1) "Assistance group" has the same meaning as in section 5107.02 of the Revised Code, except that it also means a group provided benefits and services under the prevention, retention, and contingency program or the comprehensive case management and employment program.

(2) "Fraudulent assistance" means assistance and services, including cash assistance, provided under the Ohio works first

program established under Chapter 5107., or benefits and 80910
services provided under the prevention, retention, and 80911
contingency program established under Chapter 5108. of the 80912
Revised Code or under the comprehensive case management and 80913
employment program established under Chapter 5116. of the 80914
Revised Code, to or on behalf of an assistance group that is 80915
provided as a result of fraud by a member of the assistance 80916
group, including an intentional violation of the program's 80917
requirements. "Fraudulent assistance" does not include 80918
assistance or services to or on behalf of an assistance group 80919
that is provided as a result of an error that is the fault of a 80920
county department of job and family services, the Ohio 80921
department of job and family services, or the department of 80922
children and youth. 80923

(B) If a county director of job and family services 80924
determines that an assistance group has received fraudulent 80925
assistance, the assistance group is ineligible to participate in 80926
the Ohio works first program, the prevention, retention, and 80927
contingency program, or the comprehensive case management and 80928
employment program until a member of the assistance group repays 80929
the cost of the fraudulent assistance. If a member repays the 80930
cost of the fraudulent assistance and the assistance group 80931
otherwise meets the eligibility requirements for the Ohio works 80932
first program, the prevention, retention, and contingency 80933
program, or the comprehensive case management and employment 80934
program, the assistance group shall not be denied the 80935
opportunity to participate in the program. 80936

This section does not limit the ability of a county 80937
department of job and family services to recover erroneous 80938
payments under section 5107.76 of the Revised Code. 80939

~~The Ohio department of job and family services and the department of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~ 80940
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Sec. 5101.971. The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to ~~govern the implementation of individual development account programs under sections 329.11 to 329.14 of the Revised Code by county departments of job and family services, which shall include rules covering~~ do both of the following: 80943
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(A) ~~Imposing~~ Impose a penalty for unauthorized use of matching contributions; 80949
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(B) ~~Specifying~~ Specify the responsibilities of a fiduciary organization under an individual development account program established under section 329.12 of the Revised Code. The rules shall be consistent with section 404(h) of the "Social Security Act" as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 42 U.S.C. 604(h). 80951
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The responsibilities of a fiduciary organization may include marketing; soliciting matching contributions; counseling account holders; conducting verification, compliance, and evaluation activities; and any other responsibilities considered appropriate by the state department. 80957
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Sec. 5103.03. ~~(A) The director of children and youth shall adopt rules as necessary for the adequate and competent management and certification of institutions or associations. The director shall ensure that foster care home study rules adopted under this section align any home study content, time period, and process with any home study content, time period, and process required by rules adopted under section 3107.033 of~~ 80962
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~~the Revised Code.~~ 80969

~~(B) (1) (A) (1)~~ Except for facilities under the control of 80970
the department of youth services, places of detention for 80971
children established and maintained pursuant to sections 2152.41 80972
to 2152.44 of the Revised Code, and child care centers subject 80973
to Chapter 5104. of the Revised Code, the department of children 80974
and youth shall pass upon the fitness of every institution and 80975
association that receives, or desires to receive and care for 80976
children, or places children in private homes, at a frequency 80977
established ~~by rules adopted under division (A) of this~~ 80978
~~section~~in rule. 80979

(2) When the department of children and youth is satisfied 80980
as to the care given such children, and that the requirements of 80981
the statutes and rules covering the management of such 80982
institutions and associations are being complied with, it shall 80983
issue to the institution or association a certificate to that 80984
effect. A certificate is valid for a length of time determined 80985
~~by rules adopted under division (A) of this section~~in rule. When 80986
determining whether an institution or association meets a 80987
particular requirement for certification, the department may 80988
consider the institution or association to have met the 80989
requirement if the institution or association shows to the 80990
department's satisfaction that it has met a comparable 80991
requirement to be accredited by a nationally recognized 80992
accreditation organization. 80993

(3) The department may issue a temporary certificate valid 80994
for less than one year authorizing an institution or association 80995
to operate until minimum requirements have been met. 80996

(4) An institution or association that knowingly makes a 80997
false statement that is included as a part of certification 80998

under this section is guilty of the offense of falsification 80999
under section 2921.13 of the Revised Code and the department 81000
shall not certify that institution or association. 81001

(5) The department shall not issue a certificate to a 81002
prospective foster home or prospective specialized foster home 81003
pursuant to this section if the prospective foster home or 81004
prospective specialized foster home operates as a type A family 81005
child care home pursuant to Chapter 5104. of the Revised Code. 81006
The department shall not issue a certificate to a prospective 81007
specialized foster home if the prospective specialized foster 81008
home operates a type B family child care home pursuant to 81009
Chapter 5104. of the Revised Code. 81010

~~(C)~~(B) The department may revoke a certificate pursuant to 81011
an adjudication under Chapter 119. of the Revised Code if it 81012
finds that the institution or association is in violation of law 81013
or rule. No juvenile court shall commit a child to an 81014
association or institution that is required to be certified 81015
under this section if its certificate has been revoked or, if 81016
after revocation, the date of reissue is less than fifteen 81017
months prior to the proposed commitment. 81018

~~(D)~~(C) On a frequency specified by the department ~~by rules~~ 81019
~~adopted under division (A) of this section,~~ each institution or 81020
association desiring certification shall submit to the 81021
department a report showing its condition, management, 81022
competency to care adequately for the children who have been or 81023
may be committed to it or to whom it provides care or services, 81024
the system of visitation it employs for children placed in 81025
private homes, and other information the department requires. 81026

~~(E)~~(D) The department shall, not less than once each year, 81027
send a list of certified institutions and associations to each 81028

juvenile court and certified association or institution. 81029

~~(F)~~(E) No person shall receive children or receive or 81030
solicit money on behalf of such an institution or association 81031
not so certified or whose certificate has been revoked. 81032

~~(G)~~~~(1)~~(F) (1) The director may delegate by rule any duties 81033
imposed on it by this section to inspect and approve family 81034
foster homes and specialized foster homes to public children 81035
services agencies, private child placing agencies, or private 81036
noncustodial agencies. 81037

(2) The director shall adopt rules that require a foster 81038
caregiver or other individual certified to operate a foster home 81039
under this section to notify the recommending agency that the 81040
foster caregiver or other individual is licensed to operate a 81041
type B family child care home under Chapter 5104. of the Revised 81042
Code. 81043

~~(H)~~(G) If the director of children and youth determines 81044
that an institution or association that cares for children is 81045
operating without a certificate, the director may petition the 81046
court of common pleas in the county in which the institution or 81047
association is located for an order enjoining its operation. The 81048
court shall grant injunctive relief upon a showing that the 81049
institution or association is operating without a certificate. 81050

~~(I)~~(H) If both of the following are the case, the director 81051
of children and youth may petition the court of common pleas of 81052
any county in which an institution or association that holds a 81053
certificate under this section operates for an order, and the 81054
court may issue an order, preventing the institution or 81055
association from receiving additional children into its care or 81056
an order removing children from its care: 81057

(1) The department has evidence that the life, health, or safety of one or more children in the care of the institution or association is at imminent risk. 81058
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(2) The department has issued a proposed adjudication order pursuant to Chapter 119. of the Revised Code to revoke the certificate of the institution or association. 81061
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Sec. 5103.035. A public children services agency, private child placing agency, or private noncustodial agency acting as a recommending agency for a foster caregiver shall develop and implement a written needs assessment and continuing training plan for the foster caregiver in accordance with associated rules ~~adopted under section 5103.0316 of the Revised Code.~~ 81064
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Sec. 5103.037. (A) Prior to employing or appointing a person as board president, or as an administrator or officer, an institution or association shall do the following regarding the person: 81070
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(1) Request a summary report of a search of the uniform statewide automated child welfare information system in accordance with divisions (A) and (B) of section 5103.18 of the Revised Code; 81074
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(2) Request a certified search of the findings for recovery database; 81078
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(3) Conduct a database review at the federal web site known as the system for award management; 81080
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(4) Conduct a search of the United States department of justice national sex offender public web site. 81082
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(B) The institution or association may refuse to hire or appoint a person as board president, or as an administrator or 81084
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officer as follows: 81086

(1) Based solely on the findings of the summary report 81087
described in division (B) (1) (a) of section 5103.18 of the 81088
Revised Code or the results of the search described in division 81089
(A) (4) of this section; 81090

(2) Based on the results of a certified search or database 81091
review described in division (A) (2) or (3) of this section, when 81092
considered within the totality of circumstances. 81093

~~(C) The director of children and youth shall adopt rules 81094
in accordance with Chapter 119. of the Revised Code necessary 81095
for the implementation and execution of this section. 81096~~

Sec. 5103.038. (A) Every other year by a date specified in 81097
~~rules adopted under section 5103.0316 of the Revised Code,~~ each 81098
private child placing agency and private noncustodial agency 81099
that seeks to operate a preplacement training program or 81100
continuing training program under section 5103.034 of the 81101
Revised Code shall submit to the department of children and 81102
youth a proposal outlining the program. The proposal may be the 81103
same as, a modification of, or different from, a model design 81104
developed by the department. 81105

(B) Not later than thirty days after receiving a proposal 81106
under division (A) of this section, the department shall either 81107
approve or disapprove the proposed program. The department shall 81108
approve a proposed preplacement training program if it complies 81109
with rules adopted under ~~section 5103.0316~~ Chapter 119. of the 81110
Revised Code, as appropriate, and, in the case of a proposal 81111
submitted by an agency operating a preplacement training program 81112
at the time the proposal is submitted, the department is 81113
satisfied with the agency's operation of the program. The 81114

department shall approve a proposed continuing training program 81115
if it complies with rules adopted under ~~section 5103.0316~~ 81116
Chapter 119. of the Revised Code and, in the case of a proposal 81117
submitted by an agency operating a continuing training program 81118
at the time the proposal is submitted, the department is 81119
satisfied with the agency's operation of the program. If the 81120
department disapproves a proposal, it shall provide the reason 81121
for disapproval to the agency that submitted the proposal and 81122
advise the agency of how to revise the proposal so that the 81123
department can approve it. 81124

(C) The department's approval under division (B) of this 81125
section of a proposed preplacement training program or 81126
continuing training program is valid only for two years 81127
following the year the proposal for the program is submitted to 81128
the department under division (A) of this section. 81129

Sec. 5103.0310. (A) Prior to employing a person or 81130
engaging a subcontractor, intern, or volunteer, an institution 81131
or association, as defined in division (A)(1)(a) of section 81132
5103.02 of the Revised Code, that is a residential facility, as 81133
defined in division (A)(8) of section 5103.05 of the Revised 81134
Code, shall do the following regarding the person, 81135
subcontractor, intern, or volunteer: 81136

(1) Obtain a search of the United States department of 81137
justice national sex offender public web site regarding the 81138
person; 81139

(2) Obtain a summary report of a search of the uniform 81140
statewide automated child welfare information system in 81141
accordance with divisions (A) and (B) of section 5103.18 of the 81142
Revised Code. 81143

(B) An institution or association, as defined in division 81144
(A) (1) (a) of section 5103.02 of the Revised Code, that is not a 81145
residential facility, as defined in division (A) (8) of section 81146
5103.05 of the Revised Code, shall obtain the search and summary 81147
report described in division (A) of this section before hiring a 81148
person, or engaging a subcontractor, intern, or volunteer, who 81149
will have access to children. 81150

(C) If, at the time of September 30, 2021, the institution 81151
or association has not obtained a report required under division 81152
(A) or (B) of this section for the person, subcontractor, 81153
intern, or volunteer, the institution or association shall 81154
obtain the report. 81155

(D) The institution or association may refuse to employ 81156
the person or engage the subcontractor, intern, or volunteer 81157
based solely on the results of the search described in division 81158
(A) (1) or (B) of this section or the findings of the summary 81159
report described in division (B) (1) (a) of section 5103.18 of the 81160
Revised Code. 81161

~~(E) The director of children and youth shall adopt rules 81162
in accordance with Chapter 119. of the Revised Code necessary 81163
for the implementation and execution of this section. 81164~~

Sec. 5103.0312. A public children services agency, private 81165
child placing agency, or private noncustodial agency acting as a 81166
recommending agency for a foster caregiver shall reimburse the 81167
foster caregiver in a lump sum for attending a preplacement 81168
training program operated under section 5103.034 or 5103.30 of 81169
the Revised Code and shall reimburse the foster caregiver a 81170
stipend for attending a continuing training program operated 81171
under section 5103.034 or 5103.30 of the Revised Code. The 81172
amount of the lump sum reimbursement and the stipend rate shall 81173

be established by the department of children and youth and shall 81174
be the same regardless of the type of recommending agency from 81175
which the foster caregiver seeks a recommendation. The 81176
department shall, pursuant to rules adopted under ~~section~~ 81177
~~5103.0316~~ Chapter 119. of the Revised Code, reimburse the 81178
recommending agency for stipend reimbursements it makes in 81179
accordance with this section. The department shall adopt rules 81180
under Chapter 119. of the Revised Code regarding the release of 81181
lump sum stipends to an individual for attending a preplacement 81182
training program. 81183

Sec. 5103.0316. The department of children and youth shall 81184
adopt rules in accordance with Chapter 119. of the Revised Code 81185
~~as necessary for the efficient administration of sections~~ 81186
~~5103.031 to 5103.0316 of the Revised Code. The rules shall that~~ 81187
provide for all of the following: 81188

(A) For the purpose of section 5103.038 of the Revised 81189
Code, the date by which a private child placing agency or 81190
private noncustodial agency that seeks to operate a preplacement 81191
training program or continuing training program under section 81192
5103.034 of the Revised Code must submit to the department a 81193
proposal outlining the program; 81194

(B) Requirements governing the department's compensation 81195
of private child placing agencies and private noncustodial 81196
agencies under sections 5103.0312 and 5103.0313 of the Revised 81197
Code, including the allowance to reimburse the agencies for the 81198
cost of providing the training under sections 5103.031, 81199
5103.032, and 5103.033 of the Revised Code; 81200

(C) Requirements governing the continuing training 81201
required by sections 5103.032 and 5103.033 of the Revised Code; 81202

(D) The amount of training hours necessary for 81203
preplacement training and continuing training for purposes of 81204
sections 5103.031, 5103.032, and 5103.033 of the Revised Code; 81205

(E) Courses necessary to meet the preplacement and 81206
continuing training requirements for foster homes under sections 81207
5103.031, 5103.032, and 5103.033 of the Revised Code; 81208

(F) Criteria used to create a written needs assessment and 81209
continuing training plan for each foster caregiver as required 81210
by section 5103.035 of the Revised Code; 81211

(G) The amount of preplacement and continuing training 81212
hours that may be completed online; 81213

~~(H) Any other matter the department considers appropriate.~~ 81214

Sec. 5103.0323. (A) As used in this section, "American 81215
institute of certified public accountants auditing standards" 81216
and "AICPA auditing standards" mean the auditing standards 81217
published by the American institute of certified public 81218
accountants. 81219

(B) Not later than two years after the date of 81220
certification, and at least every two years thereafter, a 81221
private child placing agency or private noncustodial agency 81222
shall provide the department of children and youth evidence of 81223
an independent financial statement audit performed by a licensed 81224
public accounting firm following applicable AICPA auditing 81225
standards for the two most recent fiscal years. 81226

(C) The independent audits must demonstrate that the 81227
agency operated in a fiscally accountable manner as determined 81228
by the department of children and youth. 81229

(D) The director of children and youth may adopt rules ~~as~~ 81230

~~necessary to implement this section. The director shall adopt
the rules in accordance with section 119.03 of the Revised Code
regarding the independent financial statement audits required
under this section.~~ 81231
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81234

Sec. 5103.0329. A recommending agency may submit a request 81235
to the department of children and youth, on a case-by-case basis 81236
only, to waive any non-safety standards for a kinship caregiver 81237
seeking foster home certification. Non-safety standards include 81238
training hours and other requirements under sections 5103.031 81239
and 5103.032 of the Revised Code and standards established by 81240
rules ~~adopted under sections 5103.03 and 5103.0316 of the~~ 81241
~~Revised Code,~~ in accordance with 42 U.S.C. 671 (a) (10). 81242

Sec. 5103.05. (A) As used in sections 5103.05 to 5103.0513 81243
of the Revised Code: 81244

(1) "Children's residential center" means a facility that 81245
is operated by a private child placing agency, private 81246
noncustodial agency, or public children services agency, that 81247
has been certified by the department of children and youth to 81248
operate a children's residential center, and in which eleven or 81249
more children, including the children of any staff residing at 81250
the facility, are given nonsecure care and supervision twenty- 81251
four hours a day. 81252

(2) "Children's crisis care facility" has the same meaning 81253
as in section 5103.13 of the Revised Code. 81254

(3) "County children's home" means a facility established 81255
under section 5153.21 of the Revised Code. 81256

(4) "District children's home" means a facility 81257
established under section 5153.42 of the Revised Code. 81258

(5) "First responder" means an EMT, EMT-basic, AEMT, EMT- 81259

I, paramedic, firefighter, or volunteer firefighter. 81260

(6) "Group home for children" means any public or private 81261
facility that is operated by a private child placing agency, 81262
private noncustodial agency, or public children services agency, 81263
that has been certified by the department to operate a group 81264
home for children, and that meets all of the following criteria: 81265

(a) Gives, for compensation, a maximum of ten children, 81266
including the children of the operator or any staff who reside 81267
in the facility, nonsecure care and supervision twenty-four 81268
hours a day by a person or persons who are unrelated to the 81269
children by blood or marriage, or who is not the appointed 81270
guardian of any of the children; 81271

(b) Is not certified as a foster home; 81272

(c) Receives or cares for children for two or more 81273
consecutive weeks. 81274

"Group home for children" does not include any facility 81275
that provides care for children from only a single-family group, 81276
placed at the facility by the children's parents or other 81277
relative having custody. 81278

(7) "Law enforcement officer" means a sheriff, deputy 81279
sheriff, constable, police officer of a township or joint police 81280
district, marshal, deputy marshal, municipal police officer, or 81281
state highway patrol trooper. 81282

(8) "Residential facility" means a group home for 81283
children, children's crisis care facility, children's 81284
residential center, residential parenting facility that provides 81285
twenty-four-hour child care, county children's home, or district 81286
children's home. A foster home is not a residential facility. 81287

(9) "Residential parenting facility" means a facility 81288
operated by a private child placing agency, private noncustodial 81289
agency, or public children services agency, that has been 81290
certified by the department to operate a residential parenting 81291
facility, in which teenage mothers and their children reside for 81292
the purpose of keeping mother and child together, teaching 81293
parenting and life skills to the mother, and assisting teenage 81294
mothers in obtaining educational or vocational training and 81295
skills. 81296

(10) "Nonsecure care and supervision" means care and 81297
supervision of a child in a residential facility that does not 81298
confine or prevent movement of the child within the facility or 81299
from the facility. 81300

(11) "Volunteer firefighter" has the same meaning as in 81301
section 146.01 of the Revised Code. 81302

(B) In its application for a certificate, the operator of 81303
a residential facility shall demonstrate, to the satisfaction of 81304
the department of children and youth, that the proposed 81305
residential facility meets all applicable local planning and 81306
zoning requirements. A residential facility shall maintain 81307
compliance with all applicable local planning and zoning 81308
requirements in order for the facility's certificate to remain 81309
in good standing. 81310

(C) Prior to the commencement of operations of a 81311
residential facility, the operator of the facility shall provide 81312
to the board of township trustees or the legislative authority 81313
of the municipal corporation wherein the facility will be 81314
located notification that the facility will be in operation. 81315

(D) Divisions (B) and (C) of this section shall apply only 81316

to a residential facility that is operated by a public children 81317
services agency, private noncustodial agency, private child 81318
placing agency, or superintendent of a county or district 81319
children's home for the placement of foster children. 81320

(E) Within ten days after the commencement of operations 81321
at a residential facility, the facility shall provide the 81322
following to all county, municipal, or township law enforcement 81323
agencies, emergency management agencies, and fire departments 81324
with jurisdiction over the facility: 81325

(1) Written notice that the facility is located and will 81326
be operating in the agency's or department's jurisdiction. The 81327
written notice shall provide the address of the facility, 81328
identify the facility as a group home for children, children's 81329
crisis care facility, children's residential center, residential 81330
parenting facility, county children's home, or district 81331
children's home, and provide contact information for the 81332
facility. 81333

(2) A copy of the facility's procedures for emergencies 81334
and disasters established pursuant to rules ~~adopted under~~ 81335
~~section 5103.03 of the Revised Code;~~ 81336

(3) A copy of the facility's medical emergency plan 81337
established pursuant to rules ~~adopted under section 5103.03 of~~ 81338
~~the Revised Code;~~ 81339

(4) A copy of the facility's community engagement plan 81340
established pursuant to rules adopted under section 5103.051 of 81341
the Revised Code. 81342

(F) Within ten days of any change to the facility's 81343
information described in divisions (E) (2), (3), and (4) of this 81344
section, the facility shall provide to all county, municipal, or 81345

township law enforcement agencies, emergency management 81346
agencies, and fire departments with jurisdiction over the 81347
facility updated copies of the information required to be 81348
provided under divisions (E) (2), (3), and (4) of this section. 81349

(G) A residential facility that is operated by a public 81350
children services agency, private noncustodial agency, private 81351
child placing agency, or superintendent of a county or district 81352
children's home for the placement of foster children also shall 81353
provide the information described in divisions (E) and (F) of 81354
this section to the board of township trustees or the 81355
legislative authority of the municipal corporation wherein the 81356
facility will be located. 81357

~~(H) The department may adopt rules in accordance with 81358
Chapter 119. of the Revised Code necessary to implement this 81359
section. 81360~~

Sec. 5103.053. (A) The appointing or hiring officer of a 81361
residential facility that appoints or employs any person in the 81362
residential facility shall request the superintendent of BCII to 81363
conduct a criminal records check with respect to any person who 81364
is under final consideration for appointment or employment in 81365
the residential facility. The request shall be made at the time 81366
of initial application for appointment or employment and every 81367
four years thereafter. 81368

(B) (1) When the appointing or hiring officer requests, at 81369
the time of initial application for appointment or employment, a 81370
criminal records check for a person subject to division (A) of 81371
this section, the officer shall request that the superintendent 81372
of BCII obtain information from the federal bureau of 81373
investigation as part of the criminal records check, including 81374
fingerprint-based checks of national crime information databases 81375

as described in 42 U.S.C. 671, for the person subject to the 81376
criminal records check. In all other cases in which the 81377
appointing or hiring officer requests a criminal records check 81378
for a person pursuant to division (A) of this section, the 81379
officer may request that the superintendent of BCII obtain 81380
information from the federal bureau of investigation as part of 81381
the criminal records check, including fingerprint-based checks 81382
of national crime information databases as described in 42 81383
U.S.C. 671, for the person subject to the criminal records 81384
check. 81385

(2) An appointing or hiring officer required by division 81386
(A) of this section to request a criminal records check shall 81387
provide to each person subject to a criminal records check a 81388
copy of the form prescribed pursuant to division (C)(1) of 81389
section 109.572 of the Revised Code and a standard impression 81390
sheet to obtain fingerprint impressions prescribed pursuant to 81391
division (C)(2) of section 109.572 of the Revised Code, obtain 81392
the completed form and impression sheet from the person, and 81393
forward the completed form and impression sheet to the 81394
superintendent of BCII at the time the criminal records check is 81395
requested. 81396

(3) Any person subject to a criminal records check who 81397
receives pursuant to division (B)(2) of this section a copy of 81398
the form prescribed pursuant to division (C)(1) of section 81399
109.572 of the Revised Code and a copy of an impression sheet 81400
prescribed pursuant to division (C)(2) of that section and who 81401
is requested to complete the form and provide a set of 81402
fingerprint impressions shall complete the form or provide all 81403
the information necessary to complete the form and shall provide 81404
the impression sheet with the impressions of the person's 81405
fingerprints. If a person subject to a criminal records check, 81406

upon request, fails to provide the information necessary to 81407
complete the form or fails to provide impressions of the 81408
person's fingerprints, the appointing or hiring officer shall 81409
not appoint or employ the person in the residential facility. 81410

(C) (1) No appointing or hiring officer shall appoint or 81411
employ a person in the residential facility if the person 81412
previously has been convicted of or pleaded guilty to any of the 81413
violations described in division (A) (4) of section 109.572 of 81414
the Revised Code, unless the person meets rehabilitation 81415
standards established in rules adopted under division (F) of 81416
this section. 81417

(2) If the federal government approves a waiver requested 81418
by the director of children and youth to allow conditional 81419
appointment or employment in a residential facility, an 81420
appointing or hiring officer may appoint or employ conditionally 81421
a person before obtaining the results of a criminal records 81422
check regarding the person, provided that the officer shall 81423
request a criminal records check regarding the person under 81424
division (A) of this section before the commencement of the 81425
conditional appointment or employment and the person has no 81426
direct contact with or access to children during the period of 81427
conditional appointment or employment. 81428

(3) An appointing or hiring officer that appoints or 81429
employs a person conditionally under division (C) (2) of this 81430
section shall terminate the person's appointment or employment 81431
if the results of the criminal records check requested under 81432
division (A) of this section, other than the results of any 81433
request for information from the federal bureau of 81434
investigation, are not obtained within the period ending sixty 81435
days after the date the request is made. Regardless of when the 81436

results of the criminal records check are obtained, if the 81437
results indicate that the person has been convicted of or 81438
pleaded guilty to any of the violations described in division 81439
(A) (4) of section 109.572 of the Revised Code, the officer shall 81440
terminate the person's appointment or employment unless the 81441
person meets rehabilitation standards established in rules 81442
adopted under division (F) of this section. Termination under 81443
this division shall be considered just cause for discharge for 81444
purposes of division (D) (2) of section 4141.29 of the Revised 81445
Code if the person makes any attempt to deceive the appointing 81446
or hiring officer about the person's criminal record. 81447

(D) The appointing or hiring officer shall pay to the 81448
bureau of criminal identification and investigation the fee 81449
prescribed pursuant to division (C) (3) of section 109.572 of the 81450
Revised Code for each criminal records check conducted in 81451
accordance with that section upon a request pursuant to division 81452
(A) of this section. The officer may charge the person subject 81453
to the criminal records check a fee for the costs the officer 81454
incurs in obtaining the criminal records check. A fee charged 81455
under this division shall not exceed the amount of fees the 81456
officer pays for the criminal records check. If a fee is charged 81457
under this division, the officer shall notify the person who is 81458
the applicant at the time of the person's initial application 81459
for appointment or employment of the amount of the fee and that, 81460
unless the fee is paid, the person who is the applicant will not 81461
be considered for appointment or employment. 81462

(E) The report of any criminal records check conducted by 81463
the bureau of criminal identification and investigation in 81464
accordance with section 109.572 of the Revised Code and pursuant 81465
to a request made under division (A) of this section is not a 81466
public record for the purposes of section 149.43 of the Revised 81467

Code and shall not be made available to any person other than 81468
the following: 81469

(1) The person who is the subject of the criminal records 81470
check or the person's representative; 81471

(2) The appointing or hiring officer requesting the 81472
criminal records check or the officer's representative; 81473

(3) The department of children and youth, a county 81474
department of job and family services, or a public children 81475
services agency; 81476

(4) Any court, hearing officer, or other necessary 81477
individual involved in a case dealing with the denial of 81478
employment. 81479

(F) Not later than ninety days after ~~the effective date of~~ 81480
~~this section~~ April 3, 2025, the director of children and youth 81481
shall adopt rules in accordance with Chapter 119. of the Revised 81482
Code ~~to implement this section. The rules shall include~~ 81483
regarding the rehabilitation standards a person who has been 81484
convicted of or pleaded guilty to an offense listed in division 81485
(A) (4) of section 109.572 of the Revised Code must meet for an 81486
appointing or hiring officer to appoint or employ the person in 81487
the residential facility and, to the extent permitted under 81488
federal law, guidelines regarding conditional appointment or 81489
employment during the pendency of a criminal records check. 81490

(G) An appointing or hiring officer required by division 81491
(A) of this section to request a criminal records check shall 81492
inform each person who is the applicant, at the time of the 81493
person's initial application for appointment or employment that 81494
the person subject to the criminal records check is required to 81495
provide a set of impressions of the person's fingerprints and 81496

that a criminal records check is required to be conducted and 81497
satisfactorily completed in accordance with section 109.572 of 81498
the Revised Code. 81499

(H) As used in this section: 81500

(1) "Criminal records check" has the same meaning as in 81501
section 109.572 of the Revised Code. 81502

(2) "Person subject to a criminal records check" means a 81503
person who is under final consideration for appointment or 81504
employment in the residential facility; 81505

(3) "Superintendent of BCII" means the superintendent of 81506
the bureau of criminal identification and investigation. 81507

Sec. 5103.07. The department of children and youth shall 81508
administer funds received under Title IV-B of the "Social 81509
Security Act," 81 Stat. 821 (1967), 42 U.S.C.A. 620, as amended, 81510
and the "Child Abuse Prevention and Treatment Act," 88 Stat. 4 81511
(1974), 42 U.S.C.A. 5101, as amended. In administering these 81512
funds, the department may establish a child welfare services 81513
program and a child abuse and neglect prevention and adoption 81514
reform program. The department has all powers necessary, except 81515
for the adoption of rules, for the adequate administration of 81516
these funds and programs. ~~The director of children and youth may~~ 81517
~~adopt rules as necessary to carry out the purposes of this~~ 81518
~~section.~~ 81519

Sec. 5103.18. (A) (1) Prior to certification as a foster 81520
home under section 5103.03 of the Revised Code, a recommending 81521
agency shall obtain a summary report of a search of the uniform 81522
statewide automated child welfare information system, 81523
established under section 5180.40 of the Revised Code, from an 81524
entity listed in section 5180.402 of the Revised Code. 81525

(2) Whenever a prospective foster parent or any other person eighteen years of age or older who resides with a prospective foster parent has resided in another state within the five-year period immediately prior to the date on which a criminal records check is requested for the person under division (A) of section 2151.86 of the Revised Code, the recommending agency shall request a check of the central registry of abuse and neglect of this state from the department of children and youth regarding the prospective foster parent or the person eighteen years of age or older who resides with the prospective foster parent to enable the agency to check any child abuse and neglect registry maintained by that other state. The recommending agency shall make the request and shall review the results of the check before the prospective foster parent may be finally approved for placement of a child. Information received pursuant to such a request shall be considered for purposes of this chapter as if it were a summary report required under division (A) of this section. The department of children and youth shall comply with any request to check the central registry that is similar to the request described in this division and that is received from any other state.

(B) (1) The summary report required under division (A) of this section shall contain, if applicable, a chronological list of abuse and neglect determinations or allegations of which a person seeking to become a foster caregiver of a child is subject and in regards to which a public children services agency has done one of the following:

- (a) Determined that abuse or neglect occurred;
- (b) Initiated an investigation, and the investigation is ongoing;

(c) Initiated an investigation, and the agency was unable to determine whether abuse or neglect occurred. 81556
81557

(2) The summary report required under division (A) of this section shall not contain any of the following: 81558
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(a) An abuse and neglect determination of which a person seeking to become a foster caregiver of a child is subject and in regards to which a public children services agency determined that abuse or neglect did not occur; 81560
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(b) Information or reports the dissemination of which is prohibited by, or interferes with eligibility under, the "Child Abuse Prevention and Treatment Act," 88 Stat. 4 (1974), 42 U.S.C. 5101 et seq., as amended; 81564
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(c) The name of the person who or entity that made, or participated in the making of, the report of abuse or neglect. 81568
81569

(C) (1) A foster home certification may be denied based on a summary report containing the information described under division (B) (1) (a) of this section, when considered within the totality of the circumstances. 81570
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(2) A foster home certification shall not be denied solely based on a summary report containing the information described under division (B) (1) (b) or (c) of this section. 81574
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~~(D) The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section.~~ 81577
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Sec. 5103.181. ~~(A)~~ Prior to certification of a foster home under section 5103.03 of the Revised Code, a recommending agency shall conduct a search of the United States department of justice national sex offender public web site regarding the 81580
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prospective or current foster caregiver and all persons eighteen 81584
years of age or older who reside with the prospective or current 81585
foster caregiver. Certification may be denied based solely on 81586
the results of the search. 81587

~~(B) The director of children and youth shall adopt rules 81588
in accordance with Chapter 119. of the Revised Code necessary 81589
for the implementation and execution of this section. 81590~~

Sec. 5104.013. (A) (1) As used in this section: 81591

(a) "Applicant" means either of the following: 81592

(i) A person who is under final consideration for 81593
appointment to or employment in a position with a licensed 81594
preschool program or licensed school child program that provides 81595
publicly funded child care, authorized private before and after 81596
school care program, child care center, type A family child care 81597
home, licensed type B family child care home, or child day camp; 81598

(ii) A person who would serve in any position with a 81599
licensed preschool program or licensed school child program that 81600
provides publicly funded child care, authorized private before 81601
and after school care program, child care center, type A family 81602
child care home, licensed type B family child care home, or 81603
child day camp pursuant to a contract with another entity. 81604

(b) "Authorized private before and after school care 81605
program" has the same meaning as in section 3301.52 of the 81606
Revised Code. 81607

(c) "Criminal records check" has the same meaning as in 81608
section 109.572 of the Revised Code. 81609

(2) Regarding an authorized private before and after 81610
school care program only, "director" means an individual who is 81611

responsible for ensuring compliance with this section and any rules adopted under it. 81612
81613

(B) (1) At the times specified in division (B) (2) (a) of this section, the director of children and youth shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check for each of the following persons: 81614
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(a) Any owner or licensee of a child care center; 81619

(b) Any owner or licensee of a type A family child care home or licensed type B family child care home and any person eighteen years of age or older who resides in the home; 81620
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(c) Any owner of an approved child day camp; 81623

(d) Any director of a licensed preschool program or licensed school child program that provides publicly funded child care; 81624
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(e) Any owner or director of an authorized private before and after school care program; 81627
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(f) Any in-home aide; 81629

(g) Any applicant or employee, including an administrator, of a child care center, type A family child care home, licensed type B family child care home, approved child day camp, licensed preschool program or licensed school child program that provides publicly funded child care, or authorized private before and after school care program. 81630
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(2) (a) The director shall request a criminal records check at the following times: 81636
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(i) In the case of an owner or licensee of child care 81638

center or an owner or licensee of a type A family child care 81639
home or licensed type B family child care home or a resident of 81640
such a home, at the time of initial application for licensure 81641
and every five years thereafter; 81642

(ii) In the case of an owner of an approved child day 81643
camp, at the time of initial application for approval and every 81644
five years thereafter; 81645

(iii) In the case of a director of a licensed child care 81646
program or licensed school child program, at the time of initial 81647
application to provide publicly funded child care and every five 81648
years thereafter; 81649

(iv) In the case of an owner or director of an authorized 81650
private before and after school care program, at the time of 81651
initial application for licensure and every five years 81652
thereafter; 81653

(v) In the case of an in-home aide, at the time of initial 81654
application for certification and every five years thereafter; 81655

(vi) Except as provided in division (B)(2)(a)(vii) of this 81656
section, in the case of an applicant or employee, at the time of 81657
initial application for employment and every five years 81658
thereafter; 81659

(vii) In the case of an applicant who has been determined 81660
eligible for employment after a review of a criminal records 81661
check within the past five years and who has been employed by a 81662
licensed preschool program or licensed school child program that 81663
provides publicly funded child care, authorized private before 81664
and after school care program, child care center, type A family 81665
child care home, licensed type B family child care home, or 81666
approved child day camp within the past one hundred eighty 81667

consecutive days, every five years after the date of the initial
determination. 81668
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(b) A criminal records check requested at the time of 81670
initial application shall include a request that the 81671
superintendent of the bureau of criminal identification and 81672
investigation obtain information from the federal bureau of 81673
investigation as part of the criminal records check for the 81674
person, including fingerprint-based checks of national crime 81675
information databases as described in 42 U.S.C. 671 for the 81676
person subject to the criminal records check. 81677

(c) A criminal records check requested at any time other 81678
than the time of initial application may include a request that 81679
the superintendent of the bureau of criminal identification and 81680
investigation obtain information from the federal bureau of 81681
investigation as part of the criminal records check for the 81682
person, including fingerprint-based checks of national crime 81683
information databases as described in 42 U.S.C. 671 for the 81684
person subject to the criminal records check. 81685

(3) With respect to a criminal records check requested for 81686
a person described in division (B) (1) of this section, the 81687
director of children and youth shall do all of the following: 81688

(a) Provide to the person a copy of the form prescribed 81689
pursuant to division (C) (1) of section 109.572 of the Revised 81690
Code and a standard impression sheet to obtain fingerprint 81691
impressions prescribed pursuant to division (C) (2) of that 81692
section; 81693

(b) Obtain the completed form and impression sheet from 81694
the person; 81695

(c) Forward the completed form and impression sheet to the 81696

superintendent of the bureau of criminal identification and 81697
investigation; 81698

(d) Review the results of the criminal records check. 81699

(4) A person who receives from the director a copy of the 81700
form and standard impression sheet and who is requested to 81701
complete the form and provide a set of fingerprint impressions 81702
shall complete the form or provide all of the information 81703
necessary to complete the form and shall provide the impression 81704
sheet with the impressions of the person's fingerprints. If the 81705
person, upon request, fails to provide the information necessary 81706
to complete the form or fails to provide impressions of the 81707
person's fingerprints, the director of children and youth or a 81708
county director of job and family services may consider the 81709
failure a reason to deny licensure, approval, or certification 81710
or to determine an employee ineligible for employment. 81711

(5) Except as provided in rules adopted under division ~~(F)~~ 81712
(G) of this section: 81713

(a) The director of children and youth shall refuse to 81714
issue a license to or approve a center, type A home, type B 81715
home, child day camp, preschool program, school child program, 81716
or authorized private before and after school care program, and 81717
shall revoke a license or approval, and a county director of job 81718
and family services shall not certify an in-home aide and shall 81719
revoke a certification, if a person for whom a criminal records 81720
check was required under divisions (B) (1) (a) to (B) (1) (f) of 81721
this section has been convicted of or pleaded guilty to any of 81722
the violations described in division (A) (5) of section 109.572 81723
of the Revised Code. 81724

(b) The director of children and youth shall not issue a 81725

license to a type A home or type B home if a resident of the 81726
type A home or type B home is under eighteen years of age and 81727
has been adjudicated a delinquent child for committing either a 81728
violation of any section listed in division (A) (5) of section 81729
109.572 of the Revised Code or an offense of another state or 81730
the United States that is substantially equivalent to an offense 81731
listed in division (A) (5) of section 109.572 of the Revised 81732
Code. 81733

(c) The director shall determine an applicant or employee 81734
ineligible for employment if the person has been convicted of or 81735
pleaded guilty to any of the violations described in division 81736
(A) (5) of section 109.572 of the Revised Code. 81737

(6) Each child care center, type A home, type B home, 81738
approved child day camp, licensed child care program, licensed 81739
school child program, authorized private before and after school 81740
care program, and in-home aide shall pay to the bureau of 81741
criminal identification and investigation the fee prescribed 81742
pursuant to division (C) (3) of section 109.572 of the Revised 81743
Code for each criminal records check conducted in accordance 81744
with that section upon a request made pursuant to division (B) 81745
of this section. 81746

A center, home, camp, preschool program, school child 81747
program, or authorized private before and after school care 81748
program may charge an applicant a fee for the costs it incurs in 81749
obtaining a criminal records check under this section. A fee 81750
charged under this division shall not exceed the amount the 81751
center, home, camp, or program pays under this section. If a fee 81752
is charged, the center, home, camp, or program shall notify the 81753
applicant at the time of the applicant's initial application for 81754
employment of the amount of the fee and that, unless the fee is 81755

paid, the center, home, camp, or program will not consider the 81756
applicant for employment. 81757

(7) The report of any criminal records check conducted by 81758
the bureau of criminal identification and investigation in 81759
accordance with section 109.572 of the Revised Code and pursuant 81760
to a request made under division (B) of this section is 81761
confidential and not a public record for the purposes of section 81762
149.43 of the Revised Code. The report shall not be made 81763
available to any person other than the person who is the subject 81764
of the criminal records check or the person's representative, 81765
the director of children and youth, the director of a county 81766
department of job and family services, and any court, hearing 81767
officer, or other necessary individual involved in a case 81768
dealing with a denial or revocation of licensure, approval, or 81769
certification related to the criminal records check. 81770

(C) (1) At the times specified in division (C) (2) of this 81771
section, the director of children and youth shall search the 81772
uniform statewide automated child welfare information system for 81773
information concerning any abuse or neglect report made pursuant 81774
to section 2151.421 of the Revised Code of which any of the 81775
following persons is a subject: 81776

(a) Any owner or licensee of a child care center; 81777

(b) Any owner or licensee of a type A family child care 81778
home or licensed type B family child care home and any person 81779
eighteen years of age or older who resides in the home; 81780

(c) Any owner of an approved child day camp; 81781

(d) Any director of a licensed preschool program or 81782
licensed school child program that provides publicly funded 81783
child care; 81784

(e) Any owner or director of an authorized private before and after school care program;	81785 81786
(f) Any in-home aide;	81787
(g) Any applicant or employee, including an administrator, of a child care center, type A family child care home, licensed type B family child care home, approved child day camp, licensed preschool program or licensed school child program that provides publicly funded child care, or authorized private before and after school care program.	81788 81789 81790 81791 81792 81793
(2) The director shall search the information system at the following times:	81794 81795
(a) In the case of an owner or licensee of child care center or an owner or licensee of a type A family child care home or licensed type B family child care home or a resident of such a home, at the time of initial application for licensure and every five years thereafter;	81796 81797 81798 81799 81800
(b) In the case of an owner of an approved child day camp, at the time of initial application for approval and every five years thereafter;	81801 81802 81803
(c) In the case of a director of a licensed child care program or licensed school child program, at the time of initial application to provide publicly funded child care and every five years thereafter;	81804 81805 81806 81807
(d) In the case of an owner or director of an authorized private before and after school care program, at the time of initial application for licensure and every five years thereafter;	81808 81809 81810 81811
(e) In the case of an in-home aide, at the time of initial	81812

application for certification and every five years thereafter; 81813

(f) Except as provided in division (C) (2) (g) of this 81814
section, in the case of an applicant or employee, at the time of 81815
initial application for employment and every five years 81816
thereafter; 81817

(g) In the case of an applicant who has been determined 81818
eligible for employment after a search of the uniform statewide 81819
automated child welfare information system within the past five 81820
years and who has been employed by a licensed preschool program 81821
or licensed school child program that provides publicly funded 81822
child care, authorized private before and after school care 81823
program, child care center, type A family child care home, 81824
licensed type B family child care home, or approved child day 81825
camp within the past one hundred eighty consecutive days, every 81826
five years after the date of the initial determination. 81827

(3) The director shall consider any information discovered 81828
pursuant to division (C) (1) of this section or that is provided 81829
by a public children services agency pursuant to section 81830
5153.175 of the Revised Code. If the director determines that 81831
the information, when viewed within the totality of the 81832
circumstances, reasonably leads to the conclusion that the 81833
person may directly or indirectly endanger the health, safety, 81834
or welfare of children, the director of children and youth or 81835
county director of job and family services shall do any of the 81836
following: 81837

(a) Refuse to issue a license to or approve a center, type 81838
A home, type B home, child day camp, preschool program, school 81839
child program, or authorized private before and after school 81840
care program; 81841

(b) Revoke a license or approval;	81842
(c) Refuse to certify an in-home aide or revoke a certification;	81843 81844
(d) Determine an applicant or employee ineligible for employment with the center, type A home, licensed type B home, child day camp, preschool program, school child program, or authorized private before and after school care program.	81845 81846 81847 81848
(4) Any information obtained under division (C) of this section is confidential and not a public record for the purposes of section 149.43 of the Revised Code. The information shall not be made available to any person other than the person who is the subject of the search or the person's representative, the director of children and youth, the director of a county department of job and family services, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of licensure, approval, or certification related to the search.	81849 81850 81851 81852 81853 81854 81855 81856 81857 81858
(D) (1) At the times specified in division (D) (2) of this section, the director of children and youth shall inspect the state registry of sex offenders and child-victim offenders established under section 2950.13 of the Revised Code and the national sex offender registry as described in 42 U.S.C. 16901 to determine if any of the following persons is registered or required to be registered as an offender:	81859 81860 81861 81862 81863 81864 81865
(a) Any owner or licensee of a child care center;	81866
(b) Any owner or licensee of a type A family child care home or licensed type B family child care home and any person eighteen years of age or older who resides in the home;	81867 81868 81869
(c) Any owner of an approved child day camp;	81870

- (d) Any director of a licensed preschool program or licensed school child program that provides publicly funded child care; 81871
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- (e) Any owner or director of an authorized private before and after school care program; 81874
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- (f) Any in-home aide; 81876
- (g) Any applicant or employee, including an administrator, of a child care center, type A family child care home, licensed type B family child care home, approved child day camp, licensed preschool program or licensed school child program that provides publicly funded child care, or authorized private before and after school care program. 81877
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- (2) The director shall inspect each registry at the following times: 81883
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- (a) In the case of an owner or licensee of child care center or an owner or licensee of a type A family child care home or type B family child care home or a resident of such a home, at the time of initial application for licensure and every five years thereafter; 81885
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- (b) In the case of an owner of an approved child day camp, at the time of initial application for approval and every five years thereafter; 81890
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- (c) In the case of a director of a licensed child care program or licensed school child program, at the time of initial application to provide publicly funded child care; 81893
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- (d) In the case of an owner or director of an authorized private before and after school care program, at the time of initial application for licensure and every five years 81896
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thereafter; 81899

(e) In the case of an in-home aide, at the time of initial application for certification and every five years thereafter; 81900
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(f) Except as provided in division (D) (2) (g) of this section, in the case of an applicant or employee, at the time of initial application for employment and every five years thereafter; 81902
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(g) In the case of an applicant who has been determined eligible for employment after an inspection of the state registry of sex offenders and child-victim offenders established under section 2950.13 of the Revised Code and the national sex offender registry as described in 42 U.S.C. 16901 within the past five years and who has been employed by a licensed preschool program or licensed school child program that provides publicly funded child care, authorized private before and after school care program, child care center, type A family child care home, licensed type B family child care home, or approved child day camp within the past one hundred eighty consecutive days, every five years after the date of the initial determination. 81906
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(3) If the director determines that the person is registered or required to be registered on either registry, the director of children and youth or county director of job and family services shall do any of the following: 81918
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(a) Refuse to issue a license to or approve a center, type A home, type B home, child day camp, preschool program, school child program, or authorized private before and after school care program; 81922
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(b) Revoke a license or approval; 81926

(c) Refuse to certify an in-home aide or revoke a 81927

certification; 81928

(d) Determine an applicant or employee ineligible for 81929
employment with the center, type A home, licensed type B home, 81930
child day camp, preschool program, school child program, or 81931
authorized private before and after school care program. 81932

(4) Any information obtained under division (D) of this 81933
section is confidential and not a public record for the purposes 81934
of section 149.43 of the Revised Code. The information shall not 81935
be made available to any person other than the person who is the 81936
subject of the inspection or the person's representative, the 81937
director of children and youth, the director of a county 81938
department of job and family services, and any court, hearing 81939
officer, or other necessary individual involved in a case 81940
dealing with a denial or revocation of licensure, approval, or 81941
certification related to the search. 81942

(E) Whenever the director of children and youth determines 81943
a person ineligible for employment under division (B), (C), or 81944
(D) of this section, the director shall as soon as practicable 81945
notify the following of that determination: the licensed 81946
preschool program or licensed school child program that provides 81947
publicly funded child care, authorized private before and after 81948
school care program, child care center, type A family child care 81949
home, licensed type B family child care home, or approved child 81950
day camp that is considering the person for appointment or 81951
employment. A licensed preschool program or licensed school 81952
child program that provides publicly funded child care, 81953
authorized private before and after school care program, child 81954
care center, type A family child care home, licensed type B 81955
family child care home, or approved child day camp shall not 81956
employ a person who is determined under this section to be 81957

ineligible for employment. 81958

(F) (1) An administrator of a child day camp, other than an 81959
approved child day camp shall request the superintendent of the 81960
bureau of criminal identification and investigation to conduct a 81961
criminal records check for any applicant or employee, including 81962
an administrator, of the child day camp. The request shall be 81963
made at the time of initial application for employment and every 81964
five years thereafter. 81965

(2) A criminal records check requested at the time of 81966
initial application shall include a request that the 81967
superintendent of the bureau of criminal identification and 81968
investigation obtain information from the federal bureau of 81969
investigation as part of the criminal records check for the 81970
person, including fingerprint-based checks of national crime 81971
information databases as described in 42 U.S.C. 671 for the 81972
person subject to the criminal records check. 81973

(3) A criminal records check requested at any time other 81974
than the time of initial application may include a request that 81975
the superintendent of the bureau of criminal identification and 81976
investigation obtain information from the federal bureau of 81977
investigation as part of the criminal records check for the 81978
person, including fingerprint-based checks of national crime 81979
information databases as described in 42 U.S.C. 671 for the 81980
person subject to the criminal records check. 81981

(4) With respect to a criminal records check requested 81982
under division (F) of this section, the administrator shall do 81983
all of the following: 81984

(a) Provide to the applicant or employee a copy of the 81985
form prescribed pursuant to division (C) (1) of section 109.572 81986

of the Revised Code and a standard impression sheet to obtain 81987
fingerprint impressions prescribed pursuant to division (C) (2) 81988
of that section; 81989

(b) Obtain the completed form and impression sheet from 81990
the applicant or employee; 81991

(c) Forward the completed form and impression sheet to the 81992
superintendent of the bureau of criminal identification and 81993
investigation; 81994

(d) Review the results of the criminal records check. 81995

(5) An applicant or employee who receives from the 81996
administrator a copy of the form and standard impression sheet 81997
and who is requested to complete the form and provide a set of 81998
fingerprint impressions shall complete the form or provide all 81999
of the information necessary to complete the form and shall 82000
provide the impression sheet with the impressions of the 82001
person's fingerprints. If the applicant or employee, upon 82002
request, fails to provide the information necessary to complete 82003
the form or fails to provide impressions of the person's 82004
fingerprints, the administrator may consider the failure a 82005
reason to determine an applicant or employee ineligible for 82006
employment. 82007

(6) A child day camp, other than an approved child day 82008
camp, may employ an applicant or continue to employ an employee 82009
until the criminal records check required by this section is 82010
completed and the camp receives the results of the check. Until 82011
the administrator has reviewed the results of the criminal 82012
records check and determines that the applicant or employee is 82013
eligible for employment, the camp shall not grant the applicant 82014
or employee sole responsibility for the care, custody, or 82015

control of a child. If the results indicate that the applicant 82016
or employee is ineligible for employment, the camp shall 82017
immediately release the applicant or employee from employment. 82018

(7) Except as provided in rules adopted under this 82019
section, the administrator shall determine an applicant or 82020
employee ineligible for employment if the person has been 82021
convicted of or pleaded guilty to any of the violations 82022
described in division (A) (5) of section 109.572 of the Revised 82023
Code. If the applicant or employee is determined ineligible, the 82024
child day camp shall not employ the applicant or employee or 82025
contract with another entity for the services of the applicant 82026
or employee. 82027

(8) Each child day camp shall pay to the bureau of 82028
criminal identification and investigation the fee prescribed 82029
pursuant to division (C) (3) of section 109.572 of the Revised 82030
Code for each criminal records check conducted in accordance 82031
with that section upon a request made pursuant to division (F) 82032
of this section. A camp may charge an applicant or employee a 82033
fee for the costs it incurs in obtaining a criminal records 82034
check under division (F) of this section. A fee charged under 82035
this division shall not exceed the fees the camp pays under this 82036
section. If a fee is charged, the camp shall notify the 82037
applicant at the time of the applicant's initial application for 82038
employment of the amount of the fee and that, unless the fee is 82039
paid, the camp will not consider the applicant for employment. 82040

(9) The report of any criminal records check conducted by 82041
the bureau of criminal identification and investigation in 82042
accordance with section 109.572 of the Revised Code and pursuant 82043
to a request made under division (F) of this section is 82044
confidential and not a public record for the purposes of section 82045

149.43 of the Revised Code. The report shall not be made 82046
available to any person other than the person who is the subject 82047
of the criminal records check or the person's representative, 82048
the director of children and youth, the administrator, and any 82049
court, hearing officer, or other necessary individual involved 82050
in a case dealing with a denial or revocation of registration 82051
related to the criminal records check. 82052

(G) The director of children and youth shall adopt rules 82053
~~as necessary to implement this section. The rules shall be~~ 82054
~~adopted~~ in accordance with Chapter 119. of the Revised Code. ~~The~~ 82055
~~rules shall to~~ specify exceptions to the prohibitions in 82056
divisions (B), (E), and (F) of this section for a person who has 82057
been convicted of or pleaded guilty to a criminal offense listed 82058
in division (A) (5) of section 109.572 of the Revised Code but 82059
who meets standards in regard to rehabilitation set by the 82060
director. 82061

(H) (1) Whenever the director of children and youth 82062
requests a criminal records check, searches the uniform 82063
statewide automated child welfare information system, or 82064
inspects the state registry of sex offenders and child-victim 82065
offenders and national sex offender registry as required by this 82066
section and finds that a person who is subject to the 82067
requirements of division (B), (C), or (D) of this section 82068
resided in another state during the previous five years, the 82069
director shall request the following from the other state: a 82070
criminal records check and information from the uniform 82071
statewide automated child welfare information system or state 82072
registry of sex offenders. 82073

(2) Whenever the director receives from an agency of 82074
another state a request for a criminal records check or for 82075

information from the uniform statewide automated child welfare 82076
information system or state registry of sex offenders that is 82077
related to a child care license or the provision of publicly 82078
funded child care, the director shall provide to that other 82079
state's agency the results of the records check and information 82080
from the system and registry. 82081

Sec. 5104.015. The director of children and youth shall 82082
adopt rules in accordance with Chapter 119. of the Revised Code 82083
governing the operation of child care centers, including parent 82084
cooperative centers, part-time centers, and drop-in centers. The 82085
rules shall reflect the various forms of child care and the 82086
needs of children receiving child care or publicly funded child 82087
care and shall include specific rules for school-age child care 82088
centers that are developed in consultation with the department 82089
of education and workforce. The rules shall include the 82090
following: 82091

(A) Submission of a site plan and descriptive plan of 82092
operation to demonstrate how the center proposes to meet the 82093
requirements of this chapter and rules adopted pursuant to this 82094
chapter for the initial license application; 82095

(B) Standards for ensuring that the physical surroundings 82096
of the center are safe and sanitary including the physical 82097
environment, the physical plant, and the equipment of the 82098
center; 82099

(C) Standards for the supervision, care, and discipline of 82100
children receiving child care or publicly funded child care in 82101
the center; 82102

(D) Standards for a program of activities, and for play 82103
equipment, materials, and supplies, to enhance the development 82104

of each child; however, any educational curricula, philosophies, 82105
and methodologies that are developmentally appropriate and that 82106
enhance the social, emotional, intellectual, and physical 82107
development of each child shall be permissible. As used in this 82108
division, "program" does not include instruction in religious or 82109
moral doctrines, beliefs, or values that is conducted at child 82110
care centers owned and operated by churches and does include 82111
methods of disciplining children at child care centers. 82112

(E) Admissions policies and procedures; 82113

(F) Health care policies and procedures, including 82114
procedures for the isolation of children with communicable 82115
diseases; 82116

(G) First aid and emergency procedures; 82117

(H) Procedures for discipline and supervision of children; 82118

(I) Standards for the provision of nutritious meals and 82119
snacks; 82120

(J) Procedures for screening children that may include any 82121
necessary physical examinations and shall include immunizations 82122
in accordance with section 5104.014 of the Revised Code; 82123

(K) Procedures for screening employees that may include 82124
any necessary physical examinations and immunizations; 82125

(L) Methods for encouraging parental participation in the 82126
center and methods for ensuring that the rights of children, 82127
parents, and employees are protected and that responsibilities 82128
of parents and employees are met; 82129

(M) Procedures for ensuring the safety and adequate 82130
supervision of children traveling off the premises of the center 82131
while under the care of a center employee; 82132

(N) Procedures for record keeping, organization, and administration;	82133 82134
(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	82135 82136 82137
(P) Inspection procedures;	82138
(Q) Procedures and standards for setting initial license application fees;	82139 82140
(R) Procedures for receiving, recording, and responding to complaints about centers;	82141 82142
(S) Procedures for enforcing section 5104.04 of the Revised Code;	82143 82144
(T) Minimum qualifications for employment as an administrator or child care staff member, which shall not include requiring an administrator or child care staff member to hold or obtain a bachelor's, master's, or doctoral degree;	82145 82146 82147 82148
(U) Requirements for the training of administrators and child care staff members, including training in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;	82149 82150 82151 82152
(V) Standards providing for the needs of children who have disabilities or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the center;	82153 82154 82155 82156
(W) A procedure for reporting of injuries of children that occur at the center;	82157 82158
(X) Standards for licensing child care centers for	82159

children with short-term illnesses and other temporary medical conditions;	82160 82161
(Y) Minimum requirements for instructional time for child care centers rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;	82162 82163 82164
(Z) Any other procedures and standards necessary to carry out the provisions of this chapter regarding child care centers.	82165 82166
Sec. 5104.017. The director of children and youth shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family child care homes, including parent cooperative type A homes, part-time type A homes, and drop-in type A homes. The rules shall reflect the various forms of child care and the needs of children receiving child care. The rules shall include the following:	82167 82168 82169 82170 82171 82172 82173
(A) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;	82174 82175 82176 82177
(B) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including the physical environment, the physical plant, and the equipment of the type A home;	82178 82179 82180 82181
(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the type A home;	82182 82183 82184
(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that	82185 82186 82187 82188

enhance the social, emotional, intellectual, and physical	82189
development of each child shall be permissible;	82190
(E) Admissions policies and procedures;	82191
(F) Health care policies and procedures, including	82192
procedures for the isolation of children with communicable	82193
diseases;	82194
(G) First aid and emergency procedures;	82195
(H) Procedures for discipline and supervision of children;	82196
(I) Standards for the provision of nutritious meals and	82197
snacks;	82198
(J) Procedures for screening children, including any	82199
necessary physical examinations and the immunizations required	82200
pursuant to section 5104.014 of the Revised Code;	82201
(K) Procedures for screening employees, including any	82202
necessary physical examinations and immunizations;	82203
(L) Methods for encouraging parental participation in the	82204
type A home and methods for ensuring that the rights of	82205
children, parents, and employees are protected and that the	82206
responsibilities of parents and employees are met;	82207
(M) Procedures for ensuring the safety and adequate	82208
supervision of children traveling off the premises of the type A	82209
home while under the care of a type A home employee;	82210
(N) Procedures for record keeping, organization, and	82211
administration;	82212
(O) Procedures for issuing, denying, and revoking a	82213
license that are not otherwise provided for in Chapter 119. of	82214
the Revised Code;	82215

(P) Inspection procedures;	82216
(Q) Procedures and standards for setting initial license application fees;	82217 82218
(R) Procedures for receiving, recording, and responding to complaints about type A homes;	82219 82220
(S) Procedures for enforcing section 5104.04 of the Revised Code;	82221 82222
(T) A standard requiring the inclusion of a current department of children and youth toll-free telephone number on each type A home license that any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;	82223 82224 82225 82226 82227
(U) Requirements for the training of administrators and child care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;	82228 82229 82230 82231
(V) Standards providing for the needs of children who have disabilities or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the type A home;	82232 82233 82234 82235
(W) Standards for the maximum number of children per child care staff member;	82236 82237
(X) Requirements for the amount of usable indoor floor space for each child;	82238 82239
(Y) Requirements for safe outdoor play space;	82240
(Z) Qualifications and training requirements for administrators and for child care staff members, which shall not	82241 82242

include requiring an administrator or child care staff member to 82243
hold or obtain a bachelor's, master's, or doctoral degree; 82244

(AA) Procedures for granting a parent who is the 82245
residential parent and legal custodian, or a custodian or 82246
guardian access to the type A home during its hours of 82247
operation; 82248

(BB) Minimum requirements for instructional time for type 82249
A homes rated through the step up to quality program established 82250
pursuant to section 5104.29 of the Revised Code;— 82251

~~(CC) Any other procedures and standards necessary to carry 82252
out the provisions of this chapter regarding type A homes. 82253~~

Sec. 5104.018. The director of children and youth shall 82254
adopt rules in accordance with Chapter 119. of the Revised Code 82255
governing the licensure of type B family child care homes. The 82256
rules shall provide for safeguarding the health, safety, and 82257
welfare of children receiving child care or publicly funded 82258
child care in a licensed type B family child care home and shall 82259
include all of the following: 82260

(A) Requirements for the type B home to notify parents 82261
with children in the type B home that the type B home is 82262
certified as a foster home under section 5103.03 of the Revised 82263
Code; 82264

(B) Standards for ensuring that the type B home and the 82265
physical surroundings of the type B home are safe and sanitary, 82266
including physical environment, physical plant, and equipment; 82267

(C) Standards for the supervision, care, and discipline of 82268
children receiving child care or publicly funded child care in 82269
the home; 82270

(D) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;	82271 82272 82273 82274 82275 82276
(E) Admission policies and procedures;	82277
(F) Health care, first aid and emergency procedures;	82278
(G) Procedures for the care of sick children;	82279
(H) Procedures for discipline and supervision of children;	82280
(I) Nutritional standards;	82281
(J) Procedures for screening children, including any necessary physical examinations and the immunizations required pursuant to section 5104.014 of the Revised Code;	82282 82283 82284
(K) Procedures for screening administrators and employees, including any necessary physical examinations and immunizations;	82285 82286
(L) Methods of encouraging parental participation and ensuring that the rights of children, parents, and administrators are protected and the responsibilities of parents and administrators are met;	82287 82288 82289 82290
(M) Standards for the safe transport of children when under the care of administrators;	82291 82292
(N) Procedures for issuing, denying, or revoking licenses;	82293
(O) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to licensure to ensure that the home is safe and sanitary;	82294 82295 82296
(P) Procedures for record keeping and evaluation;	82297

(Q) Procedures for receiving, recording, and responding to complaints;	82298 82299
(R) Standards providing for the needs of children who have disabilities or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the type B home;	82300 82301 82302 82303
(S) Requirements for the amount of usable indoor floor space for each child;	82304 82305
(T) Requirements for safe outdoor play space;	82306
(U) Qualification and training requirements for administrators and employees, which shall not include requiring an administrator or employee to hold or obtain a bachelor's, master's, or doctoral degree;	82307 82308 82309 82310
(V) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;	82311 82312 82313 82314
(W) Requirements for the type B home to notify parents with children in the type B home that the type B home is certified as a foster home under section 5103.03 of the Revised Code;	82315 82316 82317 82318
(X) Minimum requirements for instructional time for type B homes rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;—	82319 82320 82321
(Y) Any other procedures and standards necessary to carry out the provisions of this chapter regarding licensure of type B homes.	82322 82323 82324
Sec. 5104.019. The director of children and youth shall	82325

adopt rules in accordance with Chapter 119. of the Revised Code 82326
governing the certification of in-home aides. The rules shall 82327
provide for safeguarding the health, safety, and welfare of 82328
children receiving publicly funded child care in their own home 82329
and shall include the following: 82330

(A) Standards for ensuring that the child's home and the 82331
physical surroundings of the child's home are safe and sanitary, 82332
including physical environment, physical plant, and equipment; 82333

(B) Standards for the supervision, care, and discipline of 82334
children receiving publicly funded child care in their own home; 82335

(C) Standards for a program of activities, and for play 82336
equipment, materials, and supplies to enhance the development of 82337
each child; however, any educational curricula, philosophies, 82338
and methodologies that are developmentally appropriate and that 82339
enhance the social, emotional, intellectual, and physical 82340
development of each child shall be permissible; 82341

(D) Health care, first aid, and emergency procedures, 82342
procedures for the care of sick children, procedures for 82343
discipline and supervision of children, nutritional standards, 82344
and procedures for screening children and in-home aides, 82345
including any necessary physical examinations and immunizations; 82346

(E) Methods of encouraging parental participation and 82347
ensuring that the rights of children, parents, and in-home aides 82348
are protected and the responsibilities of parents and in-home 82349
aides are met; 82350

(F) Standards for the safe transport of children when 82351
under the care of in-home aides; 82352

(G) Procedures for issuing, renewing, denying, refusing to 82353
renew, or revoking certificates; 82354

(H) Procedures for inspection of homes of children receiving publicly funded child care in their own homes;	82355 82356
(I) Procedures for record keeping and evaluation;	82357
(J) Procedures for receiving, recording, and responding to complaints;	82358 82359
(K) Qualifications and training requirements for in-home aides;	82360 82361
(L) Standards providing for the needs of children who have disabilities or who receive treatment for health conditions while the child is receiving publicly funded child care in the child's own home;	82362 82363 82364 82365
(M) Any other procedures and standards necessary to carry out the provisions of this chapter regarding certification of in-home aides.	82366 82367 82368
Sec. 5104.041. (A) All type A family child care homes and licensed type B family child care homes shall procure and maintain one of the following:	82369 82370 82371
(1) Liability insurance issued by an insurer authorized to do business in this state under Chapter 3905. of the Revised Code insuring the type A or type B family child care home against liability arising out of, or in connection with, the operation of the family child care home. The insurance procured shall cover any cause for which the type A or type B family child care home would be liable, in the amount of at least one hundred thousand dollars per occurrence and three hundred thousand dollars in the aggregate.	82372 82373 82374 82375 82376 82377 82378 82379 82380
(2) A written statement signed by the parent, guardian, or custodian of each child receiving child care from the type A or	82381 82382

type B family child care home that states all of the following: 82383

(a) The family child care home does not carry liability 82384
insurance described in division (A)(1) of this section; 82385

(b) If the licensee of a type A family child care home or 82386
a type B family child care home is not the owner of the real 82387
property where the family child care home is located, the 82388
liability insurance, if any, of the owner of the real property 82389
may not provide for coverage of any liability arising out of, or 82390
in connection with, the operation of the family child care home. 82391

(B) If the licensee of a type A family child care home or 82392
a type B family child care home is not the owner of the real 82393
property where the family child care home is located and the 82394
family child care home procures liability insurance described in 82395
division (A)(1) of this section, that licensee shall name the 82396
owner of the real property as an additional insured party on the 82397
liability insurance policy if all of the following apply: 82398

(1) The owner of the real property requests the licensee 82399
or provider, in writing, to add the owner of the real property 82400
to the liability insurance policy as an additional insured 82401
party. 82402

(2) The addition of the owner of the real property does 82403
not result in cancellation or nonrenewal of the insurance policy 82404
procured by the type A or type B family child care home. 82405

(3) The owner of the real property pays any additional 82406
premium assessed for coverage of the owner of the real property. 82407

(C) Proof of insurance or written statement required under 82408
division (A) of this section shall be maintained at the type A 82409
or type B family child care home and made available for review 82410
during inspection or investigation as required under this 82411

chapter. 82412

~~(D) The director of children and youth shall adopt rules for the enforcement of this section.~~ 82413
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Sec. 5104.043. (A) If the department of children and youth determines that an act or omission of a child care center, type A family child care home, or licensed type B family child care home constitutes a serious risk noncompliance, the licensee shall notify the caretaker parent of each child receiving care in the center or home of the department's determination. 82415
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(B) With respect to the notice required by division (A) of this section, all of the following apply: 82421
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(1) The licensee shall notify caretaker parents not later than fifteen business days after the department informs the licensee of the department's determination. If the licensee requests a review of the department's determination, the licensee shall notify caretaker parents not later than five business days after the department has completed its review. 82423
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(2) The notice shall include a statement informing each caretaker parent of the web site maintained by the department and the location of further information regarding the determination. 82429
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(3) The licensee may provide written or electronic notice to caretaker parents. 82433
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(4) The licensee shall provide a copy of the notice to the department. 82435
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~~(C) The director of children and youth shall adopt rules to enforce this section.~~ 82437
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~~(D)~~The requirements of this section do not apply if the 82439

department suspends the license of a child care center, type A 82440
family child care home, or licensed type B family child care 82441
home pursuant to section 5104.042 of the Revised Code. 82442

Sec. 5104.30. (A) The department of children and youth is 82443
hereby designated as the state agency responsible for 82444
administration and coordination of federal and state funding for 82445
publicly funded child care in this state. Publicly funded child 82446
care shall be provided to the following: 82447

(1) Recipients of transitional child care as provided 82448
under section 5104.34 of the Revised Code; 82449

(2) Participants in the Ohio works first program 82450
established under Chapter 5107. of the Revised Code; 82451

(3) Individuals who would be participating in the Ohio 82452
works first program if not for a sanction under section 5107.16 82453
of the Revised Code and who continue to participate in a work 82454
activity, developmental activity, or alternative work activity 82455
pursuant to an assignment under section 5107.42 of the Revised 82456
Code; 82457

(4) A family receiving publicly funded child care on 82458
October 1, 1997, until the family's income reaches one hundred 82459
fifty per cent of the federal poverty line; 82460

(5) Subject to available funds, other individuals 82461
determined eligible in accordance with rules adopted under 82462
section 5104.38 of the Revised Code. 82463

The department shall apply to the United States department 82464
of health and human services for authority to operate a 82465
coordinated program for publicly funded child care, if the 82466
director of children and youth determines that the application 82467
is necessary. For purposes of this section, the department of 82468

children and youth may enter into agreements with other state 82469
agencies that are involved in regulation or funding of child 82470
care. The department shall consider the special needs of migrant 82471
workers when it administers and coordinates publicly funded 82472
child care and shall develop appropriate procedures for 82473
accommodating the needs of migrant workers for publicly funded 82474
child care. 82475

(B) The department of children and youth shall distribute 82476
state and federal funds for publicly funded child care, 82477
including appropriations of state funds for publicly funded 82478
child care and appropriations of federal funds available under 82479
the child care block grant act, Title IV-A, and Title XX. The 82480
department may use any state funds appropriated for publicly 82481
funded child care as the state share required to match any 82482
federal funds appropriated for publicly funded child care. 82483

(C) In the use of federal funds available under the child 82484
care block grant act, all of the following apply: 82485

(1) The department may use the federal funds to hire staff 82486
to prepare any rules required under this chapter and to 82487
administer and coordinate federal and state funding for publicly 82488
funded child care. 82489

(2) Not more than five per cent of the aggregate amount of 82490
the federal funds received for a fiscal year may be expended for 82491
administrative costs. 82492

(3) The department shall allocate and use at least four 82493
per cent of the federal funds for the following: 82494

(a) Activities designed to provide comprehensive consumer 82495
education to parents and the public; 82496

(b) Activities that increase parental choice; 82497

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care; 82498
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(d) Establishing the step up to quality program pursuant to section 5104.29 of the Revised Code. 82501
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(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means. 82503
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(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child care. The department of children and youth may enter into interagency agreements with the department of education and workforce, the chancellor of higher education, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of children and youth to fulfill its duties and responsibilities under this chapter. 82511
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The department shall develop and maintain a registry of 82527

persons providing child care. The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

(E) (1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Payment rates for providers of publicly funded child care not later than the first day of July in each odd-numbered year;

(b) A procedure for paying providers of publicly funded child care.

(2) In establishing payment rates under division (E) (1) (a) of this section, the director shall do all of the following:

(a) Use the information obtained from the market rate survey developed and conducted in accordance with 45 C.F.R. 98.45;

(b) Establish an enhanced payment rate for providers who enroll children whose caretaker parents work nontraditional hours;

(c) With regard to the step up to quality program established pursuant to section 5104.29 of the Revised Code, establish enhanced payment rates for child care providers that participate in the program.

(3) In establishing payment rates under division (E) (1) (a) of this section, the director may establish different payment rates based on any of the following:

(a) Geographic location of the provider;

(b) Type of care provided;	82555
(c) Age of the child served;	82556
(d) Special needs of the child served;	82557
(e) Whether the expanded hours of service are provided;	82558
(f) Whether weekend service is provided;	82559
(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;	82560 82561
(h) Any other factors the director considers appropriate.	82562
Sec. 5104.38. In addition to any other rules adopted under this chapter, the <u>The</u> director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code governing financial and administrative requirements for publicly funded child care and establishing all of the following:	82563 82564 82565 82566 82567
(A) Procedures and criteria to be used in making determinations of eligibility for publicly funded child care that give priority to children of families with lower incomes and procedures and criteria for eligibility for publicly funded protective child care or homeless child care. The rules shall specify the maximum amount of income a family may have for initial and continued eligibility. The maximum amount shall not exceed three hundred per cent of the federal poverty line. The rules may specify exceptions to the eligibility requirements in the case of a family that previously received publicly funded child care and is seeking to have the child care reinstated after the family's eligibility was terminated.	82568 82569 82570 82571 82572 82573 82574 82575 82576 82577 82578 82579
(B) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child care according to income and family size, which shall be uniform for all types of	82580 82581 82582

publicly funded child care, except as authorized by rule, and, 82583
to the extent permitted by federal law, shall permit the use of 82584
state and federal funds to pay the customary deposits and other 82585
advance payments that a provider charges all children who 82586
receive child care from that provider. 82587

(C) A formula for determining the amount of state and 82588
federal funds appropriated for publicly funded child care that 82589
may be allocated to a county department to use for 82590
administrative purposes; 82591

(D) Procedures to be followed by the department and county 82592
departments in recruiting individuals and groups to become 82593
providers of child care; 82594

(E) Procedures to be followed in establishing state or 82595
local programs designed to assist individuals who are eligible 82596
for publicly funded child care in identifying the resources 82597
available to them and to refer the individuals to appropriate 82598
sources to obtain child care; 82599

(F) Procedures to deal with fraud and abuse committed by 82600
either recipients or providers of publicly funded child care; 82601

(G) Procedures for establishing a child care grant or loan 82602
program in accordance with the child care block grant act; 82603

(H) Standards and procedures for applicants to apply for 82604
grants and loans, and for the department to make grants and 82605
loans; 82606

(I) A definition of "person who stands in loco parentis" 82607
for the purposes of division (00) (3) of section 5104.01 of the 82608
Revised Code; 82609

(J) Procedures for a county department of job and family 82610

services to follow in making eligibility determinations and 82611
redeterminations for publicly funded child care available 82612
through telephone, computer, and other means at locations other 82613
than the county department; 82614

(K) If the director establishes a different payment rate 82615
under division (E) (3) (d) of section 5104.30 of the Revised Code, 82616
standards and procedures for determining the amount of the 82617
higher payment that is to be issued to a child care provider 82618
based on the special needs of the child being served; 82619

(L) To the extent permitted by federal law, procedures for 82620
enrolling and paying for up to thirty days of child care for a 82621
child whose caretaker parent is seeking employment, taking part 82622
in employment orientation activities, or taking part in 82623
activities in anticipation of enrolling in or attending an 82624
education or training program or activity, if the employment or 82625
the education or training program or activity is expected to 82626
begin within the thirty-day period;— 82627

~~(M) Any other rules necessary to carry out sections 82628
5104.30 to 5104.43 of the Revised Code. 82629~~

Sec. 5104.53. (A) As used in this section: 82630

(1) "IEP" has the same meaning as in section 3323.01 of 82631
the Revised Code. 82632

(2) "Resource caregiver" has the same meaning as in 82633
section 5103.02 of the Revised Code. 82634

(B) The early childhood education grant program is created 82635
in the department of children and youth. Subject to available 82636
funds, the program shall support and invest in early learning 82637
and development programs operating in this state by awarding 82638
grants to programs that meet the conditions of this section in 82639

an amount that corresponds to the number of eligible children 82640
served by the programs. 82641

(C) To be eligible for a grant under this section, an 82642
early learning and development program shall meet ~~each~~both of 82643
the following conditions: 82644

(1) The program is rated through the step up to quality 82645
program established under section 5104.29 of the Revised Code at 82646
the tiered rating specified by the department in rules adopted 82647
under this section. 82648

(2) The program provides early learning and development 82649
services to one or more preschool-age children described in 82650
division (D) of this section. 82651

~~(3) The program meets any other eligibility condition 82652
specified by the department in rules adopted under this section. 82653~~

(D) A preschool-age child who meets ~~all~~both of the 82654
following conditions, as determined by a county department of 82655
job and family services, is eligible to participate in the early 82656
childhood education grant program if a slot is available: 82657

(1) Either the amount of the child's family income does 82658
not exceed two hundred per cent of the federal poverty line or 82659
the child meets one of the following conditions: 82660

(a) An IEP has been developed for the child; 82661

(b) The child is placed with a resource caregiver as 82662
described in Chapter 5103. of the Revised Code, with such 82663
placement documented by either a family case plan or kinship 82664
permanency incentive payments; 82665

(c) The child is homeless as described in division (V) of 82666
section 5104.01 of the Revised Code. 82667

(2) The child is a citizen of the United States or a qualified alien. 82668
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~~(3) The child meets any other eligibility condition specified by the department in rules adopted under this section.~~ 82670
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(E) Any funds appropriated to the department for purposes of the early childhood education grant program shall be used as follows: 82672
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(1) In each fiscal year, not more than two per cent of appropriated funds shall be used for program support and technical assistance. 82675
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(2) Appropriated funds other than those described in division (E)(1) of this section shall be distributed to grant recipients. 82678
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(F) In accordance with Chapter 119. of the Revised Code, the director shall adopt rules to ~~implement this section and administer the early childhood education grant program,~~ including rules addressing all of the following topics establish both of the following: 82681
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~~(1) Eligibility conditions and other requirements for participation in the grant program by early learning and development programs, including the tiered rating at which a program becomes eligible to participate;~~ 82686
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~~(2) Eligibility conditions for children participating in the early childhood education grant program if a slot is available;~~ 82690
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~~(3) Standards, procedures, and requirements to apply for and distribute funds to participating early learning and development programs;~~ 82693
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~~(4)~~(2) In the event funds are distributed in error under the program, methods by which the department may recover those funds. 82696
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Sec. 5116.06. (A) The director of job and family services shall adopt rules ~~that are necessary to implement~~ regarding the comprehensive case management and employment program, ~~including~~ ~~rules~~ that do all of the following: 82699
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(1) Provide for the program to do both of the following: 82703

(a) Help a work-eligible individual satisfy the work requirements of section 407 of the "Social Security Act," 42 U.S.C. 607; 82704
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(b) Help an Ohio works first participant who participates in the program do both of the following: 82707
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(i) Satisfy other Ohio works first requirements, including requirements included in the participant's self-sufficiency contract entered into under section 5107.14 of the Revised Code; 82709
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(ii) Obtain assistance or services the participant needs according to an assessment conducted under section 5107.70 of the Revised Code. 82712
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(2) For the purpose of section 5116.11 of the Revised Code, establish procedures for both of the following: 82715
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(a) Assessing the employment and training needs of individuals participating in the comprehensive case management and employment program; 82717
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(b) Creating, reviewing, revising, and terminating individual opportunity plans. 82720
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(3) For the purpose of section 5116.20 of the Revised 82722

Code, establish procedures, including procedures regarding 82723
timing, for a local workforce development board to decide 82724
whether to authorize the use of its youth workforce investment 82725
activity funds for the comprehensive case management and 82726
employment program; 82727

(4) Establish requirements for the plans required by 82728
division (A) (1) of section 5116.23 of the Revised Code; 82729

(5) For the purpose of division (A) (3) of section 5116.23 82730
of the Revised Code, establish procedures for a lead agency to 82731
partner with the other local participating agency and 82732
subcontractors. 82733

(B) For the purposes of divisions (C) and (F) of section 82734
5116.10 of the Revised Code, the rules adopted under this 82735
section may do either or both of the following: 82736

(1) Specify one or more additional mandatory participation 82737
groups that are required to participate in the comprehensive 82738
case management and employment program; 82739

(2) Specify one or more additional voluntary participation 82740
groups that may volunteer to participate in the program. 82741

(C) The rules adopted under this section shall be 82742
consistent with all of the following: 82743

(1) The Title IV-A state plan prepared under section 82744
5101.80 of the Revised Code, amendments to the plan, and any 82745
waivers regarding the plan granted by the United States 82746
secretary of health and human services; 82747

(2) The combined state plan authorized by section 103 of 82748
the "Workforce Innovation and Opportunity Act," 29 U.S.C. 3113, 82749
amendments to the plan, and any waivers regarding the plan 82750

granted by the United States secretary of labor. 82751

(D) The rules adopted under division (A)(1)(a) of this 82752
section may deviate from Chapter 5107. of the Revised Code. 82753

Sec. 5117.02. (A) ~~The director of development shall adopt~~ 82754
~~rules, or amendments and rescissions of rules, pursuant to~~ 82755
~~section 4928.52 of the Revised Code, for the administration of~~ 82756
~~the Ohio energy credit program under sections 5117.01 to 5117.12~~ 82757
~~of the Revised Code.~~ 82758

~~(B)~~ As a means of efficiently administering the Ohio 82759
energy credit program, the director may extend, by as much as a 82760
total of thirty days, any date specified in ~~such~~ sections 82761
5117.01 to 5117.12 of the Revised Code for the performance of a 82762
particular action by an individual or an officer. 82763

~~(C)(1) Except as provided in division (C)(2) of this~~ 82764
~~section, the director shall adopt, in accordance with divisions~~ 82765
~~(A), (B), (C), (D), (E), and (F) of section 119.03 and section~~ 82766
~~119.04 of the Revised Code, whatever rules, or amendments or~~ 82767
~~rescissions of rules are required by or are otherwise necessary~~ 82768
~~to implement sections 5117.01 to 5117.12 of the Revised Code. A~~ 82769
~~rule, amendment, or rescission adopted under this division is~~ 82770
~~not exempt from the hearing requirements of section 119.03 of~~ 82771
~~the Revised Code pursuant to division (H) of that section, or~~ 82772
~~subject to section 111.15 of the Revised Code.~~ 82773

~~(2) If an emergency necessitates the immediate adoption of~~ 82774
~~a rule, or the immediate adoption of an amendment or rescission~~ 82775
~~of a rule that is required by or otherwise necessary to~~ 82776
~~implement sections 5117.01 to 5117.12 of the Revised Code, the~~ 82777
~~director immediately may adopt the emergency rule, amendment, or~~ 82778
~~rescission without complying with division (A), (B), (C), (D),~~ 82779

~~(E), or (F) of section 119.03 of the Revised Code so long as the director states the reasons for the necessity in the emergency rule, amendment, or rescission. The emergency rule, amendment, or rescission is effective on the day the emergency rule, amendment, or rescission, in final form and in compliance with division (A) (2) of section 119.04 of the Revised Code, is filed in electronic form with the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review. If all filings are not completed on the same day, the emergency rule, amendment, or rescission is effective on the day on which the latest filing is completed. An emergency rule, amendment, or rescission adopted under this division is not subject to section 111.15 or division (G) of section 119.03 of the Revised Code. An emergency rule, amendment, or rescission adopted under this division continues in effect until amended or rescinded by the director in accordance with division (C) (1) or (2) of this section, except that the rescission of an emergency rescission does not revive the rule rescinded.~~

~~(D)~~(B) Except where otherwise provided, each form, application, notice, and the like used in fulfilling the requirements of sections 5117.01 to 5117.12 of the Revised Code shall be approved by the director.

Sec. 5119.141. In addition to the powers and duties expressly conferred on the department of behavioral health, the department may take any other action, except the adoption of rules, it considers necessary to carry out the purposes of this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code. ~~Actions authorized by this section include the authority to adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of this chapter and Chapters 340., 2919., 2945., and 5122. of the~~

~~Revised Code.~~ 82811

Sec. 5119.181. (A) No appointing officer shall appoint a 82812
person to fill a position in either the classified or 82813
unclassified service of the department of behavioral health if 82814
the person has been convicted of or pleaded guilty to a 82815
violation of the following: 82816

(1) Any felony contained in the Revised Code, if the 82817
felony bears a direct and substantial relationship to the 82818
position being filled; 82819

(2) Any crime contained in the Revised Code constituting a 82820
misdemeanor of the first degree on the first offense and a 82821
felony on subsequent offenses, if the crime bears a direct and 82822
substantial relationship to the position being filled; 82823

(3) An existing or former law of this state, any other 82824
state, or the United States, if the law violated is 82825
substantially equivalent to any of the offenses described in 82826
division (A)(1) or (2) of this section. 82827

(B) ~~The director of behavioral health shall adopt rules,~~ 82828
~~in accordance with Chapter 119. of the Revised Code, to~~ 82829
~~implement this section.~~ 82830

~~(C)~~The director or an appointing officer shall request 82831
the bureau of criminal identification and investigation created 82832
by section 109.51 of the Revised Code or, at the director's or 82833
appointing officer's discretion, any other state or federal 82834
agency, to supply the director or appointing officer with a 82835
written report regarding the criminal records of any applicant. 82836
For each investigation undertaken at the department's request 82837
under this section, the department shall pay a reasonable fee to 82838
the bureau or other state or federal agency conducting the 82839

investigation. The amount of the fee shall be determined by the 82840
bureau or other state or federal agency conducting the 82841
investigation and shall be sufficient to cover the costs of 82842
conducting the investigation. The report made by the bureau or 82843
other state or federal agency is not a public record for 82844
purposes of section 149.43 of the Revised Code and shall not be 82845
made available to any person, except the applicant, the 82846
director, the appointing officer or the appointing officer's 82847
designees, or any hearing officer involved in a case denying 82848
employment. 82849

~~(D)~~(C) As used in this section, "applicant" means a person 82850
who is under final consideration for appointment to a position 82851
in the classified or unclassified service of the department of 82852
behavioral health. 82853

Sec. 5119.185. (A) As used in this section: 82854

(1) "Advanced practice registered nurse" has the same 82855
meaning as in section 4723.01 of the Revised Code. 82856

(2) "Clinician" means any of the following: 82857

(a) An advanced practice registered nurse; 82858

(b) A physician; 82859

(c) A physician assistant. 82860

(3) "Physician" means an individual authorized under 82861
Chapter 4731. of the Revised Code to practice medicine and 82862
surgery or osteopathic medicine and surgery. 82863

(4) "Physician assistant" means an individual who holds a 82864
current, valid license to practice as a physician assistant 82865
issued under Chapter 4730. of the Revised Code. 82866

(B) The department of behavioral health may establish a clinician recruitment program under which the department agrees to repay all or part of the principal and interest of a government or other educational loan incurred by a clinician who agrees to provide services to inpatients and outpatients of institutions under the department's administration. To be eligible to participate in the program, a clinician must have attended the following:

(1) In the case of a physician, a school that was, at the time of attendance, a medical school or osteopathic medical school in this country accredited by the liaison committee on medical education or the American osteopathic association, or a medical school or osteopathic medical school located outside this country that was acknowledged by the world health organization and verified by a member state of that organization as operating within that state's jurisdiction;

(2) In the case of a physician assistant, a school that was, at the time of attendance, accredited by the accreditation review commission on education for the physician assistant or a regional or specialized and professional accrediting agency recognized by the council for higher education accreditation;

(3) In the case of an advanced practice registered nurse, a school that was, at the time of attendance, accredited by a national or regional accrediting organization.

(C) The department shall enter into a contract with each clinician it recruits under this section. Each contract shall include at least the following terms:

(1) The clinician agrees to provide a specified scope of health care services for a specified number of hours per week

and a specified number of years to patients of one or more 82896
specified institutions administered by the department. 82897

(2) The department agrees to repay all or a specified 82898
portion of the principal and interest of a government or other 82899
educational loan taken by the clinician for the following 82900
expenses if the clinician meets the service obligation agreed to 82901
and the expenses were incurred while the clinician was enrolled 82902
in, for up to a maximum of four years, a school that qualifies 82903
the clinician to participate in the program: 82904

(a) Tuition; 82905

(b) Other educational expenses for specific purposes, 82906
including fees, books, and laboratory expenses, in amounts 82907
determined to be reasonable in accordance with rules adopted 82908
under division (D) of this section; 82909

(c) Room and board, in an amount determined to be 82910
reasonable in accordance with rules adopted under division (D) 82911
of this section. 82912

(3) The clinician agrees to pay the department a specified 82913
amount, which shall be not less than the amount already paid by 82914
the department pursuant to its agreement, as damages if the 82915
clinician fails to complete the service obligation agreed to or 82916
fails to comply with other specified terms of the contract. The 82917
contract may vary the amount of damages based on the portion of 82918
the clinician's service obligation that remains uncompleted as 82919
determined by the department. 82920

(4) Other terms agreed upon by the parties. 82921

(D) If the department elects to implement the clinician 82922
recruitment program, it shall adopt rules in accordance with 82923
Chapter 119. of the Revised Code that establish all of the 82924

following:	82925
(1) Criteria for designating institutions for which clinicians will be recruited;	82926 82927
(2) Criteria for selecting clinicians for participation in the program;	82928 82929
(3) Criteria for determining the portion of a clinician's loan that the department will agree to repay;	82930 82931
(4) Criteria for determining reasonable amounts of the expenses described in divisions (C) (2) (b) and (c) of this section;	82932 82933 82934
(5) Procedures for monitoring compliance by clinicians with the terms of their contracts;—	82935 82936
(6) Any other criteria or procedures necessary to implement the program.	82937 82938
Sec. 5119.19. (A) As used in this section:	82939
(1) "Community-based correctional facility" has the same meaning as in section 2929.01 of the Revised Code.	82940 82941
(2) "Drug used in medication-assisted treatment" means a drug approved by the United States food and drug administration for use in medication-assisted treatment, regardless of the method the drug is administered or the form in which it is dispensed, including an oral drug, an injectable drug, or a long-acting or extended-release drug. "Drug used in medication-assisted treatment" includes all of the following:	82942 82943 82944 82945 82946 82947 82948
(a) A full agonist;	82949
(b) A partial agonist;	82950
(c) An antagonist.	82951

- (3) "Drug used in withdrawal management or detoxification" 82952
means a drug approved by the United States food and drug 82953
administration for use in, or a drug in standard use for, 82954
mitigating opioid or alcohol withdrawal symptoms or assisting 82955
with detoxification, regardless of the method the drug is 82956
administered or the form in which it is dispensed, including an 82957
oral drug, an injectable drug, or a long-acting or extended- 82958
release drug. "Drug used in withdrawal management or 82959
detoxification" includes all of the following: 82960
- (a) A full agonist; 82961
 - (b) A partial agonist; 82962
 - (c) An antagonist; 82963
 - (d) An alpha-2 adrenergic agonist. 82964
- (4) "Medication-assisted treatment" has the same meaning 82965
as in section 340.01 of the Revised Code. 82966
- (5) "Prescribed drug" has the same meaning as in section 82967
5164.01 of the Revised Code. 82968
- (6) (a) "Psychotropic drug" means, except as provided in 82969
division (A) (6) (b) of this section, a drug that has the 82970
capability of changing or controlling mental functioning or 82971
behavior through direct pharmacological action. "Psychotropic 82972
drug" includes all of the following: 82973
- (i) Antipsychotic medications, including those 82974
administered or dispensed in a long-acting injectable form; 82975
 - (ii) Antidepressant medications; 82976
 - (iii) Anti-anxiety medications; 82977
 - (iv) Mood stabilizing medications. 82978

(b) "Psychotropic drug" excludes a stimulant prescribed 82979
for the treatment of attention deficit hyperactivity disorder. 82980

(7) "Withdrawal management or detoxification" means a set 82981
of medical interventions aimed at managing the acute physical 82982
symptoms of intoxication and withdrawal. Withdrawal management 82983
seeks to minimize the physical harm caused by the intoxication 82984
and withdrawal from a substance of abuse. Detoxification denotes 82985
a clearing of toxins from the body of the patient who is acutely 82986
intoxicated, dependent on a substance of abuse, or both. 82987

(B) There is hereby created a program to be known as the 82988
behavioral health drug reimbursement program, which shall be 82989
administered by the department of behavioral health. 82990

The purpose of the program is to provide state financial 82991
assistance to counties for the cost of the following drugs that 82992
are administered or dispensed to inmates of county jails in this 82993
state and individuals confined in community-based correctional 82994
facilities in this state: psychotropic drugs, drugs used in 82995
medication-assisted treatment, and drugs used in withdrawal 82996
management or detoxification. 82997

Each county shall ensure that inmates of county jails and 82998
individuals confined in community-based correctional facilities 82999
have access to all behavioral health drugs specified in this 83000
division that are prescribed drugs covered by the fee-for- 83001
service component of the medicaid program. 83002

(C) The department, based on factors it considers 83003
appropriate, shall allocate an amount to each county for drug 83004
costs that have been or will be incurred by the county pursuant 83005
to this section. 83006

(D) The director of behavioral health may adopt rules ~~as~~ 83007

~~necessary to implement this section. The rules, if adopted,~~ 83008
~~shall be adopted~~ in accordance with Chapter 119. of the Revised 83009
Code regarding the behavioral health drug reimbursement program. 83010

Sec. 5119.20. (A) As used in this section: 83011

"Electroencephalogram (EEG) combined transcranial magnetic 83012
stimulation" means treatment in which transcranial magnetic 83013
stimulation (TMS) frequency pulses are tuned to the patient's 83014
physiology and biometric data. 83015

"First responder" has the meaning defined in section 83016
2903.01 of the Revised Code. 83017

"Law enforcement officer" has the meaning defined in 83018
section 9.69 of the Revised Code. 83019

(B) The director of behavioral health shall establish a 83020
program to make electroencephalogram (EEG) combined transcranial 83021
magnetic stimulation available for veterans, first responders, 83022
and law enforcement officers. Eligible individuals must have 83023
substance use disorders, mental illness, sleep disorders, 83024
traumatic brain injuries, sexual trauma, post traumatic stress 83025
disorder and accompanying comorbidities, concussions or other 83026
brain trauma, or other issues identified by the individual's 83027
qualified medical practitioner as issues that would warrant 83028
treatment under the program. The program shall be operated in 83029
conjunction with a supplier selected under this section. 83030

(C) The director shall choose a location for the program 83031
and for up to ten branch sites, and shall enter into a contract 83032
for the purchase of services related to the program. Each branch 83033
site may operate one or more portable units or EEG combined 83034
neuromodulation portable units if the director determines that 83035
portable units or EEG combined neuromodulation portable units 83036

are necessary to expand access to care. The contract shall 83037
include provisions requiring the supplier to create and conduct 83038
a clinical trial, to establish and operate a clinical practice, 83039
to evaluate outcomes of the clinical trial and the clinical 83040
practice, to expend payments received from the state as needed 83041
for purposes of the program, and to report quarterly regarding 83042
the program to the president of the senate and to the standing 83043
committee of the senate that generally considers legislation 83044
regarding veterans affairs. 83045

(D) There is the electroencephalogram (EEG) combined 83046
transcranial magnetic stimulation fund in the state treasury. It 83047
shall consist of moneys appropriated to it by the general 83048
assembly. The director, with the approval of the controlling 83049
board, may authorize a disbursement from the fund for services 83050
rendered under the contract. 83051

~~(E) The director shall adopt rules under Chapter 119. of 83052
the Revised Code as necessary to administer this section. 83053~~

~~(F) The supplier, in conducting the clinical trial and in 83054
operating the clinical practice, shall adhere to all of the 83055
following: 83056~~

(1) The United States food and drug administration 83057
regulations governing the conduct of clinical practice and 83058
clinical trials; 83059

(2) A peer-to-peer support network shall be made available 83060
by the supplier to any individual receiving treatment under the 83061
program. 83062

(3) The program protocol shall use adapted stimulation 83063
frequency and intensity modulation based on EEG and motor 83064
threshold testing as well as clinical symptoms and signs, and 83065

biometrics. 83066

(4) Each individual who receives treatment under the 83067
program also shall receive neurophysiological monitoring, 83068
monitoring for symptoms of substance use and mental health 83069
disorders, and access to counseling and wellness programming. 83070
Each individual also shall participate in the peer-to-peer 83071
support network established by the supplier. 83072

(5) Clinical protocols and outcomes of the clinical trial, 83073
and of any treatment provided by the clinical practice, shall be 83074
collected and reported quarterly in a report provided by the 83075
supplier to the director of behavioral health and to the United 83076
States food and drug administration. 83077

(6) Any individual who receives treatment at the clinical 83078
practice shall be eligible for a minimum of two 83079
electroencephalograms, plus an additional electroencephalogram 83080
for every ten treatments, during the course of the individual's 83081
treatment. 83082

(7) The report required by this section shall include a 83083
thorough accounting of the use and expenditure of all funds 83084
received from the state under this section. 83085

~~(G)~~(F) Contracts entered into under this section are 83086
subject to section 9.231 and Chapter 125. of the Revised Code. 83087

~~(H)~~(G) Operation of the program established under this 83088
section is contingent upon an appropriation by the general 83089
assembly designated for that purpose. 83090

Sec. 5119.21. (A) The department of behavioral health 83091
shall: 83092

(1) To the extent the department has available resources 83093

and in consultation with boards of alcohol, drug addiction, and 83094
mental health services, support the community-based continuum of 83095
care that the boards are required by section 340.032 of the 83096
Revised Code to establish. The department shall provide the 83097
support on a district or multi-district basis. The department 83098
shall assist in identifying resources, and may prioritize 83099
support, for one or more of the elements of the community-based 83100
continuum of care. For the purpose of division (A) (10) of 83101
section 340.032 of the Revised Code and to the extent the 83102
department determines is necessary, the department shall define 83103
additional elements to be included in the community-based 83104
continuum of care. 83105

(2) Provide training, consultation, and technical 83106
assistance regarding addiction services, mental health services, 83107
recovery supports, and appropriate prevention, recovery, and 83108
mental health promotion activities, including those that are 83109
culturally competent, to employees of the department, community 83110
addiction services providers, community mental health services 83111
providers, and boards of alcohol, drug addiction, and mental 83112
health services; 83113

(3) To the extent the department has available resources, 83114
promote and support a full range of addiction services, mental 83115
health services, and recovery supports that are available and 83116
accessible to all residents of this state, especially for 83117
severely emotionally disturbed children and adolescents, adults 83118
with severe mental disabilities, pregnant women, parents, 83119
guardians or custodians of children at risk of abuse or neglect, 83120
and other special target populations, including racial and 83121
ethnic minorities, as determined by the department; 83122

(4) Develop standards and measures for both of the 83123

following: 83124

(a) Evaluating the effectiveness of addiction services, 83125
including opioid treatment programs, of mental health services, 83126
and of recovery supports; 83127

(b) Increasing the accountability of community addiction 83128
services providers and community mental health services 83129
providers. 83130

(5) Design and set criteria for the determination of 83131
priority populations; 83132

(6) Promote, direct, conduct, and coordinate scientific 83133
research, taking ethnic and racial differences into 83134
consideration, concerning all of the following: 83135

(a) The causes and prevention of mental illness and 83136
addiction; 83137

(b) Methods of providing effective addiction services, 83138
mental health services, and recovery supports; 83139

(c) Means of enhancing the mental health of and recovery 83140
from addiction of all residents of this state. 83141

(7) Foster the establishment and availability of 83142
vocational rehabilitation services and the creation of 83143
employment opportunities for individuals with addiction and 83144
mental health needs, including members of racial and ethnic 83145
minorities; 83146

(8) Establish a program to protect and promote the rights 83147
of persons receiving addiction services, mental health services, 83148
and recovery supports, including the issuance of guidelines on 83149
informed consent and other rights; 83150

(9) Promote the involvement of persons who are receiving 83151
or have received addiction services, mental health services, and 83152
recovery supports including families and other persons having a 83153
close relationship to a person receiving those services and 83154
supports, in the planning, evaluation, delivery, and operation 83155
of addiction services, mental health services, and recovery 83156
supports; 83157

(10) Notify and consult with the relevant constituencies 83158
that may be affected by rules, standards, and guidelines issued 83159
by the department of behavioral health. These constituencies 83160
shall include consumers of addiction services, mental health 83161
services, and recovery supports and the families of such 83162
consumers. These constituencies may include public and private 83163
providers, employee organizations, and others when appropriate. 83164
Whenever the department proposes the adoption, amendment, or 83165
rescission of rules under Chapter 119. of the Revised Code, the 83166
notification and consultation required by this division shall 83167
occur prior to the commencement of proceedings under Chapter 83168
119. The department shall adopt rules under Chapter 119. of the 83169
Revised Code that establish procedures for the notification and 83170
consultation required by this division. 83171

(11) Provide consultation to the department of 83172
rehabilitation and correction concerning the delivery of 83173
addiction services and mental health services in state 83174
correctional institutions; 83175

(12) Promote and coordinate efforts in the provision of 83176
addiction services by other state agencies, as defined in 83177
section 1.60 of the Revised Code; courts; hospitals; clinics; 83178
physicians in private practice; public health authorities; 83179
boards of alcohol, drug addiction, and mental health services; 83180

community addiction services providers; law enforcement 83181
agencies; and related groups; 83182

(13) Provide to each court of record, and biennially 83183
update, a list of the treatment and education programs within 83184
that court's jurisdiction that the court may require an 83185
offender, sentenced pursuant to section 4511.19 of the Revised 83186
Code, to attend; 83187

(14) Make the warning sign described in sections 3313.752, 83188
3345.41, and 3707.50 of the Revised Code available on the 83189
department's internet web site; 83190

(15) Provide a program of gambling addiction services on 83191
behalf of the state lottery commission, pursuant to an agreement 83192
entered into with the director of the commission under division 83193
(K) of section 3770.02 of the Revised Code, and provide a 83194
program of gambling addiction services on behalf of the Ohio 83195
casino control commission, under an agreement entered into with 83196
the executive director of the commission under section 3772.062 83197
of the Revised Code. Under Section 6(C)(3) of Article XV, Ohio 83198
Constitution, the department may enter into agreements with 83199
boards of alcohol, drug addiction, and mental health services, 83200
including boards with districts in which a casino facility is 83201
not located, and nonprofit organizations to provide addiction 83202
services, and with state institutions of higher education or 83203
private nonprofit institutions that possess a certificate of 83204
authorization issued under Chapter 1713. of the Revised Code to 83205
perform related research. 83206

(B) The department may accept and administer grants from 83207
public or private sources for carrying out any of the duties 83208
enumerated in this section. 83209

~~(C) The department may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement the requirements of this chapter.~~ 83210
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Sec. 5119.211. The department of behavioral health may 83213
adopt rules in accordance with Chapter 119. of the Revised Code 83214
to establish a process and standards for the state certification 83215
of certified community behavioral health clinics. The process 83216
and standards may be based on the provisions of section 223 of 83217
the "Protecting Access to Medicare Act of 2014," 42 U.S.C. 1396a 83218
note. 83219

If the department establishes a process and standards for 83220
the state certification of certified community behavioral health 83221
clinics, the department may coordinate with local, state, and 83222
federal government entities for the development and 83223
establishment of the clinics. 83224

~~The director of behavioral health may adopt rules as the director considers necessary to implement this section. If the director adopts rules, the rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~ 83225
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Sec. 5119.22. The director of behavioral health, with 83229
respect to all mental health and addiction facilities, addiction 83230
services, mental health services, and recovery supports 83231
established and operated or provided under Chapter 340. of the 83232
Revised Code, shall do all of the following: 83233

~~(A) Adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of this chapter and Chapters 340. and 5122. of the Revised Code;~~ 83234
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~~(B) Review and evaluate the community-based continuum of care required by section 340.032 of the Revised Code to be~~ 83237
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established in each service district, taking into account the 83239
findings and recommendations of the board of alcohol, drug 83240
addiction, and mental health services of the district submitted 83241
under division (A) (4) of section 340.03 of the Revised Code and 83242
the priorities and plans of the department of behavioral health, 83243
including the needs of residents of the district currently 83244
receiving services in state-operated hospitals, and make 83245
recommendations for needed improvements to boards of alcohol, 83246
drug addiction, and mental health services; 83247

~~(C)~~(B) At the director's discretion, provide to boards of 83248
alcohol, drug addiction, and mental health services state or 83249
federal funds, in addition to those allocated under section 83250
5119.23 of the Revised Code, for special programs or projects 83251
the director considers necessary but for which local funds are 83252
not available; 83253

~~(D)~~~~(1)~~(C) (1) Establish criteria to be taken into account 83254
by each board of alcohol, drug addiction, and mental health 83255
services when it conducts program audits under section 340.03 of 83256
the Revised Code to review and evaluate the quality, 83257
effectiveness, and efficiency of the facility services, 83258
addiction services, mental health services, and recovery 83259
supports for which it contracts under section 340.036 of the 83260
Revised Code. The criteria shall include requirements ensuring 83261
appropriate utilization of the services and supports. The 83262
department shall assess each board's evaluation of the services 83263
and supports and the compliance of each board with this section, 83264
Chapter 340. of the Revised Code, and other state or federal law 83265
and regulations. 83266

(2) The department, in cooperation with the board, 83267
periodically shall review and evaluate the quality, 83268

effectiveness, and efficiency of both of the following: 83269

(a) The facility services, addiction services, mental health services, and recovery supports for which each board contracts under section 340.036 of the Revised Code; 83270
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(b) The facilities, addiction services, and mental health services that each board operates or provides under section 340.037 of the Revised Code. 83273
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The department shall collect information that is necessary to perform its review and evaluation. 83276
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~~(E)~~(D) Issue guidelines to be followed by each board of alcohol, drug addiction, and mental health services when it reviews under division (A)(6) of section 340.03 of the Revised Code any annual financial audit reports submitted to the board by community addiction services providers and community mental health services providers; 83278
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~~(F)~~(E) To the extent the director determines necessary and after consulting with boards of alcohol, drug addiction, and mental health services, community addiction services providers, and community mental health services providers, develop and operate, or contract for the operation of, a community behavioral health information system or systems. The department shall specify the information that must be provided by the boards and providers for inclusion in the system or systems. 83284
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Boards of alcohol, drug addiction, and mental health services, community addiction services providers, and community mental health services providers shall submit information requested by the department in the form and manner and in accordance with time frames prescribed by the department. 83292
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Information collected by the department may include all of the

following:	83298
(1) Information on addiction services, mental health services, and recovery supports provided;	83299 83300
(2) Financial information regarding expenditures of federal, state, or local funds;	83301 83302
(3) Information about persons served.	83303
The department shall not collect any personal information from the boards or providers except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.	83304 83305 83306 83307 83308
(G) <u>(F)</u> In consultation with representatives of boards of alcohol, drug addiction, and mental health services and after consideration of recommendations made by the medical director appointed under section 5119.11 of the Revised Code, establish all of the following:	83309 83310 83311 83312 83313
(1) Guidelines, including a timetable, for the boards' development and submission of proposed community addiction and mental health plans, budgets, and lists of addiction services, mental health services, and recovery supports under sections 340.03 and 340.08 of the Revised Code;	83314 83315 83316 83317 83318
(2) Procedures, including a timetable, for the director's review and approval or disapproval of the plans, budgets, and lists;	83319 83320 83321
(3) Procedures for corrective action regarding the plans, budgets, and lists, including submission of revised or new plans, budgets, and lists;	83322 83323 83324
(4) Procedures for the director to follow in offering	83325

technical assistance to boards to assist them in making the 83326
plans, budgets, and lists acceptable or in making proposed 83327
amendments to approved plans, budgets, and lists meet criteria 83328
for approval; 83329

(5) Procedures for issuing time-limited waivers under 83330
section 5119.221 of the Revised Code. 83331

~~(H)~~(G) Review each board's proposed community addiction 83332
and mental health plan, budget, and list of addiction services, 83333
mental health services, and recovery supports submitted pursuant 83334
to sections 340.03 and 340.08 of the Revised Code and approve or 83335
disapprove the plan, the budget, and the list in whole or in 83336
part. The director shall disapprove a board's proposed budget in 83337
whole or in part if the proposed budget would not make available 83338
in the board's service district the essential elements of the 83339
community-based continuum of care required by section 340.032 of 83340
the Revised Code, including, except as otherwise authorized by a 83341
time-limited waiver issued under section 5119.221 of the Revised 83342
Code, an array of addiction services and recovery supports for 83343
all levels of opioid and co-occurring drug addiction. 83344

Prior to a final decision to disapprove a plan, budget, or 83345
list in whole or in part, a representative of the director shall 83346
meet with the board and discuss the reason for the action the 83347
director proposes to take and any corrective action that should 83348
be taken to make the plan, budget, or list acceptable to the 83349
director. In addition, the director shall offer technical 83350
assistance to the board to assist it to make the plan, budget, 83351
or list acceptable. The director shall give the board a 83352
reasonable time in which to revise the plan, budget, or list. 83353
The board thereafter shall submit a revised plan, budget, or 83354
list or a new plan, budget, or list. 83355

~~(I)~~(H) Approve or disapprove all or part of proposed 83356
amendments that a board of alcohol, drug addiction, or mental 83357
health services submits under section 340.03 or 340.08 of the 83358
Revised Code to an approved community addiction and mental 83359
health plan, budget, or list of addiction services, mental 83360
health services, and recovery supports. 83361

If the director disapproves of all or part of any proposed 83362
amendment, the director shall provide the board an opportunity 83363
to present its position. The director shall inform the board of 83364
the reasons for the disapproval and of the criteria that must be 83365
met before the proposed amendment may be approved. The director 83366
shall give the board a reasonable time within which to meet the 83367
criteria and shall offer technical assistance to the board to 83368
help it meet the criteria. 83369

Sec. 5119.221. (A) The director of behavioral health, in 83370
accordance with procedures established under division ~~(C)~~~~(5)~~(F) 83371
(5) of section 5119.22 of the Revised Code, may issue to a board 83372
of alcohol, drug addiction, and mental health services a time- 83373
limited waiver of the requirement of section 340.033 of the 83374
Revised Code that ambulatory detoxification and medication- 83375
assisted treatment be made available within the borders of the 83376
board's service district if the director determines that both of 83377
the following apply: 83378

(1) The board seeking the waiver has made reasonable 83379
efforts to make ambulatory detoxification and medication- 83380
assisted treatment available within the borders of the board's 83381
service district; 83382

(2) Ambulatory detoxification and medication-assisted 83383
treatment can be made available through one or more contracts 83384
between the board seeking the waiver and community addiction 83385

services providers that are located not more than thirty miles 83386
beyond the borders of the board's service district. 83387

(B) Each waiver issued under this section shall specify 83388
the amount of time for which it is in effect and whether it 83389
applies to ambulatory detoxification, medication-assisted 83390
treatment, or both. 83391

Sec. 5119.25. (A) The director of behavioral health may 83392
withhold funds, in whole or in part, that otherwise are to be 83393
allocated to a board of alcohol, drug addiction, and mental 83394
health services under section 5119.23 of the Revised Code if 83395
either of the following circumstances apply: 83396

(1) The board fails to comply with Chapter 340. or 5119. 83397
of the Revised Code or rules of the department of behavioral 83398
health; 83399

(2) The board denies available service on the basis of 83400
race, color, religion, ancestry, military status, sex, age, 83401
national origin, disability as defined in section 4112.01 of the 83402
Revised Code, or developmental disability. 83403

(B) The director shall withhold funds, in whole or in 83404
part, that otherwise are to be allocated to a board under 83405
section 5119.23 of the Revised Code if either of the following 83406
circumstances apply: 83407

(1) The director, under division ~~(H)~~(G) of section 5119.22 83408
of the Revised Code, disapproves all or part of the board's 83409
proposed community addiction and mental health plan, budget, or 83410
list of addiction services, mental health services, and recovery 83411
supports; 83412

(2) The board's use of state and federal funds fails to 83413
comply with the board's approved budget, including approved 83414

amendments to the budget. 83415

(C) The director shall issue a notice identifying the 83416
areas of noncompliance and the action necessary to achieve 83417
compliance. The director may offer technical assistance to the 83418
board to achieve compliance. The board shall have thirty days 83419
from receipt of the notice of noncompliance to present its 83420
position that it is in compliance or to submit to the director 83421
evidence of corrective action the board took to achieve 83422
compliance. Before withholding funds, the director or the 83423
director's designee shall hold a hearing within thirty days of 83424
receipt of the board's position or evidence to determine if 83425
there are continuing violations and that either assistance is 83426
rejected or the board is unable, or has failed, to achieve 83427
compliance. The director may appoint a representative from 83428
another board of alcohol, drug addiction, and mental health 83429
services to serve as a mentor for the board in developing and 83430
executing a plan of corrective action to achieve compliance. Any 83431
such representative shall be from a board that is in compliance 83432
with Chapter 340. of the Revised Code, this chapter, and the 83433
department's rules. Subsequent to the hearing process, if it is 83434
determined that compliance has not been achieved, the director 83435
may allocate all or part of the withheld funds to one or more 83436
community mental health services providers or community 83437
addiction services providers to provide the mental health 83438
service, addiction service, or recovery support for which the 83439
board is not in compliance until the time that there is 83440
compliance. 83441

~~(D) The director shall adopt rules in accordance with~~ 83442
~~Chapter 119. of the Revised Code to implement this section.~~ 83443

Sec. 5119.36. (A) A person or government entity that seeks 83444

initial certification of one or more certifiable services and 83445
supports, or that seeks to renew certification of one or more 83446
certifiable services and supports, shall submit an application 83447
to the director of behavioral health. On receipt of the 83448
application, the director shall determine whether the standards 83449
established by division (B) of this section and any rules 83450
adopted under this section are satisfied or continue to be 83451
satisfied by the applicant. As part of the determination the 83452
director may conduct an on-site review of the applicant. In 83453
doing so, the director may conduct the review in cooperation 83454
with a board of alcohol, drug addiction, and mental health 83455
services that seeks to contract or has a contract with the 83456
applicant under section 340.036 of the Revised Code. 83457

Not later than fourteen days after receipt of an 83458
application for initial or renewed certification, the director 83459
shall inform the board of alcohol, drug addiction, and mental 83460
health services serving the alcohol, drug addiction, and mental 83461
health service district in which the applicant's certifiable 83462
services and supports will be provided of the receipt of the 83463
application. On the board's request, the director shall provide 83464
the board with a copy of the application. 83465

Not later than thirty days after a provider's 83466
certification ceases to be valid for any reason, including the 83467
provider's failure to renew the certification prior to 83468
expiration, the director's acceptance of the provider's 83469
surrender of the certification, or the issuance of a final order 83470
for disciplinary action under division (F) or (L) of this 83471
section, the director shall provide notice to the applicable 83472
board of alcohol, drug addiction, and mental health services of 83473
the reason the certification ceased to be valid and the date it 83474
became invalid. 83475

(B) (1) Except as provided in division (B) (4) of this section, beginning on October 3, 2023, an applicant seeking initial certification of certifiable services and supports shall be accredited by one or more national accrediting organizations specified in division (B) (3) of this section for certifiable services and supports for which national accreditation exists for such services and supports or equivalent services and supports.

(2) Except as provided in division (B) (4) of this section, beginning October 1, 2025, an applicant seeking to renew certification of certifiable services and supports shall be accredited by one or more national accrediting organizations specified in division (B) (3) of this section for certifiable services and supports for which national accreditation exists for such services and supports or equivalent services and supports.

(3) For purposes of divisions (B) (1) and (2) of this section, the director shall accept appropriate accreditation of an applicant's certifiable services and supports from any of the following national accrediting organizations:

- (a) The joint commission;
- (b) The commission on accreditation of rehabilitation facilities;
- (c) The council on accreditation;
- (d) Any other national accrediting organization the director considers appropriate.

(4) The accreditation requirements of divisions (B) (1) and (2) of this section do not apply to an applicant seeking an initial or renewed certification to provide prevention services,

as that term is defined in rules adopted under this section. For 83505
such applicants, accreditation is optional. 83506

(C) (1) Except as provided in division (C) (2) of this 83507
section, if the director determines that an applicant has paid 83508
any required certification fee, that the applicant's 83509
accreditation of certifiable services and supports is current 83510
and appropriate for the services and supports for which the 83511
applicant is seeking initial or renewed certification, and that 83512
the applicant meets any other requirements established by this 83513
section or rules adopted under it, the director shall certify 83514
the services and supports or renew the certification of the 83515
services and supports, as applicable. Except as provided in 83516
division (I) of this section, the director shall issue or renew 83517
the certification without further evaluation of the services and 83518
supports. 83519

(2) Prior to October 1, 2025, if an applicant that seeks 83520
to renew certification of certifiable services and supports is 83521
not accredited to provide those services and supports by one or 83522
more national accrediting organizations specified in division 83523
(B) (3) of this section, the director shall conduct an evaluation 83524
of the applicant to determine whether the applicant's 83525
certifiable services and supports satisfy the standards for 83526
certification. The evaluation is in addition to any on-site 83527
review conducted under division (A) of this section and shall be 83528
performed in cooperation with a board of alcohol, drug 83529
addiction, and mental health services that seeks to contract or 83530
has a contract with the applicant under section 340.036 of the 83531
Revised Code. If the director determines that an applicant has 83532
paid any required certification fee, that the applicant's 83533
certifiable services and supports satisfy the standards for 83534
renewed certification, and that the applicant meets any other 83535

requirements established by this section or the rules adopted 83536
under it, the director shall certify the certifiable services 83537
and supports. 83538

(D) For purposes of the accreditation requirements of this 83539
section, both of the following apply: 83540

(1) The director may review the accrediting organizations 83541
specified in division (B) (3) of this section to evaluate whether 83542
the accreditation standards and processes used by the 83543
organizations are consistent with service delivery models the 83544
director considers appropriate for mental health services, 83545
alcohol and drug addiction services, or physical health 83546
services. The director may communicate to an accrediting 83547
organization any identified concerns, trends, needs, and 83548
recommendations. 83549

(2) The director shall require a community mental health 83550
services provider and a community addiction services provider to 83551
notify the director not later than ten days after any change in 83552
the provider's accreditation status. The provider may notify the 83553
director by providing a copy of the relevant document the 83554
provider received from the accrediting organization. 83555

(E) The director may require a community mental health 83556
services provider or a community addiction services provider to 83557
submit to the director cost reports pertaining to the provider. 83558

(F) The director may refuse to certify certifiable 83559
services and supports, refuse to renew certification, or revoke 83560
certification if any of the following apply to an applicant for 83561
certification or the holder of the certification: 83562

(1) The applicant or holder is not in compliance with 83563
rules adopted under this section. 83564

(2) The applicant or holder has been cited for a pattern of serious noncompliance or repeated violations of statutes or rules during the current certification period or any previous certification period.

(3) The applicant or holder has been found to be in violation of section 5119.396 of the Revised Code;

(4) The applicant or holder submits false or misleading information as part of a certification application, renewal, or investigation.

(5) The applicant does not have adequate staff and equipment to provide the certifiable services and supports.

(6) The department has been notified under section 5119.367 of the Revised Code or is otherwise aware that the applicant, any owner or principal of the applicant, or any subsidiary of the applicant or owner has been the subject of an adverse action, as defined in that section, taken during the three-year period immediately preceding the date of notification or date of becoming aware of the adverse action.

(G) Proceedings initiated to deny applications to certify certifiable services and supports, to refuse to renew certification, or to revoke certification are governed by Chapter 119. of the Revised Code. If an order has been issued suspending admissions to a community addiction services provider, as provided in division (L) of this section, the order remains in effect during the pendency of those proceedings.

(H) The director may conduct an on-site review or otherwise evaluate a community mental health services provider or a community addiction services provider at any time based on cause, including complaints made by or on behalf of persons

receiving mental health services or alcohol and drug addiction 83594
services and confirmed or alleged deficiencies brought to the 83595
attention of the director. This authority does not affect the 83596
director's duty to conduct the inspections required by section 83597
5119.37 of the Revised Code. 83598

In conducting an on-site review under this division, the 83599
director may do so in cooperation with a board of alcohol, drug 83600
addiction, and mental health services that seeks to contract or 83601
has a contract with the applicant under section 340.036 of the 83602
Revised Code. In conducting any other evaluation under this 83603
division, the director shall do so in cooperation with such a 83604
board. 83605

(I) If the director proposes to take action under division 83606
(F) of this section, the director shall notify the board of 83607
alcohol, drug addiction, and mental health services serving the 83608
alcohol, drug addiction, and mental health service district in 83609
which the certifiable services and supports will be or were 83610
provided, and provide the board opportunity to respond as 83611
specified in division (A) of this section with respect to 83612
initial or renewal applications. 83613

When a final order is issued by the director under 83614
division (F) of this section, the director may request that the 83615
appropriate board of alcohol, drug addiction, and mental health 83616
services reallocate any funds for the certifiable services and 83617
supports the applicant was to provide to a community mental 83618
health services provider or community addiction services 83619
provider whose certifiable services and supports satisfy the 83620
standards. If the board does not reallocate such funds in a 83621
reasonable period of time, the director may withhold state and 83622
federal funds for the certifiable services and supports and 83623

allocate those funds directly to a community mental health 83624
services provider or community addiction services provider whose 83625
certifiable services and supports satisfy the standards. 83626

(J) Each applicant seeking initial or renewed 83627
certification of its certifiable services and supports shall pay 83628
a fee for the certification required by this section, unless the 83629
applicant is exempt under rules adopted under this section. Fees 83630
shall be paid into the state treasury to the credit of the sale 83631
of goods and services fund created pursuant to section 5119.45 83632
of the Revised Code. 83633

(K) The director shall adopt rules in accordance with 83634
Chapter 119. of the Revised Code ~~to implement this section. The~~ 83635
~~rules shall that~~ do all of the following: 83636

(1) Subject to section 340.034 of the Revised Code, 83637
specify the types of recovery supports that are required to be 83638
certified under this section; 83639

(2) Establish certification standards for certifiable 83640
services and supports that are consistent with nationally 83641
recognized applicable standards and facilitate participation in 83642
federal assistance programs. The rules shall include as 83643
certification standards only requirements that improve the 83644
quality of certifiable services and supports or the health and 83645
safety of persons receiving certifiable services and supports. 83646
The standards shall address at a minimum all of the following: 83647

(a) Reporting major unusual incidents to the director; 83648

(b) Procedures for applicants for and persons receiving 83649
certifiable services and supports to file grievances and 83650
complaints; 83651

(c) Seclusion; 83652

(d) Restraint;	83653
(e) Requirements regarding the physical facilities in which certifiable services and supports are provided;	83654 83655
(f) Requirements with regard to health, safety, adequacy, and cultural specificity and sensitivity;	83656 83657
(g) Standards for evaluating certifiable services and supports;	83658 83659
(h) Standards and procedures for granting full, probationary, and interim certification of the certifiable services and supports of an applicant;	83660 83661 83662
(i) Standards and procedures for revoking the certification of a community mental health services provider's or community addiction services provider's certifiable services and supports that do not continue to meet the minimum standards established pursuant to this section;	83663 83664 83665 83666 83667
(j) The limitations to be placed on a provider whose certifiable services and supports are granted probationary or interim certification;	83668 83669 83670
(k) Development of written policies addressing the rights of persons receiving certifiable services and supports, including all of the following:	83671 83672 83673
(i) The right to a copy of the written policies addressing the rights of persons receiving certifiable services and supports;	83674 83675 83676
(ii) The right at all times to be treated with consideration and respect for the person's privacy and dignity;	83677 83678
(iii) The right to have access to the person's own	83679

psychiatric, medical, or other treatment records unless access 83680
is specifically restricted in the person's treatment plan for 83681
clear treatment reasons; 83682

(iv) The right to have a client rights officer provided by 83683
the provider or board of alcohol, drug addiction, and mental 83684
health services advise the person of the person's rights, 83685
including the person's rights under Chapter 5122. of the Revised 83686
Code if the person is committed to the provider or board. 83687

(1) Documentation that must be submitted as evidence of 83688
holding appropriate accreditation; 83689

(m) A process by which the director may review the 83690
accreditation standards and process used by the national 83691
accrediting organizations specified in division (B) (3) of this 83692
section. 83693

(3) Establish the process for certification of certifiable 83694
services and supports; 83695

(4) Set the amount of initial and renewal certification 83696
fees and any reasons for which applicants may be exempt from the 83697
fees; 83698

(5) Specify the type of notice and hearing to be provided 83699
prior to a decision on whether to reallocate funds; 83700

(6) Establish a process by which the director, based on 83701
deficiencies identified as a result of conducting an on-site 83702
review or otherwise evaluating a community mental health 83703
services provider or community addiction services provider under 83704
division (H) of this section, may take any range of correction 83705
actions, including revocation of the provider's certification. 83706

(L) (1) The director may issue an order suspending 83707

admissions to a community addiction services provider that 83708
provides overnight accommodations if the director finds either 83709
of the following: 83710

(a) The provider's certifiable services and supports are 83711
not in compliance with rules adopted under this section; 83712

(b) The provider has been cited for more than one 83713
violation of statutes or rules during any previous certification 83714
period of the provider. 83715

(2) (a) Except as provided in division (L) (2) (b) of this 83716
section, proceedings initiated to suspend admissions to a 83717
community addiction services provider that provides overnight 83718
accommodations are governed by Chapter 119. of the Revised Code. 83719

(b) If a suspension of admissions is proposed because the 83720
director has determined that the provider has demonstrated a 83721
pattern of serious noncompliance or that a violation creates a 83722
substantial risk to the health and safety of patients, the 83723
director may issue an order suspending admissions before 83724
providing an opportunity for an adjudication under Chapter 119. 83725
of the Revised Code. The director shall lift the order for the 83726
suspension of admissions if the director determines that the 83727
violation that formed the basis for the order has been 83728
corrected. 83729

(3) Appeals from proceedings initiated to order the 83730
suspension of admissions shall be conducted in accordance with 83731
Chapter 119. of the Revised Code, unless the order was issued 83732
before providing an opportunity for an adjudication, in which 83733
case all of the following apply: 83734

(a) The provider may request a hearing not later than ten 83735
days after being served in accordance with sections 119.05 and 83736

119.07 of the Revised Code. 83737

(b) If a timely request for a hearing that includes the provider's current address is made, the hearing shall commence not later than thirty days after the department receives the request. 83738
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(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the provider and the director. 83742
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(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations with the department not later than ten days after the last of the following: 83746
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83748
83749

(i) The close of the hearing; 83750

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript; 83751
83752

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs. 83753
83754

(e) The hearing examiner shall send a written copy of the report and recommendations, by certified mail, to the provider, or the provider's attorney, if applicable, not later than five days after the report is filed with the department. 83755
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(f) Not later than five days after receiving the report and recommendations, the provider may file objections with the department. 83759
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83761

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the department shall issue an order approving, modifying, or disapproving the report and 83762
83763
83764

recommendations. 83765

(h) Notwithstanding the pendency of the hearing, the 83766
department shall lift the order for the suspension of admissions 83767
if the department determines the violation that formed the basis 83768
for the order has been corrected. 83769

(M) (1) In a proceeding initiated to suspend admissions to 83770
a community addiction services provider that provides overnight 83771
accommodations, to deny an application for certification of 83772
certifiable services and supports, to refuse to renew 83773
certification, or to revoke certification, the department may 83774
order the suspension, denial, refusal, or revocation regardless 83775
of whether some or all of the deficiencies that prompted the 83776
proceedings have been corrected at the time of the hearing. 83777

(2) When the department issues an order suspending 83778
admissions to a community addiction services provider that 83779
provides overnight accommodations, denies an application for 83780
certification of certifiable services and supports, refuses to 83781
renew certification, or revokes a certification, the department 83782
shall not grant an opportunity for submitting a plan of 83783
correction. 83784

(N) The department of behavioral health shall maintain a 83785
current list of community addiction services providers and shall 83786
provide a copy of the list to a judge of a court of common pleas 83787
who requests a copy for the use of the judge under division (H) 83788
of section 2925.03 of the Revised Code. The list shall identify 83789
each provider by its name, its address, and the county in which 83790
it is located. 83791

(O) No person shall represent in any manner that a 83792
community mental health services provider's or community 83793

addiction services provider's certifiable services and supports 83794
are certified by the director if the certifiable services and 83795
supports are not so certified at the time the representation is 83796
made. 83797

(P) If a board of alcohol, drug addiction, and mental 83798
health services requests the department of behavioral health to 83799
investigate a community mental health services provider or 83800
community addiction services provider pursuant to this section, 83801
the department shall initiate the investigation not later than 83802
ten business days after receipt of the request. If the 83803
department initiates an investigation of a community mental 83804
health services provider or community addiction services 83805
provider under this section for any other reason, the department 83806
shall notify the board of alcohol, drug addiction, and mental 83807
health services serving the applicable alcohol, drug addiction, 83808
and mental health service district of the investigation and the 83809
reason for the investigation not later than three business days 83810
after the investigation begins. On the board's request, the 83811
department shall provide the board with information specifying 83812
the status of the investigation and the final disposition of the 83813
investigation. 83814

Sec. 5119.368. (A) As used in this section, "telehealth 83815
services" has the same meaning as in section 4743.09 of the 83816
Revised Code. 83817

(B) Each community mental health services provider and 83818
community addiction services provider shall establish written 83819
policies and procedures describing how the provider will ensure 83820
that staff persons assisting clients with receiving telehealth 83821
services or providing telehealth services are fully trained in 83822
using equipment necessary for providing the services. 83823

(C) Prior to providing telehealth services to a client, a provider shall describe to the client the potential risks associated with receiving treatment through telehealth services and shall document that the client was provided with the risks and agreed to assume those risks. The risks communicated to a client shall address the following:

(1) Clinical aspects of receiving treatment through telehealth services;

(2) Security considerations when receiving treatment through telehealth services;

(3) Confidentiality for individual and group counseling.

(D) It is the responsibility of the provider, to the extent possible, to ensure contractually that any entity or individuals involved in the transmission of information through telehealth mechanisms guarantee that the confidentiality of the information is protected.

(E) Every provider shall have a contingency plan for providing telehealth services to clients in the event that technical problems occur during the provision of those services.

(F) Providers shall maintain, at a minimum, the following information pertaining to local resources:

(1) The local suicide prevention telephone hotline, if available, or the national suicide prevention telephone hotline.

(2) Contact information for the local police and fire departments.

The provider shall provide the client written information on how to access assistance in a crisis, including one caused by equipment malfunction or failure.

- (G) It is the responsibility of the provider to ensure that equipment meets standards sufficient to do the following:
- (1) To the extent possible, ensure confidentiality of communication;
 - (2) Provide for interactive communication between the provider and the client;
 - (3) When providing telehealth services using synchronous technology, ensure that video or audio are sufficient to enable real-time interaction between the client and the provider and to ensure the quality of the service provided.
- (H) A mental health facility or unit that is serving as a client site shall be maintained in such a manner that appropriate staff persons are on hand at the facility or unit in the event of a malfunction with the equipment used to provide telehealth services.
- (I) (1) All telehealth services provided by interactive videoconferencing shall meet both of the following conditions:
- (a) Begin with the verification of the client through a name and password or personal identification number when treatment services are being provided;
 - (b) Be provided in accordance with state and federal law.
- (2) When providing telehealth services in accordance with this section, a provider shall comply with all requirements under state and federal law regarding the protection of patient information. Each provider shall ensure that any username or password information and any electronic communications between the provider and a client are securely transmitted and stored.
- ~~(J) The department of behavioral health may adopt rules as~~

~~it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. Any such rules adopted by the department are not subject to the requirements of division (F) of section 121.95 of the Revised Code.~~

Sec. 5119.39. (A) The department of behavioral health shall monitor the operation of recovery housing in this state by doing either of the following:

(1) Certifying recovery housing residences through a process established by the department;

(2) Accepting accreditation, or its equivalent for recovery housing, from one or more of the following:

(a) The Ohio affiliate of the national alliance for recovery residences;

(b) Oxford house, inc.;

(c) Any other organization that is designated by the department for purposes of this section.

(B) If the department certifies recovery housing residences, the department shall, ~~in rules adopted under section 5119.397 of the Revised Code,~~ adopt rules in accordance with Chapter 119. of the Revised Code to establish requirements for initial certification and renewal certification, as well as grounds and procedures for disciplinary action against operators of recovery housing residences.

Sec. 5119.51. (A) As used in this section, "supplemental services" has the same meaning as in section 5815.28 of the Revised Code.

(B) There is hereby created in the state treasury the

services fund for individuals with mental illness. On the death 83908
of the beneficiary of a trust created pursuant to section 83909
5815.28 of the Revised Code, the portion of the remaining assets 83910
of the trust specified in the trust instrument shall be 83911
deposited to the credit of the fund. Money credited to the fund 83912
shall be used for individuals with mental illness. 83913

Supplemental services may be provided through the 83914
department or boards of alcohol, drug addiction, and mental 83915
health services. ~~In accordance with Chapter 119. of the Revised-~~ 83916
~~Code, the department of behavioral health may adopt any rules-~~ 83917
~~necessary to implement this section.~~ 83918

Sec. 5120.01. The director of rehabilitation and 83919
correction is the executive head of the department of 83920
rehabilitation and correction. All duties conferred on the 83921
various divisions and institutions of the department by law or 83922
by order of the director shall be performed under the rules and 83923
regulations that the director ~~prescribes~~ is specifically 83924
authorized to adopt under this chapter and shall be under the 83925
director's control. Inmates committed to the department of 83926
rehabilitation and correction shall be under the legal custody 83927
of the director or the director's designee, and the director or 83928
the director's designee shall have power to control transfers of 83929
inmates between the several state institutions included under 83930
section 5120.05 of the Revised Code. 83931

Sec. 5120.031. (A) As used in this section: 83932

(1) "Certificate of high school equivalence" means either: 83933

(a) A statement that is issued by the department of 83934
education and workforce that indicates that its holder has 83935
achieved the equivalent of a high school education as measured 83936

by scores obtained on a high school equivalency test approved by 83937
the department of education and workforce pursuant to division 83938
(B) of section 3301.80 of the Revised Code; 83939

(b) A statement that is issued by a primary-secondary 83940
education or higher education agency of another state that 83941
indicates that its holder has achieved the equivalent of a high 83942
school education as measured by scores obtained on a similar 83943
nationally recognized high school equivalency test. 83944

(2) "Certificate of adult basic education" means a 83945
statement that is issued by the department of rehabilitation and 83946
correction through the Ohio central school system approved by 83947
the department of education and workforce and that indicates 83948
that its holder has achieved a 6.0 grade level, or higher, as 83949
measured by scores of nationally standardized or recognized 83950
tests. 83951

(3) "Deadly weapon" and "firearm" have the same meanings 83952
as in section 2923.11 of the Revised Code. 83953

(4) "Eligible offender" means a person, other than one who 83954
is ineligible to participate in an intensive program prison 83955
under the criteria specified in section 5120.032 of the Revised 83956
Code, who has been convicted of or pleaded guilty to, and has 83957
been sentenced for, a felony. 83958

(5) "Shock incarceration" means the program of 83959
incarceration that is established pursuant to the rules of the 83960
department of rehabilitation and correction adopted under this 83961
section. 83962

(B) (1) The director of rehabilitation and correction, by 83963
rules adopted under Chapter 119. of the Revised Code, shall 83964
establish a pilot program of shock incarceration that may be 83965

used for offenders who are sentenced to serve a term of 83966
imprisonment under the custody of the department of 83967
rehabilitation and correction, whom the department determines to 83968
be eligible offenders, and whom the department, subject to the 83969
approval of the sentencing judge, may permit to serve their 83970
sentence as a sentence of shock incarceration in accordance with 83971
this section. 83972

(2) The rules for the pilot program shall require that the 83973
program be established at an appropriate state correctional 83974
institution designated by the director and that the program 83975
consist of both of the following for each eligible offender whom 83976
the department, with the approval of the sentencing judge, 83977
permits to serve the eligible offender's sentence as a sentence 83978
of shock incarceration: 83979

(a) A period of imprisonment at that institution of ninety 83980
days that shall consist of a military style combination of 83981
discipline, physical training, and hard labor and substance 83982
abuse education, employment skills training, social skills 83983
training, and psychological treatment. During the ninety-day 83984
period, the department may permit an eligible offender to 83985
participate in a self-help program. Additionally, during the 83986
ninety-day period, an eligible offender who holds a high school 83987
diploma or a certificate of high school equivalence may be 83988
permitted to tutor other eligible offenders in the shock 83989
incarceration program. If an eligible offender does not hold a 83990
high school diploma or certificate of high school equivalence, 83991
the eligible offender may elect to participate in an education 83992
program that is designed to award a certificate of adult basic 83993
education or an education program that is designed to award a 83994
certificate of high school equivalence to those eligible 83995
offenders who successfully complete the education program, 83996

whether the completion occurs during or subsequent to the 83997
ninety-day period. To the extent possible, the department shall 83998
use as teachers in the education program persons who have been 83999
issued a license pursuant to sections 3319.22 to 3319.31 of the 84000
Revised Code, who have volunteered their services to the 84001
education program, and who satisfy any other criteria specified 84002
in the rules for the pilot project. 84003

(b) Immediately following the ninety-day period of 84004
imprisonment, and notwithstanding any other provision governing 84005
the early release of a prisoner from imprisonment or the 84006
transfer of a prisoner to transitional control, one of the 84007
following, as determined by the director: 84008

(i) An intermediate, transitional type of detention for 84009
the period of time determined by the director and, immediately 84010
following the intermediate, transitional type of detention, a 84011
release under a post-release control sanction imposed in 84012
accordance with section 2967.28 of the Revised Code. The period 84013
of intermediate, transitional type of detention imposed by the 84014
director under this division may be in a halfway house, in a 84015
community-based correctional facility and program or district 84016
community-based correctional facility and program established 84017
under sections 2301.51 to 2301.58 of the Revised Code, or in any 84018
other facility approved by the director that provides for 84019
detention to serve as a transition between imprisonment in a 84020
state correctional institution and release from imprisonment. 84021

(ii) A release under a post-release control sanction 84022
imposed in accordance with section 2967.28 of the Revised Code. 84023

(3) The rules for the pilot program also shall include, 84024
but are not limited to, all of the following: 84025

(a) Rules identifying the locations within the state 84026
correctional institution designated by the director that will be 84027
used for eligible offenders serving a sentence of shock 84028
incarceration; 84029

(b) Rules establishing specific schedules of discipline, 84030
physical training, and hard labor for eligible offenders serving 84031
a sentence of shock incarceration, based upon the offender's 84032
physical condition and needs; 84033

(c) Rules establishing standards and criteria for the 84034
department to use in determining which eligible offenders the 84035
department will permit to serve their sentence of imprisonment 84036
as a sentence of shock incarceration; 84037

(d) Rules establishing guidelines for the selection of 84038
post-release control sanctions for eligible offenders; 84039

(e) Rules establishing procedures for notifying sentencing 84040
courts of the performance of eligible offenders serving their 84041
sentences of imprisonment as a sentence of shock incarceration; 84042

~~(f) Any other rules that are necessary for the proper 84043
conduct of the pilot program. 84044~~

(C) (1) If an offender is sentenced to a term of 84045
imprisonment under the custody of the department, if the 84046
sentencing court either recommends the offender for placement in 84047
a program of shock incarceration under this section or makes no 84048
recommendation on placement of the offender, and if the 84049
department determines that the offender is an eligible offender 84050
for placement in a program of shock incarceration under this 84051
section, the department may permit the eligible offender to 84052
serve the sentence in a program of shock incarceration, in 84053
accordance with division (I) of section 2929.14 of the Revised 84054

Code, with this section, and with the rules adopted under this 84055
section. If the sentencing court disapproves placement of the 84056
offender in a program of shock incarceration, the department 84057
shall not place the offender in any program of shock 84058
incarceration. 84059

If the sentencing court recommends the offender for 84060
placement in a program of shock incarceration and if the 84061
department subsequently places the offender in the recommended 84062
program, the department shall notify the court of the offender's 84063
placement in the recommended program and shall include with the 84064
notice a brief description of the placement. 84065

If the sentencing court recommends placement of the 84066
offender in a program of shock incarceration and the department 84067
for any reason does not subsequently place the offender in the 84068
recommended program, the department shall send a notice to the 84069
court indicating why the offender was not placed in the 84070
recommended program. 84071

If the sentencing court does not make a recommendation on 84072
the placement of an offender in a program of shock incarceration 84073
and if the department determines that the offender is an 84074
eligible offender for placement in a program of that nature, the 84075
department shall screen the offender and determine if the 84076
offender is suited for the program of shock incarceration. If 84077
the offender is suited for the program of shock incarceration, 84078
at least three weeks prior to permitting an eligible offender to 84079
serve the sentence in a program of shock incarceration, the 84080
department shall notify the sentencing court of the proposed 84081
placement of the offender in the program and shall include with 84082
the notice a brief description of the placement. The court shall 84083
have ten days from receipt of the notice to disapprove the 84084

placement. If the sentencing court disapproves of the placement, 84085
the department shall not permit the eligible offender to serve 84086
the sentence in a program of shock incarceration. If the judge 84087
does not timely disapprove of placement of the offender in the 84088
program of shock incarceration, the department may proceed with 84089
plans for placement of the offender. 84090

If the department determines that the offender is not 84091
eligible for placement in a program of shock incarceration, the 84092
department shall not place the offender in any program of shock 84093
incarceration. 84094

(2) If the department permits an eligible offender to 84095
serve the eligible offender's sentence of imprisonment as a 84096
sentence of shock incarceration and the eligible offender does 84097
not satisfactorily complete the entire period of imprisonment 84098
described in division (B) (2) (a) of this section, the offender 84099
shall be removed from the pilot program for shock incarceration 84100
and shall be required to serve the remainder of the offender's 84101
sentence of imprisonment imposed by the sentencing court as a 84102
regular term of imprisonment. If the eligible offender commences 84103
a period of post-release control described in division (B) (2) (b) 84104
of this section and violates the conditions of that post-release 84105
control, the eligible offender shall be subject to the 84106
provisions of sections 2929.141, 2967.15, and 2967.28 of the 84107
Revised Code regarding violation of post-release control 84108
sanctions. 84109

(3) If an eligible offender's stated prison term expires 84110
at any time during the eligible offender's participation in the 84111
shock incarceration program, the adult parole authority shall 84112
terminate the eligible offender's participation in the program 84113
and shall issue to the eligible offender a certificate of 84114

expiration of the stated prison term. 84115

(D) The director shall keep sentencing courts informed of 84116
the performance of eligible offenders serving their sentences of 84117
imprisonment as a sentence of shock incarceration, including, 84118
but not limited to, notice of eligible offenders who fail to 84119
satisfactorily complete their entire sentence of shock 84120
incarceration or who satisfactorily complete their entire 84121
sentence of shock incarceration. 84122

(E) Within a reasonable period of time after November 20, 84123
1990, the director shall appoint a committee to search for one 84124
or more suitable sites at which one or more programs of shock 84125
incarceration, in addition to the pilot program required by 84126
division (B)(1) of this section, may be established. The search 84127
committee shall consist of the director or the director's 84128
designee, as chairperson; employees of the department of 84129
rehabilitation and correction appointed by the director; and any 84130
other persons that the director, in the director's discretion, 84131
appoints. In searching for such sites, the search committee 84132
shall give preference to any site owned by the state or any 84133
other governmental entity and to any existing structure that 84134
reasonably could be renovated, enlarged, converted, or remodeled 84135
for purposes of establishing such a program. The search 84136
committee shall prepare a report concerning its activities and, 84137
on the earlier of the day that is twelve months after the first 84138
day on which an eligible offender began serving a sentence of 84139
shock incarceration under the pilot program or January 1, 1992, 84140
shall file the report with the president and the minority leader 84141
of the senate, the speaker and the minority leader of the house 84142
of representatives, the members of the senate who were members 84143
of the senate judiciary committee in the 118th general assembly 84144
or their successors, and the members of the house of 84145

representatives who were members of the select committee to hear 84146
drug legislation that was established in the 118th general 84147
assembly or their successors. Upon the filing of the report, the 84148
search committee shall terminate. The report required by this 84149
division shall contain all of the following: 84150

(1) A summary of the process used by the search committee 84151
in performing its duties under this division; 84152

(2) A summary of all of the sites reviewed by the search 84153
committee in performing its duties under this division, and the 84154
benefits and disadvantages it found relative to the 84155
establishment of a program of shock incarceration at each such 84156
site; 84157

(3) The findings and recommendations of the search 84158
committee as to the suitable site or sites, if any, at which a 84159
program of shock incarceration, in addition to the pilot program 84160
required by division (B)(1) of this section, may be established. 84161

(F) The director periodically shall review the pilot 84162
program for shock incarceration required to be established by 84163
division (B)(1) of this section. The director shall prepare a 84164
report relative to the pilot program and, on the earlier of the 84165
day that is twelve months after the first day on which an 84166
eligible offender began serving a sentence of shock 84167
incarceration under the pilot program or January 1, 1992, shall 84168
file the report with the president and the minority leader of 84169
the senate, the speaker and the minority leader of the house of 84170
representatives, the members of the senate who were members of 84171
the senate judiciary committee in the 118th general assembly or 84172
their successors, and the members of the house of 84173
representatives who were members of the select committee to hear 84174
drug legislation that was established in the 118th general 84175

assembly or their successors. The pilot program shall not 84176
terminate at the time of the filing of the report, but shall 84177
continue in operation in accordance with this section. The 84178
report required by this division shall include all of the 84179
following: 84180

(1) A summary of the pilot program as initially 84181
established, a summary of all changes in the pilot program made 84182
during the period covered by the report and the reasons for the 84183
changes, and a summary of the pilot program as it exists on the 84184
date of preparation of the report; 84185

(2) A summary of the effectiveness of the pilot program, 84186
in the opinion of the director and employees of the department 84187
involved in its operation; 84188

(3) An analysis of the total cost of the pilot program, of 84189
its cost per inmate who was permitted to serve a sentence of 84190
shock incarceration and who served the entire sentence of shock 84191
incarceration, and of its cost per inmate who was permitted to 84192
serve a sentence of shock incarceration; 84193

(4) A summary of the standards and criteria used by the 84194
department in determining which eligible offenders were 84195
permitted to serve their sentence of imprisonment as a sentence 84196
of shock incarceration; 84197

(5) A summary of the characteristics of the eligible 84198
offenders who were permitted to serve their sentence of 84199
imprisonment as a sentence of shock incarceration, which summary 84200
shall include, but not be limited to, a listing of every offense 84201
of which any such eligible offender was convicted or to which 84202
any such eligible offender pleaded guilty and in relation to 84203
which the eligible offender served a sentence of shock 84204

incarceration, and the total number of such eligible offenders 84205
who were convicted of or pleaded guilty to each such offense; 84206

(6) A listing of the number of eligible offenders who were 84207
permitted to serve a sentence of shock incarceration and who did 84208
not serve the entire sentence of shock incarceration, and, to 84209
the extent possible, a summary of the length of the terms of 84210
imprisonment served by such eligible offenders after they were 84211
removed from the pilot program; 84212

(7) A summary of the effect of the pilot program on 84213
overcrowding at state correctional institutions; 84214

(8) To the extent possible, an analysis of the rate of 84215
recidivism of eligible offenders who were permitted to serve a 84216
sentence of shock incarceration and who served the entire 84217
sentence of shock incarceration; 84218

(9) Recommendations as to legislative changes to the pilot 84219
program that would assist in its operation or that could further 84220
alleviate overcrowding at state correctional institutions, and 84221
recommendations as to whether the pilot program should be 84222
expanded. 84223

Sec. 5120.04. The department of rehabilitation and 84224
correction, with the approval of the governor and in accordance 84225
with rules adopted pursuant to division ~~(B)~~(A) of section 84226
5145.03 of the Revised Code, may assign prisoners who are 84227
committed or transferred to institutions under the 84228
administration of the department to perform labor on any public 84229
work of the state. 84230

Sec. 5120.103. (A) To the extent that funds are available, 84231
the department of rehabilitation and correction, in accordance 84232
with this section and sections 5120.104 and 5120.105 of the 84233

Revised Code, may construct or provide for the construction of 84234
halfway house facilities for offenders whom a court places in a 84235
halfway house pursuant to section 2929.16 or 2929.26 of the 84236
Revised Code or who are eligible for community supervision by 84237
the department of rehabilitation and correction. 84238

(B) A halfway house organization that seeks to assist in 84239
the program planning of a halfway house facility described in 84240
division (A) of this section shall file an application with the 84241
director of rehabilitation and correction as set forth in a 84242
request for proposal. Upon the submission of an application, the 84243
division of parole and community services shall review it and, 84244
if the division believes it is appropriate, shall submit a 84245
recommendation for its approval to the director. When the 84246
division submits a recommendation for approval of an 84247
application, the director may approve the application. The 84248
director shall not take action or fail to take action, or permit 84249
the taking of action or the failure to take action, with respect 84250
to halfway house facilities that would adversely affect the 84251
exclusion of interest on public obligations or on fractionalized 84252
interests in public obligations from gross income for federal 84253
income tax purposes, or the classification or qualification of 84254
the public obligations or the interest on or fractionalized 84255
interests in public obligations for, or their exemption from, 84256
other treatment under the Internal Revenue Code. 84257

(C) The director of rehabilitation and correction and the 84258
halfway house organization may enter into an agreement 84259
establishing terms for the program planning of the halfway house 84260
facility. Any terms so established shall conform to the terms of 84261
any covenant or agreement pertaining to an obligation from which 84262
the funds used for the construction of the halfway house 84263
facility are derived. 84264

(D) The director of rehabilitation and correction, in accordance with Chapter 119. of the Revised Code, shall adopt rules that specify procedures by which a halfway house organization may apply for a contract for program planning of a halfway house facility constructed under this section, procedures for the department to follow in considering an application, and criteria for granting approval of an application, ~~and any other rules that are necessary for the selection of program planners of a halfway house facility.~~

Sec. 5120.19. (A) The department of rehabilitation and correction, in accordance with rules adopted pursuant to division ~~(B)~~(A) of section 5145.03 of the Revised Code, shall determine and direct what lands belonging to institutions under its control shall be cultivated, the crops to be raised, and the use to be made of the land and crops, and may distribute the products among the different institutions. If the crops are distributed to institutions under the control of the department, the department shall keep records of the distributions and of the fair market value of the crops distributed. The department may sell any crops that are not necessary for the institutions under its control to any person. The money received from the sale of the crops shall be deposited in the services and agricultural fund created pursuant to section 5120.29 of the Revised Code.

The department may require institutions under its control, when they have proper lands and labor, to undertake intensive agriculture, may rent lands for the production of supplies for any of the institutions that have surplus labor, and may rent lands for the production of crops for sale, when it can be done to advantage.

The department shall pay and assign the prisoners who 84295
perform any labor pursuant to this division in accordance with 84296
the rules adopted pursuant to division ~~(B)~~(A) of section 5145.03 84297
of the Revised Code. 84298

(B) The department may direct the purchase of any 84299
materials, supplies, or other articles for any institution under 84300
its control from any other institution under its control at the 84301
reasonable market value, which value shall be fixed by the 84302
department. Payments for the articles shall be made as between 84303
institutions in the manner provided for payment for supplies. 84304

Sec. 5120.27. The department of rehabilitation and 84305
correction may assign, among the correctional and penal 84306
institutions under its control and in accordance with the rules 84307
adopted pursuant to division ~~(B)~~(A) of section 5145.03 of the 84308
Revised Code, the industries to be carried on by the 84309
institutions, having due regard to the location and convenience 84310
of the industries, other institutions to be supplied, to the 84311
machinery in the institutions, and to the number and character 84312
of prisoners employed in the industries. 84313

Sec. 5120.28. (A) The department of rehabilitation and 84314
correction shall fix the prices at which all labor and services 84315
performed, all agricultural products produced, and all articles 84316
manufactured in correctional and penal institutions shall be 84317
furnished to the state, the political subdivisions of the state, 84318
and the public institutions of the state and the political 84319
subdivisions, and to private persons. The prices shall be 84320
uniform to all and not higher than the usual market price for 84321
like labor, products, services, and articles. 84322

(B) Any money received by the department of rehabilitation 84323
and correction for labor and services performed shall be 84324

deposited into the institutional services fund created pursuant 84325
to division (A) of section 5120.29 of the Revised Code and shall 84326
be used and accounted for as provided in that section and 84327
division ~~(B)~~(A) of section 5145.03 of the Revised Code. 84328

(C) Any money received by the department of rehabilitation 84329
and correction for articles manufactured and agricultural 84330
products produced in penal and correctional institutions shall 84331
be deposited into the Ohio penal industries manufacturing fund 84332
created pursuant to division (B) of section 5120.29 of the 84333
Revised Code and shall be used and accounted for as provided in 84334
that section and division ~~(B)~~(A) of section 5145.03 of the 84335
Revised Code. 84336

Sec. 5120.53. (A) If a treaty between the United States 84337
and a foreign country provides for the transfer or exchange, 84338
from one of the signatory countries to the other signatory 84339
country, of convicted offenders who are citizens or nationals of 84340
the other signatory country, the governor, subject to and in 84341
accordance with the terms of the treaty, may authorize the 84342
director of rehabilitation and correction to allow the transfer 84343
or exchange of convicted offenders and to take any action 84344
necessary to initiate participation in the treaty. If the 84345
governor grants the director the authority described in this 84346
division, the director may take the necessary action to initiate 84347
participation in the treaty and, subject to and in accordance 84348
with division (B) of this section and the terms of the treaty, 84349
may allow the transfer or exchange to a foreign country that has 84350
signed the treaty of any convicted offender who is a citizen or 84351
national of that signatory country. 84352

(B) (1) No convicted offender who is serving a term of 84353
imprisonment in this state for aggravated murder, murder, or a 84354

felony of the first or second degree, who is serving a mandatory 84355
prison term imposed under section 2925.03 or 2925.11 of the 84356
Revised Code in circumstances in which the court was required to 84357
impose as the mandatory prison term the maximum definite prison 84358
term or longest minimum prison term authorized for the degree of 84359
offense committed, who is serving a term of imprisonment in this 84360
state imposed for an offense committed prior to July 1, 1996, 84361
that was an aggravated felony of the first or second degree or 84362
that was aggravated trafficking in violation of division (A) (9) 84363
or (10) of section 2925.03 of the Revised Code, or who has been 84364
sentenced to death in this state shall be transferred or 84365
exchanged to another country pursuant to a treaty of the type 84366
described in division (A) of this section. 84367

(2) If a convicted offender is serving a term of 84368
imprisonment in this state and the offender is a citizen or 84369
national of a foreign country that has signed a treaty of the 84370
type described in division (A) of this section, if the governor 84371
has granted the director of rehabilitation and correction the 84372
authority described in that division, and if the transfer or 84373
exchange of the offender is not barred by division (B) (1) of 84374
this section, the director or the director's designee may 84375
approve the offender for transfer or exchange pursuant to the 84376
treaty if the director or the designee, after consideration of 84377
the factors set forth in the rules adopted by the department 84378
under division (D) of this section ~~and all other relevant~~ 84379
~~factors~~, determines that the transfer or exchange of the 84380
offender is appropriate. 84381

(C) Notwithstanding any provision of the Revised Code 84382
regarding the parole eligibility of, or the duration or 84383
calculation of a sentence of imprisonment imposed upon, an 84384
offender, if a convicted offender is serving a term of 84385

imprisonment in this state and the offender is a citizen or 84386
national of a foreign country that has signed a treaty of the 84387
type described in division (A) of this section, if the offender 84388
is serving an indefinite term of imprisonment, if the offender 84389
is barred from being transferred or exchanged pursuant to the 84390
treaty due to the indefinite nature of the offender's term of 84391
imprisonment, and if in accordance with division (B) (2) of this 84392
section the director of rehabilitation and correction or the 84393
director's designee approves the offender for transfer or 84394
exchange pursuant to the treaty, the parole board, pursuant to 84395
rules adopted by the director, shall set a date certain for the 84396
release of the offender. To the extent possible, the date 84397
certain that is set shall be reasonably proportionate to the 84398
indefinite term of imprisonment that the offender is serving. 84399
The date certain that is set for the release of the offender 84400
shall be considered only for purposes of facilitating the 84401
international transfer or exchange of the offender, shall not be 84402
viable or actionable for any other purpose, and shall not create 84403
any expectation or guarantee of release. If an offender for whom 84404
a date certain for release is set under this division is not 84405
transferred to or exchanged with the foreign country pursuant to 84406
the treaty, the date certain is null and void, and the 84407
offender's release shall be determined pursuant to the laws and 84408
rules of this state pertaining to parole eligibility and the 84409
duration and calculation of an indefinite sentence of 84410
imprisonment. 84411

(D) If the governor, pursuant to division (A) of this 84412
section, authorizes the director of rehabilitation and 84413
correction to allow any transfer or exchange of convicted 84414
offenders as described in that division, the director shall 84415
adopt rules under Chapter 119. of the Revised Code ~~to implement~~ 84416

~~the provisions of this section. The rules shall include a rule~~ 84417
that ~~requires~~ require the director or the director's designee, 84418
in determining whether to approve a convicted offender who is 84419
serving a term of imprisonment in this state for transfer or 84420
exchange pursuant to a treaty of the type described in division 84421
(A) of this section, to consider all of the following factors: 84422

(1) The nature of the offense for which the offender is 84423
serving the term of imprisonment in this state; 84424

(2) The likelihood that, if the offender is transferred or 84425
exchanged to a foreign country pursuant to the treaty, the 84426
offender will serve a shorter period of time in imprisonment in 84427
the foreign country than the offender would serve if the 84428
offender is not transferred or exchanged to the foreign country 84429
pursuant to the treaty; 84430

(3) The likelihood that, if the offender is transferred or 84431
exchanged to a foreign country pursuant to the treaty, the 84432
offender will return or attempt to return to this state after 84433
the offender has been released from imprisonment in the foreign 84434
country; 84435

(4) The degree of any shock to the conscience of justice 84436
and society that will be experienced in this state if the 84437
offender is transferred or exchanged to a foreign country 84438
pursuant to the treaty; 84439

~~(5) All other factors that the department determines are~~ 84440
~~relevant to the determination.~~ 84441

Sec. 5120.55. (A) As used in this section, "licensed 84442
health professional" means any or all of the following: 84443

(1) A dentist who holds a current, valid license issued 84444
under Chapter 4715. of the Revised Code to practice dentistry; 84445

(2) A licensed practical nurse who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as a licensed practical nurse;

(3) An optometrist who holds a current, valid certificate of licensure issued under Chapter 4725. of the Revised Code that authorizes the holder to engage in the practice of optometry;

(4) A physician who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(5) A psychologist who holds a current, valid license issued under Chapter 4732. of the Revised Code that authorizes the practice of psychology as a licensed psychologist;

(6) A registered nurse who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as a registered nurse, including such a nurse who is also licensed to practice as an advanced practice registered nurse as defined in section 4723.01 of the Revised Code.

(B) (1) The department of rehabilitation and correction may establish a recruitment program under which the department, by means of a contract entered into under division (C) of this section, agrees to repay all or part of the principal and interest of a government or other educational loan incurred by a licensed health professional who agrees to provide services to inmates of correctional institutions under the department's administration.

(2) (a) For a physician to be eligible to participate in the program, the physician must have attended a school that was,

during the time of attendance, a medical school or osteopathic 84475
medical school in this country accredited by the liaison 84476
committee on medical education or the American osteopathic 84477
association, a college of podiatry in this country in good 84478
standing with the state medical board, or a medical school, 84479
osteopathic medical school, or college of podiatry located 84480
outside this country that was acknowledged by the world health 84481
organization and verified by a member state of that organization 84482
as operating within that state's jurisdiction. 84483

(b) For a nurse to be eligible to participate in the 84484
program, the nurse must have attended a school that was, during 84485
the time of attendance, a nursing school in this country 84486
accredited by the commission on collegiate nursing education or 84487
the national league for nursing accrediting commission or a 84488
nursing school located outside this country that was 84489
acknowledged by the world health organization and verified by a 84490
member state of that organization as operating within that 84491
state's jurisdiction. 84492

(c) For a dentist to be eligible to participate in the 84493
program, the dentist must have attended a school that was, 84494
during the time of attendance, a dental college that enabled the 84495
dentist to meet the requirements specified in section 4715.10 of 84496
the Revised Code to be granted a license to practice dentistry. 84497

(d) For an optometrist to be eligible to participate in 84498
the program, the optometrist must have attended a school of 84499
optometry that was, during the time of attendance, approved by 84500
the state vision professionals board. 84501

(e) For a psychologist to be eligible to participate in 84502
the program, the psychologist must have attended an educational 84503
institution that, during the time of attendance, maintained a 84504

specific degree program recognized by the state board of 84505
psychology as acceptable for fulfilling the requirement of 84506
division (B) (2) of section 4732.10 of the Revised Code. 84507

(C) The department shall enter into a contract with each 84508
licensed health professional it recruits under this section. 84509
Each contract shall include at least the following terms: 84510

(1) The licensed health professional agrees to provide a 84511
specified scope of medical, osteopathic medical, podiatric, 84512
optometric, psychological, nursing, or dental services to 84513
inmates of one or more specified state correctional institutions 84514
for a specified number of hours per week for a specified number 84515
of years. 84516

(2) The department agrees to repay all or a specified 84517
portion of the principal and interest of a government or other 84518
educational loan taken by the licensed health professional for 84519
the following expenses to attend, for up to a maximum of four 84520
years, a school that qualifies the licensed health professional 84521
to participate in the program: 84522

(a) Tuition; 84523

(b) Other educational expenses for specific purposes, 84524
including fees, books, and laboratory expenses, in amounts 84525
determined to be reasonable in accordance with rules adopted 84526
under division (D) of this section; 84527

(c) Room and board, in an amount determined to be 84528
reasonable in accordance with rules adopted under division (D) 84529
of this section. 84530

(3) The licensed health professional agrees to pay the 84531
department a specified amount, which shall be no less than the 84532
amount already paid by the department pursuant to its agreement, 84533

as damages if the licensed health professional fails to complete 84534
the service obligation agreed to or fails to comply with other 84535
specified terms of the contract. The contract may vary the 84536
amount of damages based on the portion of the service obligation 84537
that remains uncompleted. 84538

(4) Other terms agreed upon by the parties. 84539

The licensed health professional's lending institution or 84540
the department of higher education may be a party to the 84541
contract. The contract may include an assignment to the 84542
department of rehabilitation and correction of the licensed 84543
health professional's duty to repay the principal and interest 84544
of the loan. 84545

(D) If the department of rehabilitation and correction 84546
elects to implement the recruitment program, it shall adopt 84547
rules in accordance with Chapter 119. of the Revised Code that 84548
establish all of the following: 84549

(1) Criteria for designating institutions for which 84550
licensed health professionals will be recruited; 84551

(2) Criteria for selecting licensed health professionals 84552
for participation in the program; 84553

(3) Criteria for determining the portion of a loan which 84554
the department will agree to repay; 84555

(4) Criteria for determining reasonable amounts of the 84556
expenses described in divisions (C) (2) (b) and (c) of this 84557
section; 84558

(5) Procedures for monitoring compliance by a licensed 84559
health professional with the terms of the contract the licensed 84560
health professional enters into under this section. 84561

~~(6) Any other criteria or procedures necessary to
implement the program.~~ 84562
84563

Sec. 5120.56. (A) As used in sections 5120.56 to 5120.58 84564
of the Revised Code: 84565

(1) "Ancillary services" means services provided to an 84566
offender as necessary for the particular circumstances of the 84567
offender's personal supervision, including, but not limited to, 84568
specialized counseling, testing, or other services not included 84569
in the calculation of residential or supervision costs. 84570

(2) "Cost debt" means a cost of incarceration or 84571
supervision that may be assessed against and collected from an 84572
offender as a debt to the state as described in division (D) of 84573
this section. 84574

(3) "Detention facility" means any place used for the 84575
confinement of a person charged with or convicted of any crime. 84576

(4) "Offender" means any inmate, parolee, person placed 84577
under a community control sanction, releasee, or other person 84578
who has been convicted of or pleaded guilty to any felony or 84579
misdemeanor and is sentenced to any of the following: 84580

(a) A term of imprisonment, a prison term, a jail term, or 84581
another type of confinement in a detention facility; 84582

(b) Participation in another correctional program in lieu 84583
of incarceration. 84584

(5) "Community control sanction," "prison term," and "jail 84585
term" have the same meanings as in section 2929.01 of the 84586
Revised Code. 84587

(6) "Parolee" and "releasee" have the same meanings as in 84588
section 2967.01 of the Revised Code. 84589

(B) The department of rehabilitation and correction may recover from an offender who is in its custody or under its supervision any cost debt described in division (D) of this section. To satisfy a cost debt described in that division that relates to an offender, the department may apply directly assets that are in the department's possession and that are being held for that offender without further proceedings in aid of execution, and, if assets belonging to or subject to the direction of that offender are in the possession of a third party, the department may request the attorney general to initiate proceedings to collect the assets from the third party to satisfy the cost debt.

(C) Except as otherwise provided in division (E) or (G) of this section, all of the following assets of an offender shall be subject to attachment, collection, or application toward the cost debts described in division (D) of this section that are to be recovered under division (B) of this section:

(1) Subject to division (E) of this section, any pay the offender receives from the state;

(2) Subject to division (E) of this section, any funds the offender receives from persons on an approved visitor list;

(3) Any liquid assets belonging to the offender and in the custody of the department;

(4) Any assets the offender acquires or any other income the offender earns subsequent to the offender's commitment.

(D) Costs of incarceration or supervision that may be assessed against and collected from an offender under division (B) of this section as a debt to the state shall include, but are not limited to, all of the following costs that accrue while

the offender is in the custody or under the supervision of the department: 84619
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(1) Any user fee or copayment for services at a detention facility or housing facility, including, but not limited to, a fee or copayment for sick call visits; 84621
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(2) Assessment for damage to or destruction of property in a detention facility subsequent to commitment; 84624
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(3) Restitution to an offender or to a staff member of a state correctional institution for theft, loss, or damage to the personal property of the offender or staff member; 84626
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(4) The cost of housing and feeding the offender in a detention facility; 84629
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(5) The cost of supervision of the offender; 84631

(6) The cost of any ancillary services provided to the offender; 84632
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(7) The cost of any medical care provided to the offender. 84634

(E) The cost of housing and feeding an offender in a state correctional institution shall not be collected from a payment made to the offender for performing an activity at a state job or assignment that pays less than the minimum wage or from money the offender receives from visitors, unless the combined assets in the offender's institution personal account exceed, at any time, one hundred dollars. If the combined assets in that account exceed one hundred dollars, the cost of housing and feeding the offender may be collected from the amount in excess of one hundred dollars. 84635
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(F) (1) The department shall adopt rules pursuant to section 111.15 of the Revised Code ~~to implement the requirements~~ 84645
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~~of this section.~~ 84647

~~(2) The rules adopted under division (F) (1) of this section shall include, but are not limited to, rules that establish or contain all of the following:~~ 84648

(a) A process for ascertaining the items of cost to be assessed against an offender; 84651

(b) Subject to division ~~(F) (3)~~ (F) (2) of this section, a process by which the offender shall have the opportunity to respond to the assessment of costs under division (B) of this section and to contest any item of cost in the department's calculation or as it applies to the offender; 84653

(c) A requirement that the offender be notified, in writing, of a final decision to collect or apply the offender's assets under division (B) of this section and that the notification be provided after the offender has had an opportunity to contest the application or collection; 84658

(d) Criteria for evaluating an offender's ongoing, permanent injury and evaluating the ability of that type of offender to provide for the offender after incarceration. 84663

~~(3)~~ (2) The rules adopted under division (F) (1) of this section may allow the collection of a cost debt as a flat fee or over time in installments. If the cost debt is to be collected over time in installments, the rules are not required to permit the offender an opportunity to contest the assessment of each installment. The rules may establish a standard fee to apply to all offenders who receive a particular service. 84666

(G) The department shall not collect cost debts or apply offender assets toward a cost debt under division (B) of this section if, due to an ongoing, permanent injury, the collection 84673

or application would unjustly limit the offender's ability to 84676
provide for the offender after incarceration. 84677

(H) If an offender acquires assets after the offender is 84678
convicted of or pleads guilty to an offense and if the 84679
transferor knows of the offender's status as an offender, the 84680
transferor shall notify the department in advance of the 84681
transfer. 84682

(I) There is hereby created in the state treasury the 84683
offender financial responsibility fund. All moneys collected by 84684
or on behalf of the department under this section, and all 84685
moneys currently in the department's custody that are applied to 84686
satisfy an allowable cost debt under this section, shall be 84687
deposited into the fund. The department may expend moneys in the 84688
fund for goods and services of the same type as those for which 84689
offenders are assessed pursuant to this section. 84690

Sec. 5120.65. (A) The department of rehabilitation and 84691
correction may establish in one or more of the institutions for 84692
women operated by the department a prison nursery program under 84693
which eligible inmates and children born to them while in the 84694
custody of the department may reside together in the 84695
institution. If the department establishes a prison nursery 84696
program in one or more institutions under this section, sections 84697
5120.651 to ~~5120.657~~ 5120.656 of the Revised Code apply 84698
regarding the program. If the department establishes a prison 84699
nursery program and an inmate participates in the program, 84700
neither the inmate's participation in the program nor any 84701
provision of sections 5120.65 to 5120.657 of the Revised Code 84702
affects, modifies, or interferes with the inmate's custodial 84703
rights of the child or establishes legal custody of the child 84704
with the department. 84705

(B) As used in sections 5120.651 to 5120.657 of the Revised Code: 84706
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(1) "Prison nursery program" means the prison nursery program established by the department of rehabilitation and correction under this section, if one is so established. 84708
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(2) "Public assistance" has the same meaning as in section 5101.58 of the Revised Code. 84711
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(3) "Support" means amounts to be paid under a support order. 84713
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(4) "Support order" has the same meaning as in section 3119.01 of the Revised Code. 84715
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Sec. 5122.33. The department of behavioral health may prescribe the form of applications, reports, records, and medical certificates provided for under this chapter, and the information required to be contained therein; require reports from the chief clinical officer of any public hospital relating to the admission, examination, diagnosis, release, or discharge of any patient; visit each such hospital regularly to review the admission procedures of all new patients admitted between visits; and investigate by personal visit complaints made by any patient or by any person on behalf of a patient; ~~and adopt such rules as are reasonably necessary to effectuate the provisions of this chapter.~~ 84717
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Sec. 5123.022. (A) As used in this section: 84729

(1) "Community employment" means competitive employment that takes place in an integrated setting. 84730
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(2) "Competitive employment" means full-time or part-time work in the competitive labor market in which payment is at or 84732
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above the minimum wage but not less than the customary wage and 84734
level of benefits paid by the employer for the same or similar 84735
work performed by persons who are not disabled. 84736

(3) "Integrated setting" means a setting typically found 84737
in the community where individuals with developmental 84738
disabilities interact with individuals who do not have 84739
disabilities to the same extent that individuals in comparable 84740
positions who are not disabled interact with other individuals, 84741
including in employment settings in which employees interact 84742
with the community through technology. 84743

(B) It is hereby declared to be the policy of this state 84744
that employment services for individuals with developmental 84745
disabilities be directed at community employment. Every 84746
individual with a developmental disability is presumed capable 84747
of community employment. 84748

The departments of developmental disabilities, education 84749
and workforce, medicaid, job and family services, and mental 84750
health and addiction services; the opportunities for Ohioans 84751
with disabilities agency; and each other state agency that 84752
provides employment services to individuals with developmental 84753
disabilities shall implement the policy of this state and ensure 84754
that it is followed whenever employment services are provided to 84755
individuals with developmental disabilities. 84756

The department of developmental disabilities shall 84757
coordinate the actions taken by state agencies to comply with 84758
the state's policy. Agencies shall collaborate within their 84759
divisions and with each other to ensure that state programs, 84760
policies, procedures, and funding support competitive and 84761
integrated employment of individuals with developmental 84762
disabilities. State agencies shall share information with the 84763

department, and the department shall track progress toward full 84764
implementation of the policy. The department, in coordination 84765
with any task force established by the governor, shall compile 84766
data and annually submit to the governor a report on 84767
implementation of the policy. 84768

~~The department and state agencies may adopt rules to 84769
implement the state's policy. 84770~~

(C) The state's policy articulated in this section is 84771
intended to promote the right of each individual with a 84772
developmental disability to informed choice; however, nothing in 84773
this section requires any employer to give preference in hiring 84774
to an individual because the individual has a disability. 84775

Sec. 5123.025. It is hereby declared to be the policy of 84776
this state that individuals with developmental disabilities 84777
shall have access to innovative technology solutions. Technology 84778
can ensure that people with developmental disabilities have 84779
increased opportunities to live, work, and thrive in their 84780
homes, communities, and places of employment through state of 84781
the art planning, innovative technology, and supports that focus 84782
on their talents, interests, and skills. 84783

The departments of developmental disabilities, education 84784
and workforce, medicaid, aging, job and family services, mental 84785
health and addiction services, and transportation; the 84786
opportunities for Ohioans with disabilities agency; and each 84787
other state agency that provides technology services to 84788
individuals with developmental disabilities shall implement the 84789
policy of this state and ensure that it is followed whenever 84790
technology services are provided to individuals with 84791
developmental disabilities. 84792

The department of developmental disabilities, in 84793
partnership with the office of innovateohio, shall coordinate 84794
the actions taken by state agencies to comply with the state's 84795
policy. Agencies shall collaborate within their divisions and 84796
with each other to ensure that state programs, policies, 84797
procedures, and funding support the development of access to 84798
technology for individuals with developmental disabilities. 84799
State agencies shall share information with the department, and 84800
the department shall track progress toward full implementation 84801
of the policy. The department, in coordination with the 84802
technology first task force established under section 5123.026 84803
of Revised Code, shall compile data and annually submit to the 84804
governor and lieutenant governor a report on implementation of 84805
the policy. 84806

~~The department and state agencies may adopt rules to 84807
implement the state's policy.~~ 84808

Sec. 5123.026. (A) The director of developmental 84809
disabilities shall establish a technology first task force 84810
consisting of representatives from the office of innovateohio; 84811
the departments of developmental disabilities, education and 84812
workforce, medicaid, aging, job and family services, mental 84813
health and addiction services, children and youth, and 84814
transportation; and the opportunities for Ohioans with 84815
disabilities agency. 84816

(B) The task force shall do all of the following: 84817

(1) Expand innovative technology solutions within the 84818
operation and delivery of services to individuals with 84819
developmental disabilities; 84820

(2) Use technology to reduce the barriers individuals with 84821

developmental disabilities experience; 84822

(3) Align policies for all state agencies on the task 84823
force. 84824

(C) The department of developmental disabilities may enter 84825
into interagency agreements with any of the government entities 84826
on the task force. The interagency agreements may specify either 84827
or both of the following: 84828

(1) The roles and responsibilities of the government 84829
entities that are members of the task force, including any money 84830
to be contributed by those entities; 84831

(2) The projects and activities of the task force. 84832

~~(D) The department and state agencies may adopt rules to 84833
implement the task force. 84834~~

Sec. 5123.04. (A) The director of developmental 84835
disabilities is the executive head of the department of 84836
developmental disabilities. All duties conferred on the 84837
department and its institutions by law or by order of the 84838
director shall ~~be performed under such rules as the director 84839
prescribes, and shall be~~ under the director's control. The 84840
director shall establish bylaws for the government of all 84841
institutions under the jurisdiction of the department. Except as 84842
otherwise is provided as to appointments by chiefs of divisions, 84843
the director shall appoint such employees as are necessary for 84844
the efficient conduct of the department, and shall prescribe 84845
their titles and duties. If the director is not a licensed 84846
physician, decisions relating to medical diagnosis and treatment 84847
shall be the responsibility of a licensed physician appointed by 84848
the director. 84849

(B) ~~The director shall adopt rules for the proper 84850~~

~~execution of the powers and duties of the department.~~ 84851

~~(C)~~ The director shall adopt rules establishing standards 84852
that programs and facilities for persons with intellectual 84853
disabilities shall follow when performing evaluations of the 84854
mental condition of defendants ordered by the court under 84855
section 2919.271 or 2945.371 of the Revised Code, and for the 84856
treatment of defendants who have been found incompetent to stand 84857
trial under section 2945.38 of the Revised Code, and certify the 84858
compliance of such programs and facilities with the standards. 84859

~~(D)~~ (C) On behalf of the department, the director has the 84860
authority to, and responsibility for, entering into contracts 84861
and other agreements. 84862

~~(E)~~ (D) The director shall adopt rules in accordance with 84863
Chapter 119. of the Revised Code that do ~~all~~ both of the 84864
following: 84865

(1) Specify the supplemental services that may be provided 84866
through a trust authorized by section 5815.28 of the Revised 84867
Code; 84868

(2) Establish standards for the maintenance and 84869
distribution to a beneficiary of assets of a trust authorized by 84870
section 5815.28 of the Revised Code. 84871

~~(F)~~ (E) The director shall provide monitoring of county 84872
boards of developmental disabilities. 84873

Sec. 5123.0420. As used in this section, "evidence-based 84874
intervention" means a prevention or treatment service that has 84875
been demonstrated through scientific evaluation to produce a 84876
positive outcome. 84877

The department of developmental disabilities shall 84878

establish a voluntary training and certification program for 84879
individuals who provide evidence-based interventions to 84880
individuals with an autism spectrum disorder. The department 84881
shall administer the program or contract with a person or other 84882
government entity to administer the program. The program shall 84883
not conflict with or duplicate any other certification or 84884
licensure process administered by the state. 84885

~~The director of developmental disabilities may adopt rules 84886
as necessary to implement this section. If the director adopts 84887
rules, the rules shall be adopted in accordance with Chapter 84888
119. of the Revised Code. 84889~~

Sec. 5123.081. (A) As used in this section: 84890

(1) (a) "Applicant" means any of the following: 84891

(i) A person who is under final consideration for 84892
appointment to or employment with the department of 84893
developmental disabilities or a county board of developmental 84894
disabilities; 84895

(ii) A person who is being transferred to the department 84896
or a county board; 84897

(iii) An employee who is being recalled to or reemployed 84898
by the department or a county board after a layoff; 84899

(iv) A person under final consideration for a direct 84900
services position with a provider or subcontractor. 84901

(b) Neither of the following is an applicant: 84902

(i) A person who is employed by a responsible entity in a 84903
position for which a criminal records check is required by this 84904
section and either is being considered for a different position 84905
with the responsible entity or is returning after a leave of 84906

absence or seasonal break in employment, unless the responsible 84907
entity has reason to believe that the person has committed a 84908
disqualifying offense; 84909

(ii) A person who is to provide only respite care under a 84910
family support services program established under section 84911
5126.11 of the Revised Code if a family member of the individual 84912
with a developmental disability who is to receive the respite 84913
care selects the person. 84914

(2) "Criminal records check" has the same meaning as in 84915
section 109.572 of the Revised Code. 84916

(3) "Direct services position" means an employment 84917
position in which the employee has the opportunity to be alone 84918
with or exercises supervision or control over one or more 84919
individuals with developmental disabilities. 84920

(4) "Disqualifying offense" means any of the offenses 84921
listed or described in divisions (A) (3) (a) to (e) of section 84922
109.572 of the Revised Code. 84923

(5) (a) "Employee" means either of the following: 84924

(i) A person appointed to or employed by the department of 84925
developmental disabilities or a county board of developmental 84926
disabilities; 84927

(ii) A person employed in a direct services position by a 84928
provider or subcontractor. 84929

(b) "Employee" does not mean a person who provides only 84930
respite care under a family support services program established 84931
under section 5126.11 of the Revised Code if a family member of 84932
the individual with a developmental disability who receives the 84933
respite care selected the person. 84934

(6) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	84935 84936
(7) "Provider" means a person that provides specialized services to individuals with developmental disabilities and employs one or more persons in direct services positions.	84937 84938 84939
(8) "Responsible entity" means the following:	84940
(a) The department of developmental disabilities in the case of either of the following:	84941 84942
(i) A person who is an applicant because the person is under final consideration for appointment to or employment with the department, being transferred to the department, or being recalled to or reemployed by the department after a layoff;	84943 84944 84945 84946
(ii) A person who is an employee because the person is appointed to or employed by the department.	84947 84948
(b) A county board of developmental disabilities in the case of either of the following:	84949 84950
(i) A person who is an applicant because the person is under final consideration for appointment to or employment with the county board, being transferred to the county board, or being recalled to or reemployed by the county board after a layoff;	84951 84952 84953 84954 84955
(ii) A person who is an employee because the person is appointed to or employed by the county board.	84956 84957
(c) A provider in the case of either of the following:	84958
(i) A person who is an applicant because the person is under final consideration for a direct services position with the provider;	84959 84960 84961

(ii) A person who is an employee because the person is employed in a direct services position by the provider.	84962 84963
(d) A subcontractor in the case of either of the following:	84964 84965
(i) A person who is an applicant because the person is under final consideration for a direct services position with the subcontractor;	84966 84967 84968
(ii) A person who is an employee because the person is employed in a direct services position by the subcontractor.	84969 84970
(9) "Specialized services" means any program or service designed and operated to serve primarily individuals with developmental disabilities, including a program or service provided by an entity licensed or certified by the department of developmental disabilities. If there is a question as to whether a provider or subcontractor is providing specialized services, the provider or subcontractor may request that the director of developmental disabilities make a determination. The director's determination is final.	84971 84972 84973 84974 84975 84976 84977 84978 84979
(10) "Subcontractor" means a person to which both of the following apply:	84980 84981
(a) The person has either of the following:	84982
(i) A subcontract with a provider to provide specialized services included in the contract between the provider and the department of developmental disabilities or a county board of developmental disabilities;	84983 84984 84985 84986
(ii) A subcontract with another subcontractor to provide specialized services included in a subcontract between the other subcontractor and a provider or other subcontractor.	84987 84988 84989

(b) The person employs one or more persons in direct services positions. 84990
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(B) A responsible entity shall not employ an applicant or continue to employ an employee if either of the following applies: 84992
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(1) The applicant or employee fails to comply with division (D) (3) of this section. 84995
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(2) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense. 84997
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(C) Before employing an applicant in a position for which a criminal records check is required by this section, a responsible entity shall require the applicant to submit a statement with the applicant's signature attesting that the applicant has not been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense. The responsible entity also shall require the applicant to sign an agreement under which the applicant agrees to notify the responsible entity within fourteen calendar days if, while employed by the responsible entity, the applicant is formally charged with, is convicted of, pleads guilty to, or is found eligible for intervention in lieu of conviction for a disqualifying offense. The agreement shall provide that the applicant's failure to provide the notification may result in termination of the applicant's employment. 85002
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(D) (1) As a condition of employing any applicant in a position for which a criminal records check is required by this 85017
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section, a responsible entity shall request the superintendent 85019
of the bureau of criminal identification and investigation to 85020
conduct a criminal records check of the applicant. If rules 85021
adopted under this section require an employee to undergo a 85022
criminal records check, a responsible entity shall request the 85023
superintendent to conduct a criminal records check of the 85024
employee at times specified in the rules as a condition of the 85025
responsible entity's continuing to employ the employee in a 85026
position for which a criminal records check is required by this 85027
section. If an applicant or employee does not present proof that 85028
the applicant or employee has been a resident of this state for 85029
the five-year period immediately prior to the date upon which 85030
the criminal records check is requested, the responsible entity 85031
shall request that the superintendent obtain information from 85032
the federal bureau of investigation as a part of the criminal 85033
records check. If the applicant or employee presents proof that 85034
the applicant or employee has been a resident of this state for 85035
that five-year period, the responsible entity may request that 85036
the superintendent include information from the federal bureau 85037
of investigation in the criminal records check. For purposes of 85038
this division, an applicant or employee may provide proof of 85039
residency in this state by presenting, with a statement 85040
asserting that the applicant or employee has been a resident of 85041
this state for that five-year period, a valid driver's license, 85042
notification of registration as an elector, a copy of an 85043
officially filed federal or state tax form identifying the 85044
applicant's or employee's permanent residence, or any other 85045
document the responsible entity considers acceptable. 85046

(2) A responsible entity shall do all of the following: 85047

(a) Provide to each applicant and employee for whom a 85048
criminal records check is required by this section a copy of the 85049

form prescribed pursuant to division (C) (1) of section 109.572 85050
of the Revised Code and a standard impression sheet to obtain 85051
fingerprint impressions prescribed pursuant to division (C) (2) 85052
of section 109.572 of the Revised Code; 85053

(b) Obtain the completed form and standard impression 85054
sheet from the applicant or employee; 85055

(c) Forward the completed form and standard impression 85056
sheet to the superintendent at the time the criminal records 85057
check is requested. 85058

(3) Any applicant or employee who receives pursuant to 85059
this division a copy of the form prescribed pursuant to division 85060
(C) (1) of section 109.572 of the Revised Code and a copy of the 85061
standard impression sheet prescribed pursuant to division (C) (2) 85062
of that section and who is requested to complete the form and 85063
provide a set of the applicant's or employee's fingerprint 85064
impressions shall complete the form or provide all the 85065
information necessary to complete the form and shall provide the 85066
standard impression sheet with the impressions of the 85067
applicant's or employee's fingerprints. 85068

(4) A responsible entity shall pay to the bureau of 85069
criminal identification and investigation the fee prescribed 85070
pursuant to division (C) (3) of section 109.572 of the Revised 85071
Code for each criminal records check requested and conducted 85072
pursuant to this section. 85073

(E) A responsible entity may request any other state or 85074
federal agency to supply the responsible entity with a written 85075
report regarding the criminal record of an applicant or 85076
employee. If an employee holds an occupational or professional 85077
license or other credentials, the responsible entity may request 85078

that the state or federal agency that regulates the employee's occupation or profession supply the responsible entity with a written report of any information pertaining to the employee's criminal record that the agency obtains in the course of conducting an investigation or in the process of renewing the employee's license or other credentials. The responsible entity may consider the reports when determining whether to employ the applicant or to continue to employ the employee.

(F) As a condition of employing an applicant in a position for which a criminal records check is required by this section and that involves transporting individuals with developmental disabilities or operating a responsible entity's vehicles for any purpose, the responsible entity shall obtain the applicant's driving record from the bureau of motor vehicles. If rules adopted under this section require a responsible entity to obtain an employee's driving record, the responsible entity shall obtain the employee's driving record from the bureau at times specified in the rules as a condition of continuing to employ the employee. The responsible entity may consider the applicant's or employee's driving record when determining whether to employ the applicant or to continue to employ the employee.

(G) A responsible entity may employ an applicant conditionally pending receipt of a report regarding the applicant requested under this section. The responsible entity shall request the report before employing the applicant conditionally. The responsible entity shall terminate the applicant's employment if it is determined from a report that the applicant failed to inform the responsible entity that the applicant had been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a

disqualifying offense. 85110

(H) A responsible entity may charge an applicant a fee for 85111
costs the responsible entity incurs in obtaining a report 85112
regarding the applicant under this section if the responsible 85113
entity notifies the applicant of the amount of the fee at the 85114
time of the applicant's initial application for employment and 85115
that, unless the fee is paid, the responsible entity will not 85116
consider the applicant for employment. The fee shall not exceed 85117
the amount of the fee, if any, the responsible entity pays for 85118
the report. 85119

(I) (1) Any report obtained pursuant to this section is not 85120
a public record for purposes of section 149.43 of the Revised 85121
Code and shall not be made available to any person, other than 85122
the following: 85123

(a) The applicant or employee who is the subject of the 85124
report or the applicant's or employee's representative; 85125

(b) The responsible entity that requested the report or 85126
its representative; 85127

(c) The department if a county board, provider, or 85128
subcontractor is the responsible entity that requested the 85129
report and the department requests the responsible entity to 85130
provide a copy of the report to the department; 85131

(d) A county board if a provider or subcontractor is the 85132
responsible entity that requested the report and the county 85133
board requests the responsible entity to provide a copy of the 85134
report to the county board; 85135

(e) Any court, hearing officer, or other necessary 85136
individual involved in a case dealing with any of the following: 85137

- (i) The denial of employment to the applicant or employee; 85138
- (ii) The denial, suspension, or revocation of a 85139
certificate under section 5123.166 or 5123.45 of the Revised 85140
Code; 85141
- (iii) A civil or criminal action regarding the medicaid 85142
program or a program the department administers. 85143
- (2) An applicant or employee for whom the responsible 85144
entity has obtained reports under this section may submit a 85145
written request to the responsible entity to have copies of the 85146
reports sent to any state agency, entity of local government, or 85147
private entity. The applicant or employee shall specify in the 85148
request the agencies or entities to which the copies are to be 85149
sent. On receiving the request, the responsible entity shall 85150
send copies of the reports to the agencies or entities 85151
specified. 85152
- (3) A responsible entity may request that a state agency, 85153
entity of local government, or private entity send copies to the 85154
responsible entity of any report regarding a records check or 85155
criminal records check that the agency or entity possesses, if 85156
the responsible entity obtains the written consent of the 85157
individual who is the subject of the report. 85158
- (4) A responsible entity shall provide each applicant and 85159
employee with a copy of any report obtained about the applicant 85160
or employee under this section. 85161
- ~~(J)~~ (J) (1) The director of developmental disabilities shall 85162
may adopt rules in accordance with Chapter 119. of the Revised 85163
Code to ~~implement this section.~~ 85164
- ~~(1)~~ The rules ~~may~~ do the following: 85165

(a) Require employees to undergo criminal records checks under this section;	85166 85167
(b) Require responsible entities to obtain the driving records of employees under this section;	85168 85169
(c) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, exempt one or more classes of employees from the requirements.	85170 85171 85172 85173
(2) <u>The rules director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code to do</u> all of the following:	85174 85175 85176
(a) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, specify the times at which the criminal records checks are to be conducted and the driving records are to be obtained;	85177 85178 85179 85180 85181
(b) Specify circumstances under which a responsible entity may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets standards in regard to rehabilitation set by the director;	85182 85183 85184 85185 85186 85187
(c) Require a responsible entity to request a criminal records check under this section before employing an applicant conditionally as permitted under division (G) of this section.	85188 85189 85190
Sec. 5123.09. Subject to the rules of the department of developmental disabilities, each <u>Each</u> institution under the jurisdiction of the department shall be under the control of a managing officer to be known as a superintendent or by other	85191 85192 85193 85194

appropriate title. The managing officer shall be appointed by 85195
the director of developmental disabilities and shall be in the 85196
unclassified service and serve at the pleasure of the director. 85197
Each managing officer shall be of good moral character and have 85198
skill, ability, and experience in the managing officer's 85199
profession. Appointment to the position of managing officer of 85200
an institution may be made from persons holding positions in the 85201
classified service in the department. 85202

The managing officer, under the director, shall have 85203
entire executive charge of the institution for which the 85204
managing officer is appointed, except as provided in section 85205
5119.44 of the Revised Code. Subject to civil service rules ~~and~~ 85206
~~rules adopted by the department~~, the managing officer shall 85207
appoint the necessary employees, and the managing officer or the 85208
director may remove those employees for cause. A report of all 85209
appointments, resignations, and discharges shall be filed with 85210
the appropriate division at the close of each month. 85211

After conference with the managing officer of each 85212
institution, the director shall determine the number of 85213
employees to be appointed to the various institutions and 85214
clinics. 85215

Sec. 5123.093. The citizen's advisory councils established 85216
under section 5123.092 of the Revised Code shall do all of the 85217
following: 85218

(A) Transmit to the director of developmental disabilities 85219
verbal or written information, received from any person or 85220
organization associated with the institution or within the 85221
community, that an advisory council considers important; 85222

(B) Review the records of all applicants to any 85223

unclassified position at the institution, except for resident	85224
physician positions filled under section 5123.11 of the Revised	85225
Code;	85226
(C) Review and evaluate institutional employee training	85227
and continuing education programs;	85228
(D) On or before the thirty-first day of January of each	85229
year, submit a written report to the director of developmental	85230
disabilities regarding matters affecting the institution	85231
including, but not limited to, allegations of dehumanizing	85232
practices and violations of individual or legal rights;	85233
(E) Review institutional budgets, programs, services, and	85234
planning;	85235
(F) Develop and maintain within the community	85236
relationships with community developmental disabilities	85237
organizations;	85238
(G) Participate in the formulation of the institution's	85239
objectives, administrative procedures, program philosophy, and	85240
long range goals;	85241
(H) Bring any matter that an advisory council considers	85242
important to the attention of the director of developmental	85243
disabilities;	85244
(I) Recommend to the director of developmental	85245
disabilities persons for appointment to citizen's advisory	85246
councils;	85247
 (J) Adopt any rules or procedures necessary to carry out	85248
this section.	85249
The chairperson of the advisory council or the	85250
chairperson's designee shall be notified within twenty-four	85251

hours of any alleged incident of abuse to a resident or staff member by anyone. Incidents of resident or staff abuse shall include, but not be limited to, sudden deaths, accidents, suicides, attempted suicides, injury caused by other persons, alleged criminal acts, errors in prescribing or administering medication, theft from clients, fires, epidemic disease, administering unprescribed drugs, unauthorized use of restraint, withholding of information concerning alleged abuse, neglect, or any deprivation of rights as defined in Chapter 5122. or 5123. of the Revised Code.

Sec. 5123.19. (A) As used in sections 5123.19 to 5123.20 of the Revised Code:

(1) "Independent living arrangement" means an arrangement in which an individual with a developmental disability resides in an individualized setting chosen by the individual or the individual's guardian, which is not dedicated principally to the provision of residential services for individuals with developmental disabilities, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(2) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(3) "Political subdivision" means a municipal corporation, county, or township.

(4) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a

residential facility, rather than a person or government entity 85281
certified to provide supported living. 85282

(5) (a) Except as provided in division (A) (5) (b) of this 85283
section, "residential facility" means a home or facility, 85284
including an ICF/IID, in which an individual with a 85285
developmental disability resides. 85286

(b) "Residential facility" does not mean any of the 85287
following: 85288

(i) The home of a relative or legal guardian in which an 85289
individual with a developmental disability resides; 85290

(ii) A respite care home certified under section 5126.05 85291
of the Revised Code; 85292

(iii) A county home or district home operated pursuant to 85293
Chapter 5155. of the Revised Code; 85294

(iv) A dwelling in which the only residents with 85295
developmental disabilities are in independent living 85296
arrangements or are being provided supported living; 85297

(v) A location registered as a pediatric transition care 85298
program under section 3712.042 of the Revised Code. 85299

(B) Every person or government agency desiring to operate 85300
a residential facility shall apply for licensure of the facility 85301
to the director of developmental disabilities unless the 85302
residential facility is subject to section 3721.02, 5103.03, 85303
5119.33, or division (B) (1) (b) of section 5119.34 of the Revised 85304
Code. 85305

(C) (1) Subject to section 5123.196 of the Revised Code, 85306
the director of developmental disabilities shall license the 85307
operation of residential facilities. An initial license shall be 85308

issued for a period that does not exceed one year, unless the 85309
director denies the license under division (D) of this section. 85310
A license shall be renewed for a period that does not exceed 85311
three years, unless the director refuses to renew the license 85312
under division (D) of this section. The director, when issuing 85313
or renewing a license, shall specify the period for which the 85314
license is being issued or renewed. A license remains valid for 85315
the length of the licensing period specified by the director, 85316
unless the license is terminated, revoked, or voluntarily 85317
surrendered. 85318

(2) Notwithstanding sections 5123.043, 5123.196, and 85319
5123.197 of the Revised Code ~~and rules adopted under section~~ 85320
~~5123.04 of the Revised Code~~, the director shall issue a new 85321
license for a residential facility if the facility meets the 85322
following conditions: 85323

(a) The residential facility will be certified as an 85324
ICF/IID; 85325

(b) The building in which the residential facility will be 85326
operated was operated as a residential facility under a lease 85327
for not fewer than twenty years before the date of application 85328
for a new license; 85329

(c) The former operator of the residential facility 85330
relocated the beds previously in the facility to another site 85331
that will be licensed as a residential facility; 85332

(d) The residential facility will be located in Preble, 85333
Clermont, or Warren county; 85334

(e) The residential facility will contain eight beds; 85335

(f) The licensee will make a good faith effort to serve 85336
multi-system youth or adults with severe behavioral challenges 85337

at the residential facility or at one or more other residential facilities for which licenses are issued under division (C) of this section. 85338
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(3) The director shall issue not more than five licenses under division (C) (2) of this section. 85341
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(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply: 85343
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(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility. 85355
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(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (J) of this section is not given. 85360
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(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D) (1) of this section and for any 85364
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other violation specified in rules adopted under division (G) (2) 85367
of this section. If the suspension of admissions is imposed for 85368
a violation that may result in sanctions under division (D) (1) 85369
of this section, the director may impose the suspension before 85370
providing an opportunity for an adjudication under Chapter 119. 85371
of the Revised Code. The director shall lift an order for the 85372
suspension of admissions when the director determines that the 85373
violation that formed the basis for the order has been 85374
corrected. 85375

(4) The director may order the placement of a monitor at a 85376
residential facility for any violation specified in rules 85377
adopted under division (G) (2) of this section. The director 85378
shall lift the order when the director determines that the 85379
violation that formed the basis for the order has been 85380
corrected. 85381

(5) When the director initiates license revocation 85382
proceedings, no opportunity for submitting a plan of correction 85383
shall be given. The director shall notify the licensee by letter 85384
of the initiation of the proceedings. The letter shall list the 85385
deficiencies of the residential facility and inform the licensee 85386
that no plan of correction will be accepted. The director shall 85387
also send a copy of the letter to the county board of 85388
developmental disabilities. Except in the case of a licensee 85389
that is an ICF/IID, the county board shall send a copy of the 85390
letter to each of the following: 85391

(a) Each resident who receives services from the licensee; 85392

(b) The guardian of each resident who receives services 85393
from the licensee if the resident has a guardian; 85394

(c) The parent or guardian of each resident who receives 85395

services from the licensee if the resident is a minor. 85396

(6) Pursuant to rules which shall be adopted in accordance 85397
with Chapter 119. of the Revised Code, the director may order 85398
the immediate removal of residents from a residential facility 85399
whenever conditions at the facility present an immediate danger 85400
of physical or psychological harm to the residents. 85401

(7) In determining whether a residential facility is being 85402
operated in compliance with a provision of this chapter that 85403
applies to residential facilities or the rules adopted under 85404
such a provision, or whether conditions at a residential 85405
facility present an immediate danger of physical or 85406
psychological harm to the residents, the director may rely on 85407
information obtained by a county board of developmental 85408
disabilities or other governmental agencies. 85409

(8) In proceedings initiated to deny, refuse to renew, or 85410
revoke licenses, the director may deny, refuse to renew, or 85411
revoke a license regardless of whether some or all of the 85412
deficiencies that prompted the proceedings have been corrected 85413
at the time of the hearing. 85414

(E) (1) Except as provided in division (E) (2) of this 85415
section, appeals from proceedings initiated to impose a sanction 85416
under division (D) of this section shall be conducted in 85417
accordance with Chapter 119. of the Revised Code. 85418

(2) Appeals from proceedings initiated to order the 85419
suspension of admissions to a facility shall be conducted in 85420
accordance with Chapter 119. of the Revised Code, unless the 85421
order was issued before providing an opportunity for an 85422
adjudication, in which case all of the following apply: 85423

(a) The licensee may request a hearing not later than ten 85424

days after being served in accordance with sections 119.05 and 85425
119.07 of the Revised Code. 85426

(b) If a timely request for a hearing that includes the 85427
licensee's current address is made, the hearing shall commence 85428
not later than thirty days after the department receives the 85429
request. 85430

(c) After commencing, the hearing shall continue 85431
uninterrupted, except for Saturdays, Sundays, and legal 85432
holidays, unless other interruptions are agreed to by the 85433
licensee and the director. 85434

(d) If the hearing is conducted by a hearing examiner, the 85435
hearing examiner shall file a report and recommendations not 85436
later than ten days after the last of the following: 85437

(i) The close of the hearing; 85438

(ii) If a transcript of the proceedings is ordered, the 85439
hearing examiner receives the transcript; 85440

(iii) If post-hearing briefs are timely filed, the hearing 85441
examiner receives the briefs. 85442

(e) A copy of the written report and recommendation of the 85443
hearing examiner shall be sent, by certified mail, to the 85444
licensee and the licensee's attorney, if applicable, not later 85445
than five days after the report is filed. 85446

(f) Not later than five days after the hearing examiner 85447
files the report and recommendations, the licensee may file 85448
objections to the report and recommendations. 85449

(g) Not later than fifteen days after the hearing examiner 85450
files the report and recommendations, the director shall issue 85451
an order approving, modifying, or disapproving the report and 85452

recommendations. 85453

(h) Notwithstanding the pendency of the hearing, the 85454
director shall lift the order for the suspension of admissions 85455
when the director determines that the violation that formed the 85456
basis for the order has been corrected. 85457

(F) Neither a person or government agency whose 85458
application for a license to operate a residential facility is 85459
denied nor a related party of the person or government agency 85460
may apply for a license to operate a residential facility before 85461
the date that is five years after the date of the denial. 85462
Neither a licensee whose residential facility license is revoked 85463
nor a related party of the licensee may apply for a residential 85464
facility license before the date that is five years after the 85465
date of the revocation. 85466

(G) In accordance with Chapter 119. of the Revised Code, 85467
the director shall adopt and may amend and rescind rules ~~for~~ 85468
~~licensing and regulating the operation of residential~~ 85469
~~facilities. The rules for residential facilities that are~~ 85470
~~ICFs/IID may differ from those for other residential facilities.~~ 85471
~~The rules shall~~ that establish and specify the following: 85472

(1) Procedures and criteria for issuing and renewing 85473
residential facility licenses, including procedures and criteria 85474
for determining the length of the licensing period that the 85475
director must specify for each license when it is issued or 85476
renewed; 85477

(2) Procedures and criteria for denying, refusing to 85478
renew, terminating, and revoking licenses and for ordering the 85479
suspension of admissions to a facility, placement of a monitor 85480
at a facility, and the immediate removal of residents from a 85481

facility;	85482
(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;	85483 85484 85485
(4) Procedures for surveying residential facilities;	85486
(5) Classifications for the various types of residential facilities;	85487 85488
(6) The maximum number of individuals who may be served in a particular type of residential facility;	85489 85490
(7) Uniform procedures for admission of individuals to and transfers and discharges of individuals from residential facilities;	85491 85492 85493
(8) Other standards for the operation of residential facilities and the services provided at residential facilities;	85494 85495
(9) Procedures for waiving any provision of any rule adopted under this section.	85496 85497
<u>The rules for residential facilities that are ICFs/IID may differ from those for other residential facilities.</u>	85498 85499
(H) (1) Before issuing a license, the director shall conduct a survey of the residential facility for which application is made. The director shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there. The director may assign to a county board of developmental disabilities or the department of health the responsibility to conduct any survey or	85500 85501 85502 85503 85504 85505 85506 85507 85508 85509

inspection under this section. 85510

(2) In conducting surveys, the director shall be given 85511
access to the residential facility; all records, accounts, and 85512
any other documents related to the operation of the facility; 85513
the licensee; the residents of the facility; and all persons 85514
acting on behalf of, under the control of, or in connection with 85515
the licensee. The licensee and all persons on behalf of, under 85516
the control of, or in connection with the licensee shall 85517
cooperate with the director in conducting the survey. 85518

(3) Following each survey, the director shall provide the 85519
licensee with a report listing the date of the survey, any 85520
citations issued as a result of the survey, and the statutes or 85521
rules that purportedly have been violated and are the bases of 85522
the citations. The director shall also do both of the following: 85523

(a) Specify a date by which the licensee may appeal any of 85524
the citations; 85525

(b) When appropriate, specify a timetable within which the 85526
licensee must submit a plan of correction describing how the 85527
problems specified in the citations will be corrected and, the 85528
date by which the licensee anticipates the problems will be 85529
corrected. 85530

(4) If the director initiates a proceeding to revoke a 85531
license, the director shall include the report required by 85532
division (H) (3) of this section with the notice of the proposed 85533
revocation the director sends to the licensee. In this 85534
circumstance, the licensee may not submit a plan of correction. 85535

(5) After a plan of correction is submitted, the director 85536
shall approve or disapprove the plan. If the plan of correction 85537
is approved, a copy of the approved plan shall be provided, not 85538

later than five business days after it is approved, to any 85539
person or government entity who requests it and made available 85540
on the internet web site maintained by the department of 85541
developmental disabilities. If the plan of correction is not 85542
approved and the director initiates a proceeding to revoke the 85543
license, a copy of the survey report shall be provided to any 85544
person or government entity that requests it and shall be made 85545
available on the internet web site maintained by the department. 85546

(6) The director shall initiate disciplinary action 85547
against any department employee who notifies or causes the 85548
notification to any unauthorized person of an unannounced survey 85549
of a residential facility by an authorized representative of the 85550
department. 85551

(I) In addition to any other information which may be 85552
required of applicants for a license pursuant to this section, 85553
the director shall require each applicant to provide a copy of 85554
an approved plan for a proposed residential facility pursuant to 85555
section 5123.042 of the Revised Code. This division does not 85556
apply to renewal of a license or to an applicant for an initial 85557
or modified license who meets the requirements of section 85558
5123.197 of the Revised Code. 85559

(J) (1) A licensee shall notify the owner of the building 85560
in which the licensee's residential facility is located of any 85561
significant change in the identity of the licensee or management 85562
contractor before the effective date of the change if the 85563
licensee is not the owner of the building. 85564

(2) Pursuant to rules, which shall be adopted in 85565
accordance with Chapter 119. of the Revised Code, the director 85566
may require notification to the department of any significant 85567
change in the ownership of a residential facility or in the 85568

identity of the licensee or management contractor. If the 85569
director determines that a significant change of ownership is 85570
proposed, the director shall consider the proposed change to be 85571
an application for development by a new operator pursuant to 85572
section 5123.042 of the Revised Code and shall advise the 85573
applicant within sixty days of the notification that the current 85574
license shall continue in effect or a new license will be 85575
required pursuant to this section. If the director requires a 85576
new license, the director shall permit the facility to continue 85577
to operate under the current license until the new license is 85578
issued, unless the current license is revoked, refused to be 85579
renewed, or terminated in accordance with Chapter 119. of the 85580
Revised Code. 85581

(3) A licensee shall transfer to the new licensee or 85582
management contractor all records related to the residents of 85583
the facility following any significant change in the identity of 85584
the licensee or management contractor. 85585

(K) A county board of developmental disabilities and any 85586
interested person may file complaints alleging violations of 85587
statute or department rule relating to residential facilities 85588
with the department. All complaints shall state the facts 85589
constituting the basis of the allegation. The department shall 85590
not reveal the source of any complaint unless the complainant 85591
agrees in writing to waive the right to confidentiality or until 85592
so ordered by a court of competent jurisdiction. 85593

The department shall adopt rules in accordance with 85594
Chapter 119. of the Revised Code establishing procedures for the 85595
receipt, referral, investigation, and disposition of complaints 85596
filed with the department under this division. 85597

(L) Before issuing a license under this section to a 85598

residential facility that will accommodate at any time more than 85599
one individual with a developmental disability, the director 85600
shall, by first class mail, notify the following: 85601

(1) If the facility will be located in a municipal 85602
corporation, the clerk of the legislative authority of the 85603
municipal corporation; 85604

(2) If the facility will be located in unincorporated 85605
territory, the clerk of the appropriate board of county 85606
commissioners and the fiscal officer of the appropriate board of 85607
township trustees. 85608

The director shall not issue the license for ten days 85609
after mailing the notice, excluding Saturdays, Sundays, and 85610
legal holidays, in order to give the notified local officials 85611
time in which to comment on the proposed issuance. 85612

Any legislative authority of a municipal corporation, 85613
board of county commissioners, or board of township trustees 85614
that receives notice under this division of the proposed 85615
issuance of a license for a residential facility may comment on 85616
it in writing to the director within ten days after the director 85617
mailed the notice, excluding Saturdays, Sundays, and legal 85618
holidays. If the director receives written comments from any 85619
notified officials within the specified time, the director shall 85620
make written findings concerning the comments and the director's 85621
decision on the issuance of the license. If the director does 85622
not receive written comments from any notified local officials 85623
within the specified time, the director shall continue the 85624
process for issuance of the license. 85625

(M) Any person may operate a licensed residential facility 85626
that provides room and board, personal care, habilitation 85627

services, and supervision in a family setting for at least six 85628
but not more than eight individuals with developmental 85629
disabilities as a permitted use in any residential district or 85630
zone, including any single-family residential district or zone, 85631
of any political subdivision. These residential facilities may 85632
be required to comply with area, height, yard, and architectural 85633
compatibility requirements that are uniformly imposed upon all 85634
single-family residences within the district or zone. 85635

(N) Any person may operate a licensed residential facility 85636
that provides room and board, personal care, habilitation 85637
services, and supervision in a family setting for at least nine 85638
but not more than sixteen individuals with developmental 85639
disabilities as a permitted use in any multiple-family 85640
residential district or zone of any political subdivision, 85641
except that a political subdivision that has enacted a zoning 85642
ordinance or resolution establishing planned unit development 85643
districts may exclude these residential facilities from those 85644
districts, and a political subdivision that has enacted a zoning 85645
ordinance or resolution may regulate these residential 85646
facilities in multiple-family residential districts or zones as 85647
a conditionally permitted use or special exception, in either 85648
case, under reasonable and specific standards and conditions set 85649
out in the zoning ordinance or resolution to: 85650

(1) Require the architectural design and site layout of 85651
the residential facility and the location, nature, and height of 85652
any walls, screens, and fences to be compatible with adjoining 85653
land uses and the residential character of the neighborhood; 85654

(2) Require compliance with yard, parking, and sign 85655
regulation; 85656

(3) Limit excessive concentration of these residential 85657

facilities. 85658

(O) This section does not prohibit a political subdivision 85659
from applying to residential facilities nondiscriminatory 85660
regulations requiring compliance with health, fire, and safety 85661
regulations and building standards and regulations. 85662

(P) Divisions (M) and (N) of this section are not 85663
applicable to municipal corporations that had in effect on June 85664
15, 1977, an ordinance specifically permitting in residential 85665
zones licensed residential facilities by means of permitted 85666
uses, conditional uses, or special exception, so long as such 85667
ordinance remains in effect without any substantive 85668
modification. 85669

(Q) (1) The director may issue an interim license to 85670
operate a residential facility to an applicant for a license 85671
under this section if either of the following is the case: 85672

(a) The director determines that an emergency exists 85673
requiring immediate placement of individuals in a residential 85674
facility, that insufficient licensed beds are available, and 85675
that the residential facility is likely to receive a permanent 85676
license under this section within thirty days after issuance of 85677
the interim license. 85678

(b) The director determines that the issuance of an 85679
interim license is necessary to meet a temporary need for a 85680
residential facility. 85681

(2) To be eligible to receive an interim license, an 85682
applicant must meet the same criteria that must be met to 85683
receive a permanent license under this section, except for any 85684
differing procedures and time frames that may apply to issuance 85685
of a permanent license. 85686

(3) An interim license shall be valid for thirty days and 85687
may be renewed by the director for a period not to exceed one 85688
hundred eighty days. 85689

(4) The director shall adopt rules in accordance with 85690
Chapter 119. of the Revised Code ~~as the director considers~~ 85691
~~necessary to administer~~ regarding the issuance of interim 85692
licenses. 85693

(R) Notwithstanding rules adopted pursuant to this section 85694
establishing the maximum number of individuals who may be served 85695
in a particular type of residential facility, a residential 85696
facility shall be permitted to serve the same number of 85697
individuals being served by the facility on the effective date 85698
of the rules or the number of individuals for which the facility 85699
is authorized pursuant to a current application for a 85700
certificate of need with a letter of support from the department 85701
of developmental disabilities and which is in the review process 85702
prior to April 4, 1986. 85703

This division does not preclude the department from 85704
suspending new admissions to a residential facility pursuant to 85705
a written order issued under section 5124.70 of the Revised 85706
Code. 85707

(S) The director may enter at any time, for purposes of 85708
investigation, any home, facility, or other structure that has 85709
been reported to the director or that the director has 85710
reasonable cause to believe is being operated as a residential 85711
facility without a license issued under this section. 85712

The director may petition the court of common pleas of the 85713
county in which an unlicensed residential facility is located 85714
for an order enjoining the person or governmental agency 85715

operating the facility from continuing to operate without a 85716
license. The court may grant the injunction on a showing that 85717
the person or governmental agency named in the petition is 85718
operating a residential facility without a license. The court 85719
may grant the injunction, regardless of whether the residential 85720
facility meets the requirements for receiving a license under 85721
this section. 85722

Sec. 5123.194. In the case of an individual who resides in 85723
a residential facility and is preparing to move into an 85724
independent living arrangement and the individual's liable 85725
relative, the department of developmental disabilities may waive 85726
the support collection requirements of sections 5121.04 and 85727
5123.122 of the Revised Code for the purpose of allowing income 85728
or resources to be used to acquire items necessary for 85729
independent living. The department shall adopt rules in 85730
accordance with section 111.15 of the Revised Code ~~to implement~~ 85731
~~this section, including rules~~ that establish the method the 85732
department shall use to determine when an individual is 85733
preparing to move into an independent living arrangement. 85734

Sec. 5123.196. (A) Except as provided in division (E) of 85735
this section, the director of developmental disabilities shall 85736
not issue a license under section 5123.19 of the Revised Code on 85737
or after July 1, 2003, if issuance will result in there being 85738
more beds in all residential facilities licensed under that 85739
section than is permitted under division (B) of this section. 85740

(B) The maximum number of beds for the purpose of division 85741
(A) of this section shall not exceed ten thousand eight hundred 85742
thirty-eight minus, except as provided in division (C) of this 85743
section, both of the following: 85744

(1) The number of such beds that cease to be residential 85745

facility beds on or after July 1, 2003, because a residential 85746
facility license is revoked, terminated, or not renewed for any 85747
reason or is surrendered in accordance with section 5123.19 of 85748
the Revised Code; 85749

(2) The number of such beds for which a licensee 85750
voluntarily converts to use for supported living on or after 85751
July 1, 2003. 85752

(C) The director is not required to reduce the maximum 85753
number of beds pursuant to division (B) of this section by a bed 85754
that ceases to be a residential facility bed if the director 85755
determines that the bed is needed to provide services to an 85756
individual with a developmental disability who resided in the 85757
residential facility in which the bed was located. 85758

(D) The director shall maintain an up-to-date written 85759
record of the maximum number of residential facility beds 85760
provided for by division (B) of this section. 85761

(E) The director may issue an interim license under 85762
division (Q) of section 5123.19 of the Revised Code and issue, 85763
pursuant to rules adopted under division ~~(G) (9)~~ (G) (8) of that 85764
section, a waiver allowing a residential facility to admit more 85765
residents than the facility is licensed to admit regardless of 85766
whether the interim license or waiver will result in there being 85767
more beds in all residential facilities licensed under that 85768
section than is permitted under division (B) of this section. 85769

Sec. 5123.35. (A) There is hereby created the Ohio 85770
developmental disabilities council, which shall serve as an 85771
advocate for all persons with developmental disabilities. The 85772
council shall act in accordance with the "Developmental 85773
Disabilities Assistance and Bill of Rights Act of 2000," 42 85774

U.S.C. 15001. The governor shall appoint the members of the council in accordance with 42 U.S.C. 15025. 85775
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(B) The council shall develop the state plan required by federal law as a condition of receiving federal assistance under 42 U.S.C. 15021 to 15029. The department of developmental disabilities, as the state agency selected by the governor for purposes of receiving the federal assistance, shall receive, account for, and disburse funds based on the state plan and shall provide assurances and other administrative support services required as a condition of receiving the federal assistance. 85777
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(C) The federal funds may be disbursed through grants to or contracts with persons and government agencies for the provision of necessary or useful goods and services for persons with developmental disabilities. The council may award the grants or enter into the contracts. 85786
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(D) The council may award grants to or enter into contracts with a member of the council or an entity that the member represents if all of the following apply: 85791
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(1) The member serves on the council as a representative of one of the principal state agencies concerned with services for persons with developmental disabilities as specified in 42 U.S.C. 15025(b)(4), a representative of a university affiliated program as defined in 42 U.S.C. 15002(5), or a representative of the Ohio protection and advocacy system, as defined in section 5123.60 of the Revised Code. 85794
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(2) The council determines that the member or the entity the member represents is capable of providing the goods or services specified under the terms of the grant or contract. 85801
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(3) The member has not taken part in any discussion or vote of the council related to awarding the grant or entering into the contract, including service as a member of a review panel established by the council to award grants or enter into contracts or to make recommendations with regard to awarding grants or entering into contracts.

(E) A member of the council is not in violation of Chapter 102. or section 2921.42 of the Revised Code with regard to receiving a grant or entering into a contract under this section if the requirements of division (D) of this section have been met.

(F) (1) Notwithstanding division (C) of section 121.22 of the Revised Code, the requirement for a member's presence in person at a meeting in order to be part of a quorum or to vote does not apply if the council holds a meeting by interactive video conference and all of the following apply:

(a) A primary meeting location that is open and accessible to the public is established for the meeting of the council;

(b) A clear video and audio connection is established that enables all meeting participants at the primary meeting location to witness the participation of each member;

(c) The minutes of the council identify which members participated by interactive video conference.

(2) Notwithstanding division (C) of section 121.22 of the Revised Code, the requirement for a member's presence in person at a meeting in order to be part of a quorum or to vote does not apply if the council holds a meeting by teleconference and all of the following apply:

(a) The council has determined its membership does not

have access to and the council cannot provide access to the 85833
equipment needed to conduct interactive video conferencing; 85834

(b) A primary meeting location that is open and accessible 85835
to the public is established for the meeting of the council; 85836

(c) A clear audio connection is established that enables 85837
all meeting participants at the primary meeting location to hear 85838
the participation of each member; 85839

(d) The minutes of the council identify which members 85840
participated by teleconference. 85841

(3) The council shall adopt ~~any rules the council~~ 85842
~~considers necessary to implement this section. The rules shall~~ 85843
~~be adopted~~ in accordance with Chapter 119. of the Revised Code. 85844
~~At a minimum, the rules shall~~that do all of the following: 85845

(a) Authorize council members to remotely attend a council 85846
meeting by interactive video conference or teleconference in 85847
lieu of attending the meeting in person; 85848

(b) Establish a minimum number of members required to be 85849
physically present in person at the primary meeting location if 85850
the council conducts a meeting by interactive video conference 85851
or teleconference; 85852

(c) Establish a policy for distributing and circulating 85853
necessary documents to council members, the public, and the 85854
media in advance of a meeting at which members are permitted to 85855
attend by interactive video conference or teleconference; 85856

(d) Establish a method for verifying the identity of a 85857
member who remotely attends a meeting by teleconference. 85858

Sec. 5123.351. The director of developmental disabilities, 85859
with respect to the eligibility for state reimbursement of 85860

expenses incurred by facilities and programs established and 85861
operated under Chapter 5126. of the Revised Code for persons 85862
with developmental disabilities, shall do all of the following: 85863

~~(A) Make rules that may be necessary to carry out the 85864
purposes of Chapter 5126. and sections 5123.35, 5123.351, and 85865
5123.36 of the Revised Code; 85866~~

~~(B) Define minimum standards for qualifications of 85867
personnel, professional services, and in-service training and 85868
educational leave programs; 85869~~

~~(C)~~ (B) Review and evaluate community programs and make 85870
recommendations for needed improvements to county boards of 85871
developmental disabilities and to program directors; 85872

~~(D)~~ (C) Withhold state reimbursement, in whole or in part, 85873
from any county or combination of counties for failure to comply 85874
with Chapter 5126. or section 5123.35 or 5123.351 of the Revised 85875
Code or rules of the department of developmental disabilities; 85876

~~(E)~~ (D) Withhold state funds from an agency, corporation, 85877
or association denying or rendering service on the basis of 85878
race, color, sex, religion, ancestry, national origin, 85879
disability as defined in section 4112.01 of the Revised Code, or 85880
inability to pay; 85881

~~(F)~~ (E) Provide consultative staff service to communities 85882
to assist in ascertaining needs and in planning and establishing 85883
programs. 85884

Sec. 5123.40. There is hereby created in the state 85885
treasury the services fund for individuals with developmental 85886
disabilities. On the death of the beneficiary of a trust created 85887
pursuant to section 5815.28 of the Revised Code, the portion of 85888
the remaining assets of the trust specified in the trust 85889

instrument shall be deposited to the credit of the fund. 85890

Money credited to the fund shall be used for individuals 85891
with developmental disabilities. ~~In accordance with Chapter 119.~~ 85892
~~of the Revised Code, the department of developmental~~ 85893
~~disabilities may adopt any rules necessary to implement this~~ 85894
~~section.~~ 85895

Sec. 5123.42. (A) Developmental disabilities personnel who 85896
are not specifically authorized by other provisions of the 85897
Revised Code to administer medications or perform health-related 85898
activities may do so pursuant to this section as part of the 85899
specialized services the developmental disabilities personnel 85900
provide to individuals with developmental disabilities in the 85901
following categories: 85902

(1) Recipients of early intervention, preschool, and 85903
school-age services offered or provided pursuant to this chapter 85904
or Chapter 5126. of the Revised Code; 85905

(2) Recipients of adult services, if the services are 85906
received in a setting where seventeen or more individuals 85907
receive the services and the services are offered or provided 85908
pursuant to this chapter or Chapter 5126. of the Revised Code; 85909

(3) Recipients of adult services, if the services are 85910
received in a setting where not more than sixteen individuals 85911
receive the services and the services are offered or provided 85912
pursuant to this chapter or Chapter 5126. of the Revised Code; 85913

(4) Recipients of family support services offered or 85914
provided pursuant to this chapter or Chapter 5126. of the 85915
Revised Code; 85916

(5) Recipients of services from certified supported living 85917
providers, if the services are offered or provided pursuant to 85918

this chapter or Chapter 5126. of the Revised Code;	85919
(6) Recipients of residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals with developmental disabilities and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	85920 85921 85922 85923 85924 85925
(7) Recipients of services not included in divisions (A) (1) to (6) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	85926 85927 85928
(8) Residents of a residential facility with not more than five resident beds;	85929 85930
(9) Residents of a residential facility with at least six resident beds.	85931 85932
(B) (1) In the case of individuals described in divisions (A) (1) to (9) of this section, developmental disabilities personnel may do all of the following without nursing delegation and without a certificate issued under section 5123.45 of the Revised Code:	85933 85934 85935 85936 85937
(a) Activate a vagus nerve stimulator;	85938
(b) To treat anaphylaxis, administer prescribed epinephrine either by autoinjector or intranasally;	85939 85940
(c) Administer topical over-the-counter medications for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces, but not for the purpose of treating an open wound or a condition that requires a medical diagnosis, including a fungal infection.	85941 85942 85943 85944 85945
(2) The authority of developmental disabilities personnel	85946

to perform the health-related activity or administer the 85947
medications described in division (B)(1) of this section is 85948
subject to all of the following: 85949

(a) Developmental disabilities personnel shall 85950
successfully complete the training course or courses developed 85951
under section 5123.43 of the Revised Code for developmental 85952
disabilities personnel. Developmental disabilities personnel 85953
shall perform the health-related activity or administer the 85954
medications described in division (B)(1) of this section only as 85955
authorized by the training completed. 85956

(b) The employer of developmental disabilities personnel 85957
shall ensure that the personnel have been trained specifically 85958
with respect to each individual for whom they perform the 85959
health-related activity or administer the medications described 85960
in division (B)(1) of this section. Developmental disabilities 85961
personnel shall not perform such an activity or administer such 85962
medications for any individual for whom they have not been 85963
specifically trained. 85964

(c) If the employer of developmental disabilities 85965
personnel believes that the personnel have not or will not 85966
safely perform the health-related activity or administer the 85967
medications described in division (B)(1) of this section, the 85968
employer shall prohibit the developmental disabilities personnel 85969
from continuing or commencing to do so. Developmental 85970
disabilities personnel shall not engage in the action or actions 85971
subject to an employer's prohibition. 85972

(d) Developmental disabilities personnel shall activate a 85973
vagus nerve stimulator, administer prescribed epinephrine either 85974
by autoinjector or intranasally, or administer topical over-the- 85975
counter medications in accordance with the manufacturer's 85976

instructions. 85977

(C) (1) In the case of recipients of early intervention, 85978
preschool, and school-age services, as specified in division (A) 85979
(1) of this section, all of the following apply: 85980

(a) With nursing delegation, developmental disabilities 85981
personnel may perform health-related activities. 85982

(b) With nursing delegation, developmental disabilities 85983
personnel may administer oral and topical prescribed medications 85984
and topical over-the-counter musculoskeletal medications. 85985

(c) With nursing delegation, developmental disabilities 85986
personnel may administer oxygen and metered dose inhaled 85987
medications. 85988

(d) With nursing delegation, developmental disabilities 85989
personnel may administer prescribed medications through 85990
gastrostomy and jejunostomy tubes, if the tubes being used are 85991
stable and labeled. 85992

(e) With nursing delegation, developmental disabilities 85993
personnel may administer routine doses of insulin through 85994
subcutaneous injections, inhalation, and insulin pumps. 85995

(f) With nursing delegation, developmental disabilities 85996
personnel may administer prescribed medications for the 85997
treatment of metabolic glyceimic disorders through subcutaneous 85998
injections. 85999

(2) In the case of individuals described in divisions (A) 86000
(2), (7), and (9) of this section, all of the following apply: 86001

(a) With nursing delegation, developmental disabilities 86002
personnel may perform health-related activities. 86003

(b) With nursing delegation, developmental disabilities	86004
personnel may administer oral and topical prescribed medications	86005
and topical over-the-counter musculoskeletal medications.	86006
(c) With nursing delegation, developmental disabilities	86007
personnel may administer oxygen and metered dose inhaled	86008
medications.	86009
(d) With nursing delegation, developmental disabilities	86010
personnel may administer prescribed medications through	86011
gastrostomy and jejunostomy tubes, if the tubes being used are	86012
stable and labeled.	86013
(e) With nursing delegation, developmental disabilities	86014
personnel may administer routine doses of insulin through	86015
subcutaneous injections, inhalation, and insulin pumps.	86016
(f) With nursing delegation, developmental disabilities	86017
personnel may administer prescribed medications for the	86018
treatment of metabolic glyceimic disorders through subcutaneous	86019
injections.	86020
(3) In the case of individuals described in divisions (A)	86021
(3), (4), (5), (6), and (8) of this section, all of the	86022
following apply:	86023
(a) Without nursing delegation, developmental disabilities	86024
personnel may perform health-related activities.	86025
(b) Without nursing delegation, developmental disabilities	86026
personnel may administer oral and topical prescribed medications	86027
and topical over-the-counter musculoskeletal medications.	86028
(c) Without nursing delegation, developmental disabilities	86029
personnel may administer oxygen and metered dose inhaled	86030
medications.	86031

(d) With nursing delegation, developmental disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(e) With nursing delegation, developmental disabilities personnel may administer routine doses of insulin through subcutaneous injections, inhalation, and insulin pumps.

(f) With nursing delegation, developmental disabilities personnel may administer prescribed medications for the treatment of metabolic glycemc disorders through subcutaneous injections.

(D) The authority of developmental disabilities personnel to administer medications and perform health-related activities pursuant to division (C) of this section is subject to all of the following:

(1) To administer medications or perform health-related activities for individuals in the categories specified under divisions (A) (1) to (9) of this section, developmental disabilities personnel shall obtain the certificate or certificates required by the department of developmental disabilities and issued under section 5123.45 of the Revised Code. Developmental disabilities personnel shall administer medications and perform health-related activities only as authorized by the certificate or certificates held.

(2) If nursing delegation is required under division (C) of this section, developmental disabilities personnel shall not act without nursing delegation or in a manner that is inconsistent with the delegation.

(3) The employer of developmental disabilities personnel

shall ensure that the personnel have been trained specifically 86061
with respect to each individual for whom they administer 86062
medications or perform health-related activities. Developmental 86063
disabilities personnel shall not administer medications or 86064
perform health-related activities for any individual for whom 86065
they have not been specifically trained. 86066

(4) If the employer of developmental disabilities 86067
personnel believes that the developmental disabilities personnel 86068
have not or will not safely administer medications or perform 86069
health-related activities, the employer shall prohibit the 86070
personnel from continuing or commencing to do so. Developmental 86071
disabilities personnel shall not engage in the action or actions 86072
subject to an employer's prohibition. 86073

(E) In accordance with section 5123.46 of the Revised 86074
Code, the department of developmental disabilities shall adopt 86075
rules ~~governing its implementation of this section. The rules~~ 86076
~~shall include that establish both of~~ the following: 86077

(1) Requirements for documentation of the administration 86078
of medications and performance of health-related activities by 86079
developmental disabilities personnel pursuant to the authority 86080
granted under this section; 86081

(2) Procedures for reporting errors that occur in the 86082
administration of medications and performance of health-related 86083
activities by developmental disabilities personnel pursuant to 86084
the authority granted under this section; 86085

~~(3) Other standards and procedures the department~~ 86086
~~considers necessary for implementation of this section.~~ 86087

Sec. 5123.43. (A) The department of developmental 86088
disabilities shall develop courses for the training of 86089

developmental disabilities personnel in the administration of 86090
medications and performance of health-related activities 86091
pursuant to the authority granted under section 5123.42 of the 86092
Revised Code. The department may develop separate or combined 86093
training courses for the administration of prescribed 86094
medications, administration of over-the-counter medications, and 86095
performance of health-related activities. Training in the 86096
administration of prescribed medications through gastrostomy and 86097
jejunostomy tubes, the administration of insulin, the 86098
administration of medications for the treatment of metabolic 86099
glycemic disorders, the activation of a vagal nerve stimulator, 86100
and the administration of epinephrine through an autoinjector 86101
may be developed as separate courses or included in a course 86102
providing training in the administration of other prescribed 86103
medications. 86104

(B) (1) The department shall adopt rules in accordance with 86105
section 5123.46 of the Revised Code that specify the content and 86106
length of the training courses developed under this section. ~~The 86107
rules may include any other standards the department considers 86108
necessary for the training courses.~~ 86109

(2) In adopting rules that specify the content of a 86110
training course or part of a training course that trains 86111
developmental disabilities personnel in the administration of 86112
prescribed medications, the department shall ensure that the 86113
content includes all of the following: 86114

(a) Infection control and universal precautions; 86115

(b) Correct and safe practices, procedures, and techniques 86116
for administering prescribed medications; 86117

(c) Assessment of drug reaction, including known side 86118

effects, interactions, and the proper course of action if a side effect occurs; 86119
86120

(d) The requirements for documentation of medications administered to each individual; 86121
86122

(e) The requirements for documentation and notification of medication errors; 86123
86124

(f) Information regarding the proper storage and care of medications; 86125
86126

(g) Information about proper receipt of prescriptions and transcription of prescriptions into an individual's medication administration record; 86127
86128
86129

(h) Course completion standards that require successful demonstration of proficiency in administering prescribed medications; 86130
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~~(i) Any other material or course completion standards that the department considers relevant to the administration of prescribed medications by developmental disabilities personnel.~~ 86133
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Sec. 5123.44. The department of developmental disabilities shall develop courses that train registered nurses to provide the developmental disabilities personnel training courses developed under section 5123.43 of the Revised Code. The department may develop courses that train registered nurses to provide all of the courses developed under section 5123.43 of the Revised Code or any one or more of the courses developed under that section. 86136
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The department shall adopt rules in accordance with section 5123.46 of the Revised Code that specify the content and length of the training courses. ~~The rules may include any other~~ 86144
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~~standards the department considers necessary for the training~~ 86147
~~courses.~~ 86148

Sec. 5123.45. (A) The department of developmental 86149
disabilities shall establish a program under which the 86150
department issues certificates to the following: 86151

(1) Developmental disabilities personnel, for purposes of 86152
meeting the requirement of division (D) (1) of section 5123.42 of 86153
the Revised Code to obtain a certificate or certificates to 86154
administer medications and perform health-related activities 86155
pursuant to the authority granted under division (C) of that 86156
section; 86157

(2) Registered nurses, for purposes of meeting the 86158
requirement of division (B) of section 5123.441 of the Revised 86159
Code to obtain a certificate or certificates to provide the 86160
developmental disabilities personnel training courses developed 86161
under section 5123.43 of the Revised Code. 86162

(B) To receive a certificate issued under this section, 86163
developmental disabilities personnel and registered nurses shall 86164
successfully complete the applicable training course or courses 86165
and meet all other applicable requirements established in rules 86166
adopted pursuant to this section. The department shall issue the 86167
appropriate certificate or certificates to developmental 86168
disabilities personnel and registered nurses who meet the 86169
requirements for the certificate or certificates. The department 86170
shall issue the appropriate certificate or certificates in 86171
accordance with Chapter 4796. of the Revised Code to an 86172
applicant if either of the following applies: 86173

(1) The applicant holds a certificate or certificates 86174
issued by another state. 86175

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as developmental disabilities personnel in a state that does not issue that certificate.

(C) Certificates issued to developmental disabilities personnel are valid for one year and may be renewed. Certificates issued to registered nurses are valid for two years and may be renewed.

To be eligible for renewal, developmental disabilities personnel and registered nurses shall meet the applicable continued competency requirements and continuing education requirements specified in rules adopted under division (D) of this section. In the case of registered nurses, continuing nursing education completed in compliance with the license renewal requirements established under Chapter 4723. of the Revised Code may be counted toward meeting the continuing education requirements established in the rules adopted under division (D) of this section.

(D) In accordance with section 5123.46 of the Revised Code, the department shall adopt rules that establish all of the following:

(1) Requirements that developmental disabilities personnel and registered nurses must meet to be eligible to take a training course, including having sufficient written and oral English skills to communicate effectively and reliably with patients, their families, and other medical professionals;

(2) Standards that must be met to receive a certificate, including requirements pertaining to an applicant's criminal background;

(3) Procedures to be followed in applying for a certificate and issuing a certificate; 86205
86206

(4) Standards and procedures for renewing a certificate, 86207
including requirements for continuing education and, in the case 86208
of developmental disabilities personnel who administer 86209
prescribed medications, standards that require successful 86210
demonstration of proficiency in administering prescribed 86211
medications; 86212

~~(5) Any other standards or procedures the department 86213
considers necessary to administer the certification program. 86214~~

Sec. 5123.54. The director of developmental disabilities 86215
shall adopt rules under Chapter 119. of the Revised Code to 86216
~~implement sections 5123.51, 5123.52, and 5123.53 of the Revised~~ 86217
~~Code. The rules shall establish rehabilitation standards for the~~ 86218
purposes of section 5123.53 of the Revised Code and specify 86219
circumstances, other than meeting the standards, that constitute 86220
good cause for the purposes of that section. 86221

Sec. 5123.65. In addition to the rights specified in 86222
section 5123.62 of the Revised Code, individuals with 86223
developmental disabilities who can safely self-administer 86224
medication or receive assistance with self-administration of 86225
medication have the right to self-administer medication or 86226
receive assistance with the self-administration of medication. 86227
~~The department of developmental disabilities shall adopt rules~~ 86228
~~as it considers necessary to implement and enforce this section.~~ 86229
~~The rules shall be adopted in accordance with Chapter 119. of~~ 86230
~~the Revised Code.~~ 86231

Sec. 5124.01. As used in this chapter: 86232

(A) "Addition" means an increase in an ICF/IID's square 86233

footage. 86234

(B) "Affiliated operator" means an operator affiliated 86235
with either of the following: 86236

(1) The exiting operator for whom the affiliated operator 86237
is to assume liability for the entire amount of the exiting 86238
operator's debt under the medicaid program or the portion of the 86239
debt that represents the franchise permit fee the exiting 86240
operator owes; 86241

(2) The entering operator involved in the change of 86242
operator with the exiting operator specified in division (B) (1) 86243
of this section. 86244

(C) "Allowable costs" means an ICF/IID's costs that the 86245
department of developmental disabilities determines are 86246
reasonable. Fines paid under section 5124.99 of the Revised Code 86247
are not allowable costs. 86248

(D) "Capital costs" means an ICF/IID's costs of ownership 86249
and costs of nonextensive renovation. 86250

(E) "Case-mix score" means the measure determined under 86251
section 5124.192 or 5124.193 of the Revised Code of the relative 86252
direct-care resources needed to provide care and habilitation to 86253
an ICF/IID resident. 86254

(F) "Change of operator" means an entering operator 86255
becoming the operator of an ICF/IID in the place of the exiting 86256
operator. 86257

(1) Actions that constitute a change of operator include 86258
the following: 86259

(a) A change in an exiting operator's form of legal 86260
organization, including the formation of a partnership or 86261

corporation from a sole proprietorship; 86262

(b) A transfer of all the exiting operator's ownership 86263
interest in the operation of the ICF/IID to the entering 86264
operator, regardless of whether ownership of any or all of the 86265
real property or personal property associated with the ICF/IID 86266
is also transferred; 86267

(c) A lease of the ICF/IID to the entering operator or the 86268
exiting operator's termination of the exiting operator's lease; 86269

(d) If the exiting operator is a partnership, dissolution 86270
of the partnership; 86271

(e) If the exiting operator is a partnership, a change in 86272
composition of the partnership unless both of the following 86273
apply: 86274

(i) The change in composition does not cause the 86275
partnership's dissolution under state law. 86276

(ii) The partners agree that the change in composition 86277
does not constitute a change in operator. 86278

(f) If the operator is a corporation, dissolution of the 86279
corporation, a merger of the corporation into another 86280
corporation that is the survivor of the merger, or a 86281
consolidation of one or more other corporations to form a new 86282
corporation. 86283

(2) The following, alone, do not constitute a change of 86284
operator: 86285

(a) A contract for an entity to manage an ICF/IID as the 86286
operator's agent, subject to the operator's approval of daily 86287
operating and management decisions; 86288

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with an ICF/IID if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(G) "Cost center" means the following:

(1) Capital costs;

(2) Direct care costs;

(3) Indirect care costs;

(4) Other protected costs.

(H) (1) Except as provided in division (H) (2) of this section, "cost report year" means the calendar year immediately preceding the calendar year in which a fiscal year for which a medicaid payment rate determination is made begins.

(2) When a cost report the department of developmental disabilities accepts under division (A) or (C) (1) (b) of section 5124.101 of the Revised Code is used in determining an ICF/IID's medicaid payment rate, "cost report year" means the period that the cost report covers.

(I) "Costs of nonextensive renovations" means the actual expense incurred by an ICF/IID for depreciation or amortization and interest on renovations approved by the department of developmental disabilities as nonextensive renovations.

(J) (1) "Costs of ownership" means the actual expenses

incurred by an ICF/IID for all of the following:	86316
(a) Subject to division (J) (2) of this section,	86317
depreciation and interest on any capital assets that cost five	86318
hundred dollars or more per item, including the following:	86319
(i) Buildings;	86320
(ii) Building improvements that are not approved as	86321
nonextensive renovations for the purpose of section 5124.17 of	86322
the Revised Code;	86323
(iii) Equipment;	86324
(iv) Transportation equipment.	86325
(b) Amortization and interest on land improvements and	86326
leasehold improvements;	86327
(c) Amortization of financing costs;	86328
(d) Except as provided in division (AA) of this section,	86329
lease and rent of land, building, and equipment.	86330
(2) The costs of capital assets of less than five hundred	86331
dollars per item may be considered costs of ownership in	86332
accordance with an ICF/IID provider's practice.	86333
(K) (1) "Date of licensure" means the following:	86334
(a) In the case of an ICF/IID that was originally licensed	86335
as a nursing home under Chapter 3721. of the Revised Code, the	86336
date that it was originally so licensed, regardless that it was	86337
subsequently licensed as a residential facility under section	86338
5123.19 of the Revised Code;	86339
(b) In the case of an ICF/IID that was originally licensed	86340
as a residential facility under section 5123.19 of the Revised	86341
Code, the date it was originally so licensed;	86342

(c) In the case of an ICF/IID that was not required by law to be licensed as a nursing home or residential facility when it was originally operated as a residential facility, the date it first was operated as a residential facility, regardless of the date the ICF/IID was first licensed as a nursing home or residential facility.

(2) If, after an ICF/IID's original date of licensure, more residential facility beds are added to the ICF/IID or all or part of the ICF/IID undergoes an extensive renovation, the ICF/IID has a different date of licensure for the additional beds or extensively renovated portion of the ICF/IID. This does not apply, however, to additional beds when both of the following apply:

(a) The additional beds are located in a part of the ICF/IID that was constructed at the same time as the continuing beds already located in that part of the ICF/IID.

(b) The part of the ICF/IID in which the additional beds are located was constructed as part of the ICF/IID at a time when the ICF/IID was not required by law to be licensed as a nursing home or residential facility.

(3) The definition of "date of licensure" in this section applies in determinations of ICFs/IID's medicaid payment rates but does not apply in determinations of ICFs/IID's franchise permit fees under sections 5168.60 to 5168.71 of the Revised Code.

(L) "Desk-reviewed" means that an ICF/IID's costs as reported on a cost report filed under section 5124.10 or 5124.101 of the Revised Code have been subjected to a desk review under section 5124.108 of the Revised Code and

preliminarily determined to be allowable costs. 86372

(M) "Developmental center" means a residential facility 86373
that is maintained and operated by the department of 86374
developmental disabilities. 86375

(N) "Direct care costs" means all of the following costs 86376
incurred by an ICF/IID: 86377

(1) Costs for registered nurses, licensed practical 86378
nurses, and nurse aides employed by the ICF/IID; 86379

(2) Costs for direct care staff, administrative nursing 86380
staff, medical directors, respiratory therapists, physical 86381
therapists, physical therapy assistants, occupational 86382
therapists, occupational therapy assistants, speech therapists, 86383
audiologists, habilitation staff (including habilitation 86384
supervisors), qualified intellectual disability professionals, 86385
program directors, social services staff, activities staff, 86386
psychologists, psychology assistants, social workers, 86387
counselors, and other persons holding degrees qualifying them to 86388
provide therapy; 86389

(3) Costs of purchased nursing services; 86390

(4) Costs of training and staff development, employee 86391
benefits, payroll taxes, and workers' compensation premiums or 86392
costs for self-insurance claims and related costs as specified 86393
in rules adopted under section ~~5124.03~~5124.19 of the Revised 86394
Code, for personnel listed in divisions (N)(1), (2), and (3) of 86395
this section; 86396

(5) Costs of quality assurance; 86397

(6) Costs of consulting and management fees related to 86398
direct care; 86399

(7) Allocated direct care home office costs;	86400
(8) Costs of off-site day programming, including day programming that is provided in an area that is not certified by the director of health as an ICF/IID under Title XIX and regardless of either of the following:	86401 86402 86403 86404
(a) Whether or not the area in which the day programming is provided is less than two hundred feet away from the ICF/IID;	86405 86406
(b) Whether or not the day programming is provided by an individual or organization that is a related party to the ICF/IID provider.	86407 86408 86409
(9) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5124.03 <u>5124.19</u> of the Revised Code.	86410 86411 86412
(O) "Downsized ICF/IID" means an ICF/IID that permanently reduced its medicaid-certified capacity pursuant to a plan approved by the department of developmental disabilities under section 5123.042 of the Revised Code.	86413 86414 86415 86416
(P) "Effective date of a change of operator" means the day the entering operator becomes the operator of the ICF/IID.	86417 86418
(Q) "Effective date of a facility closure" means the last day that the last of the residents of the ICF/IID resides in the ICF/IID.	86419 86420 86421
(R) "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the ICF/IID or the last day that such a provider agreement is in effect when the department cancels or refuses to revalidate it.	86422 86423 86424 86425 86426
(S) "Effective date of a voluntary termination" means the	86427

day the ICF/IID ceases to accept medicaid recipients. 86428

(T) "Entering operator" means the person or government 86429
entity that will become the operator of an ICF/IID when a change 86430
of operator occurs or following an involuntary termination. 86431

(U) "Exiting operator" means any of the following: 86432

(1) An operator that will cease to be the operator of an 86433
ICF/IID on the effective date of a change of operator; 86434

(2) An operator that will cease to be the operator of an 86435
ICF/IID on the effective date of a facility closure; 86436

(3) An operator of an ICF/IID that is undergoing or has 86437
undergone a voluntary termination; 86438

(4) An operator of an ICF/IID that is undergoing or has 86439
undergone an involuntary termination. 86440

(V) (1) Subject to divisions (V) (2) and (3) of this 86441
section, "facility closure" means either of the following: 86442

(a) Discontinuance of the use of the building, or part of 86443
the building, that houses the facility as an ICF/IID that 86444
results in the relocation of all of the facility's residents; 86445

(b) Conversion of the building, or part of the building, 86446
that houses an ICF/IID to a different use with any necessary 86447
license or other approval needed for that use being obtained and 86448
one or more of the facility's residents remaining in the 86449
facility to receive services under the new use. 86450

(2) A facility closure occurs regardless of any of the 86451
following: 86452

(a) The operator completely or partially replacing the 86453
ICF/IID by constructing a new ICF/IID or transferring the 86454

ICF/IID's license to another ICF/IID; 86455

(b) The ICF/IID's residents relocating to another of the 86456
operator's ICFs/IID; 86457

(c) Any action the department of health takes regarding 86458
the ICF/IID's medicaid certification that may result in the 86459
transfer of part of the ICF/IID's survey findings to another of 86460
the operator's ICFs/IID; 86461

(d) Any action the department of developmental 86462
disabilities takes regarding the ICF/IID's license under section 86463
5123.19 of the Revised Code. 86464

(3) A facility closure does not occur if all of the 86465
ICF/IID's residents are relocated due to an emergency evacuation 86466
and one or more of the residents return to a medicaid-certified 86467
bed in the ICF/IID not later than thirty days after the 86468
evacuation occurs. 86469

(W) "Fiscal year" means the fiscal year of this state, as 86470
specified in section 9.34 of the Revised Code. 86471

(X) "Franchise permit fee" means the fee imposed by 86472
sections 5168.60 to 5168.71 of the Revised Code. 86473

(Y) "Home and community-based services" has the same 86474
meaning as in section 5123.01 of the Revised Code. 86475

(Z) "ICF/IID services" has the same meaning as in 42 86476
C.F.R. 440.150. 86477

(AA) (1) "Indirect care costs" means all reasonable costs 86478
incurred by an ICF/IID other than capital costs, direct care 86479
costs, and other protected costs. "Indirect care costs" includes 86480
costs of habilitation supplies, pharmacy consultants, medical 86481
and habilitation records, program supplies, incontinence 86482

supplies, food, enterals, dietary supplies and personnel, 86483
laundry, housekeeping, security, administration, liability 86484
insurance, bookkeeping, purchasing department, human resources, 86485
communications, travel, dues, license fees, subscriptions, home 86486
office costs not otherwise allocated, legal services, accounting 86487
services, minor equipment, maintenance and repair expenses, 86488
help-wanted advertising, informational advertising, start-up 86489
costs, organizational expenses, other interest, property 86490
insurance, employee training and staff development, employee 86491
benefits, payroll taxes, and workers' compensation premiums or 86492
costs for self-insurance claims and related costs, as specified 86493
in rules adopted under section ~~5124.03~~ 5124.21 of the Revised 86494
Code, for personnel listed in this division. Notwithstanding 86495
division (J) of this section, "indirect care costs" also means 86496
the cost of equipment, including vehicles, acquired by operating 86497
lease executed before December 1, 1992, if the costs are 86498
reported as administrative and general costs on the ICF/IID's 86499
cost report for the cost reporting period ending December 31, 86500
1992. 86501

(2) For the purpose of division (AA)(1) of this section, 86502
an operating lease shall be construed in accordance with 86503
generally accepted accounting principles. 86504

(BB) "Inpatient days" means both of the following: 86505

(1) All days during which a resident, regardless of 86506
payment source, occupies a bed in an ICF/IID that is included in 86507
the ICF/IID's medicaid-certified capacity; 86508

(2) All days for which payment is made under section 86509
5124.34 of the Revised Code. 86510

(CC) "Intermediate care facility for individuals with 86511

intellectual disabilities" and "ICF/IID" mean an intermediate 86512
care facility for the mentally retarded as defined in the 86513
"Social Security Act," section 1905(d), 42 U.S.C. 1396d(d). 86514

(DD) "Involuntary termination" means the department of 86515
medicaid's termination of, cancellation of, or refusal to 86516
revalidate the operator's provider agreement for the ICF/IID 86517
when such action is not taken at the operator's request. 86518

(EE) "Maintenance and repair expenses" means expenditures 86519
that are necessary and proper to maintain an asset in a normally 86520
efficient working condition and that do not extend the useful 86521
life of the asset two years or more. "Maintenance and repair 86522
expenses" includes the costs of ordinary repairs such as 86523
painting and wallpapering. 86524

(FF) "Medicaid-certified capacity" means the number of an 86525
ICF/IID's beds that are certified for participation in medicaid 86526
as ICF/IID beds. 86527

(GG) "Medicaid days" means both of the following: 86528

(1) All days during which a resident who is a medicaid 86529
recipient eligible for ICF/IID services occupies a bed in an 86530
ICF/IID that is included in the ICF/IID's medicaid-certified 86531
capacity; 86532

(2) All days for which payment is made under section 86533
5124.34 of the Revised Code. 86534

(HH) (1) "New ICF/IID" means an ICF/IID for which the 86535
provider obtains an initial provider agreement following the 86536
director of health's medicaid certification of the ICF/IID, 86537
including such an ICF/IID that replaces one or more ICFs/IID for 86538
which a provider previously held a provider agreement. 86539

(2) "New ICF/IID" does not mean either of the following:	86540
(a) An ICF/IID for which the entering operator seeks a provider agreement pursuant to section 5124.511 or 5124.512 or (pursuant to section 5124.515) section 5124.07 of the Revised Code;	86541 86542 86543 86544
(b) A downsized ICF/IID or partially converted ICF/IID.	86545
(II) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.	86546 86547
(JJ) "Operator" means the person or government entity responsible for the daily operating and management decisions for an ICF/IID.	86548 86549 86550
(KK) "Other protected costs" means costs incurred by an ICF/IID for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted under section 5124.03 <u>5124.23</u> of the Revised Code.	86551 86552 86553 86554 86555 86556 86557
(LL) (1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding an ICF/IID:	86558 86559 86560 86561
(a) The land on which the ICF/IID is located;	86562
(b) The structure in which the ICF/IID is located;	86563
(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the ICF/IID is located;	86564 86565 86566

(d) Any lease or sublease of the land or structure on or in which the ICF/IID is located. 86567
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(2) "Owner" does not mean a holder of a debenture or bond related to an ICF/IID and purchased at public issue or a regulated lender that has made a loan related to the ICF/IID unless the holder or lender operates the ICF/IID directly or through a subsidiary. 86569
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(MM) "Partially converted ICF/IID" means an ICF/IID that converted some, but not all, of its beds to providing home and community-based services under the individual options waiver pursuant to section 5124.60 or 5124.61 of the Revised Code. 86574
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(NN) For the purpose of the total per medicaid day payment rate determined for an ICF/IID under division (A) of section 5124.15 of the Revised Code and the initial total per medicaid day payment rate determined for a new ICF/IID under section 5124.151 of the Revised Code: 86578
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(1) "Peer group 1" means each ICF/IID with a medicaid-certified capacity exceeding sixteen. 86583
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(2) "Peer group 2" means each ICF/IID with a medicaid-certified capacity exceeding eight but not exceeding sixteen. 86585
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(3) "Peer group 3" means each ICF/IID with a medicaid-certified capacity of seven or eight. 86587
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(4) "Peer group 4" means each ICF/IID with a medicaid-certified capacity not exceeding six, other than an ICF/IID that is in peer group 5-A. 86589
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(5) "Peer group 5" means each ICF/IID to which all of the following apply: 86592
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(a) The ICF/IID is first certified as an ICF/IID after 86594

July 1, 2014. 86595

(b) The ICF/IID has a medicaid-certified capacity not exceeding six. 86596
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(c) The ICF/IID has a contract with the department of developmental disabilities that is for fifteen years and includes a provision for the department to approve all admissions to, and discharges from, the ICF/IID. 86598
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(d) The ICF/IID's residents are admitted to the ICF/IID directly from a developmental center or have been determined by the department to be at risk of admission to a developmental center. 86602
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(6) "Peer group 6" means each ICF/IID to which all of the following apply: 86606
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(a) The ICF/IID has submitted a best practices protocol for providing services to youth up to twenty-one years of age in need of intensive behavior support services that has been approved by the department of developmental disabilities. 86608
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(b) The ICF/IID, or a distinct unit of the ICF/IID, has a medicaid-certified capacity not exceeding six. 86612
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(c) The ICF/IID has a contract with the department that includes a provision for the department to approve all admissions to the ICF/IID. 86614
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(d) The ICF/IID has agreed to be reimbursed in accordance with the reimbursement methodology established under the rules authorized by section ~~5124.03~~ 5124.15 of the Revised Code. 86617
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(OO) (1) Except as provided in division (OO) (2) of this section, "per diem" means an ICF/IID's desk-reviewed, actual, allowable costs in a given cost center in a cost reporting 86620
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period, divided by the facility's inpatient days for that cost reporting period. 86623
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(2) When determining indirect care costs for the purpose of section 5124.21 of the Revised Code, "per diem" means an ICF/IID's actual, allowable indirect care costs in a cost reporting period divided by the greater of the ICF/IID's inpatient days for that period or the number of inpatient days the ICF/IID would have had during that period if its occupancy rate had been eighty-five per cent. 86625
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(PP) "Provider" means an operator with a valid provider agreement. 86632
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(QQ) "Provider agreement" means a provider agreement, as defined in section 5164.01 of the Revised Code, that is between the department of medicaid and the operator of an ICF/IID for the provision of ICF/IID services under the medicaid program. 86634
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(RR) "Purchased nursing services" means services that are provided in an ICF/IID by registered nurses, licensed practical nurses, or nurse aides who are not employees of the ICF/IID. 86638
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(SS) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of resident care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider. 86641
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(TT) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, a provider. 86648
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- (1) An individual who is a relative of an owner is a related party. 86652
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- (2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property. 86654
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- (3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization. 86663
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- (4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met: 86666
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- (a) The supplier is a separate bona fide organization. 86669
- (b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes. 86670
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- (c) The types of goods or services are commonly obtained by other ICFs/IID from outside organizations and are not a basic element of resident care ordinarily furnished directly to residents by the ICFs/IID. 86675
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- (d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than 86679
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the charge made under comparable circumstances to others by the 86681
supplier. 86682

(UU) "Relative of owner" means an individual who is 86683
related to an owner of an ICF/IID by one of the following 86684
relationships: 86685

(1) Spouse; 86686

(2) Natural parent, child, or sibling; 86687

(3) Adopted parent, child, or sibling; 86688

(4) Stepparent, stepchild, stepbrother, or stepsister; 86689

(5) Father-in-law, mother-in-law, son-in-law, daughter-in- 86690
law, brother-in-law, or sister-in-law; 86691

(6) Grandparent or grandchild; 86692

(7) Foster caregiver, foster child, foster brother, or 86693
foster sister. 86694

(VV) For the purpose of determining an ICF/IID's per 86695
medicaid day capital component rate under section 5124.17 of the 86696
Revised Code, "renovation" means an ICF/IID's betterment, 86697
improvement, or restoration, other than an addition, through a 86698
capital expenditure. 86699

(WW) "Residential facility" has the same meaning as in 86700
section 5123.19 of the Revised Code. 86701

(XX) "Secondary building" means a building or part of a 86702
building, other than an ICF/IID, in which the owner of one or 86703
more ICFs/IID has administrative work regarding the ICFs/IID 86704
performed or records regarding the ICFs/IID stored. 86705

(YY) "Sponsor" means an adult relative, friend, or 86706
guardian of an ICF/IID resident who has an interest or 86707

responsibility in the resident's welfare. 86708

(ZZ) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396, et seq. 86709
86710

(AAA) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395, et seq. 86711
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(BBB) "Voluntary termination" means an operator's voluntary election to terminate the participation of an ICF/IID in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code. 86713
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Sec. 5124.08. (A) Every provider agreement with an ICF/IID provider shall do both of the following: 86718
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(1) Except as provided by division (B) of this section, include any part of the ICF/IID that meets federal and state standards for medicaid certification; 86720
86721
86722

(2) Prohibit the provider from doing either of the following: 86723
86724

(a) Discriminating against a resident on the basis of race, color, sex, creed, or national origin; 86725
86726

(b) Subject to division (D) of this section, failing or refusing to do either of the following: 86727
86728

(i) Admit as a resident of the ICF/IID an individual because the individual is, or may (as a resident of the ICF/IID) become, a medicaid recipient if less than eighty per cent of the ICF/IID's residents are medicaid recipients; 86729
86730
86731
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(ii) Retain as a resident of the ICF/IID an individual because the individual is, or may (as a resident of the ICF/IID) 86733
86734

become, a medicaid recipient. 86735

(B) Unless otherwise required by federal law, an ICF/IID 86736
bed is not required to be included in a provider agreement if 86737
the bed is designated for respite care under a medicaid waiver 86738
component operated pursuant to a waiver sought under section 86739
5166.20 of the Revised Code. 86740

(C) For the purpose of division (A) (2) (b) (ii) of this 86741
section, a medicaid recipient who is a resident of an ICF/IID 86742
shall be considered a resident of the ICF/IID during any 86743
hospital stays totaling less than twenty-five days during any 86744
twelve-month period. A medicaid recipient identified by the 86745
department of developmental disabilities or its designee as 86746
requiring the level of care of an ICF/IID shall not be subject 86747
to a maximum period of absences during which the recipient is 86748
considered to be an ICF/IID resident if prior authorization of 86749
the department for visits with relatives and friends and 86750
participation in therapeutic programs is obtained in accordance 86751
with rules adopted under this section ~~5124.03 of the Revised~~ 86752
Code. 86753

(D) Nothing in this section shall bar a provider from 86754
doing any of the following: 86755

(1) If the provider is a religious organization operating 86756
a religious or denominational ICF/IID, giving preference to 86757
persons of the same religion or denomination; 86758

(2) Giving preference to persons with whom the provider 86759
has contracted to provide continuing care; 86760

(3) Retaining residents who have resided in the provider's 86761
ICF/IID for not less than one year as private pay residents and 86762
who subsequently become medicaid recipients but refusing to 86763

admit as a resident an individual who is, or may (as a resident
of the ICF/IID) become, a medicaid recipient, if all of the
following apply:

(a) The provider does not refuse to retain a resident who
has resided in the provider's ICF/IID for not less than one year
as a private pay resident because the resident becomes a
medicaid recipient, except as necessary to comply with division
(D) (3) (b) of this section.

(b) The number of medicaid recipients retained under
division (D) (3) of this section does not at any time exceed ten
per cent of all the ICF/IID's residents.

(c) On July 1, 1980, all the ICF/IID's residents were
private pay residents.

(E) No provider shall violate the provider agreement
obligations imposed by this section.

(F) To the extent authorized by section 5162.021 of the
Revised Code, the director of developmental disabilities shall
adopt rules in accordance with Chapter 119. of the Revised Code
establishing a process by which an ICF/IID resident may obtain
prior authorization for visits with relatives and friends and
participation in therapeutic programs pursuant to division (C)
of this section.

Sec. 5124.10. (A) Except as provided in division (D) of
this section and divisions (C) (2) and (4) of section 5124.101 of
the Revised Code, each ICF/IID provider shall file with the
department of developmental disabilities an annual cost report
for each of the provider's ICFs/IID for which the provider has a
valid provider agreement. The cost report for a year shall cover
the calendar year or portion of the calendar year during which

the ICF/IID participated in the medicaid program. Except as 86793
provided in division (E) of this section, the cost report is due 86794
not later than ninety days after the end of the calendar year, 86795
or portion of the calendar year, that the cost report covers. 86796

(B) (1) If an ICF/IID undergoes a change of provider that 86797
the department determines, in accordance with rules adopted 86798
under this section ~~5124.03 of the Revised Code~~, is not an arms 86799
length transaction, the new provider shall file the ICF/IID's 86800
cost report in accordance with division (A) of this section and 86801
the cost report shall cover the portion of the calendar year 86802
during which the new provider operated the ICF/IID and the 86803
portion of the calendar year during which the previous provider 86804
operated the ICF/IID. 86805

(2) If an ICF/IID undergoes a change of provider that the 86806
department determines, in accordance with rules adopted under 86807
this section ~~5124.03 of the Revised Code~~, is an arms length 86808
transaction, the new provider shall file with the department a 86809
cost report for the ICF/IID not later than, except as provided 86810
in division (E) of this section, ninety days after the end of 86811
the ICF/IID's first three full calendar months of operation 86812
under the new provider. The cost report shall cover the period 86813
that begins with the ICF/IID's first day of operation under the 86814
new provider and ends on the first day of the month immediately 86815
following the first three full months of operation under the new 86816
provider. 86817

(C) If the medicaid payment rate for a new ICF/IID was 86818
most recently determined in accordance with section 5124.151 of 86819
the Revised Code, the provider shall file with the department a 86820
cost report for the new ICF/IID not later than, except as 86821
provided in division (E) of this section, ninety days after the 86822

end of the new ICF/IID's first three full calendar months of 86823
operation. The cost report shall cover the period that begins 86824
with the ICF/IID's first day of operation and ends on the first 86825
day of the month immediately following the first three full 86826
months of operation. 86827

(D) An ICF/IID provider is not required to file a cost 86828
report for an ICF/IID for a calendar year in accordance with 86829
division (A) of this section if the provider files a cost report 86830
for the ICF/IID under division (B) (2) or (C) of this section and 86831
that cost report covers a period that begins after the first day 86832
of October of that calendar year. The provider shall file a cost 86833
report for the ICF/IID in accordance with division (A) of this 86834
section for the immediately following calendar year. 86835

(E) The department may grant to a provider a fourteen-day 86836
extension to file a cost report under this section or section 86837
5124.101 of the Revised Code if the provider provides the 86838
department a written request for the extension and the 86839
department determines that there is good cause for the 86840
extension. 86841

(F) To the extent authorized by section 5162.021 of the 86842
Revised Code, the director of developmental disabilities shall 86843
adopt rules in accordance with Chapter 119. of the Revised Code 86844
regarding how the department will determine if a change of 86845
provider is an arms length transaction for the purposes of 86846
division (B) of this section. 86847

Sec. 5124.105. (A) The department of developmental 86848
disabilities shall develop an addendum to the cost report form 86849
that an ICF/IID provider may use to set forth costs that the 86850
provider believes the department may dispute. The department may 86851
consider such costs in determining an ICF/IID's medicaid payment 86852

rate. If the department does not consider such costs in 86853
determining an ICF/IID's medicaid payment rate, the provider may 86854
seek reconsideration of the determination in accordance with 86855
section 5124.38 of the Revised Code. If the department 86856
subsequently includes such costs in an ICF/IID's medicaid 86857
payment rate, the department shall pay the provider interest at 86858
a reasonable rate established in rules adopted under this 86859
~~section 5124.03 of the Revised Code~~ for the period that the rate 86860
excluded the costs. 86861

(B) To the extent authorized by section 5162.021 of the 86862
Revised Code, the director of developmental disabilities shall 86863
adopt rules in accordance with Chapter 119. of the Revised Code 86864
establishing a reasonable interest rate to pay a provider in the 86865
circumstances described in division (A) of this section. 86866

Sec. 5124.109. (A) The department of developmental 86867
disabilities may conduct an audit, as defined in rules adopted 86868
under this ~~section 5124.03 of the Revised Code~~, of any cost 86869
report filed under section 5124.10, 5124.101, or 5124.522 of the 86870
Revised Code. The decision whether to conduct an audit and the 86871
scope of the audit, which may be a desk or field audit, may be 86872
determined based on prior performance of the provider, a risk 86873
analysis, or other evidence that gives the department reason to 86874
believe that the provider has reported costs improperly. A desk 86875
or field audit may be performed annually, but is required 86876
whenever a provider does not pass the risk analysis tolerance 86877
factors. 86878

(B) Audits shall be conducted by auditors under contract 86879
with the department, auditors working for firms under contract 86880
with the department, or auditors employed by the department. 86881

The department may establish a contract for the auditing 86882

of ICFs/IID by outside firms. Each contract entered into by 86883
bidding shall be effective for one to two years. 86884

(C) The department shall notify a provider of the findings 86885
of an audit of a cost report by issuing an audit report. The 86886
department shall issue the audit report not later than three 86887
years after the earlier of the following: 86888

(1) The date the cost report is filed; 86889

(2) The date a desk or field audit of the cost report or a 86890
cost report for a subsequent cost reporting period is completed. 86891

(D) The department shall prepare a written summary of any 86892
audit disallowance that is made after the effective date of the 86893
rate that is based on the cost. Where the provider is pursuing 86894
judicial or administrative remedies in good faith regarding the 86895
disallowance, the department shall not withhold from the 86896
provider's current payments any amounts the department claims to 86897
be due from the provider pursuant to section 5124.41 of the 86898
Revised Code. 86899

(E) (1) The department shall establish an audit manual and 86900
program for field audits conducted under this section. Each 86901
auditor conducting a field audit under this section shall follow 86902
the audit manual and program, regardless of whether the auditor 86903
is under contract with the department, works for a firm under 86904
contract with the department, or is employed by the department. 86905
The manual and program shall do both of the following: 86906

(a) Require each field audit to be conducted by an auditor 86907
to whom all of the following apply: 86908

(i) During the period of the auditor's contract, firm's 86909
contract, or auditor's employment with the department, the 86910
auditor or firm does not have and is not committed to acquire 86911

any direct or indirect financial interest in the ownership, 86912
financing, or operation of ICFs/IID in this state. 86913

(ii) The auditor does not audit any provider that has been 86914
a client of the auditor or the auditor's firm. 86915

(iii) The auditor is otherwise independent as determined 86916
by the standards of independence included in the government 86917
auditing standards produced by the United States government 86918
accountability office. 86919

(b) Require each auditor conducting a field audit to do 86920
all of the following: 86921

(i) Comply with applicable rules prescribed pursuant to 86922
Title XIX; 86923

(ii) Consider generally accepted auditing standards 86924
prescribed by the American institute of certified public 86925
accountants; 86926

(iii) Include a written summary as to whether the costs 86927
included in the cost report examined during the audit are 86928
allowable and are presented in accordance with state and federal 86929
laws and regulations, and whether, in all material respects, 86930
allowable costs are documented, reasonable, and related to 86931
patient care; 86932

(iv) Complete the audit within the time period specified 86933
by the department; 86934

(v) Provide to the provider complete written 86935
interpretations that explain in detail the application of all 86936
relevant contract provisions, regulations, auditing standards, 86937
rate formulae, and departmental policies, with explanations and 86938
examples, that are sufficient to permit the provider to 86939

calculate with reasonable certainty those costs that are 86940
allowable and the rate to which the provider's ICF/IID is 86941
entitled. 86942

(2) For the purpose of division (E) (1) (a) (i) of this 86943
section, employment of a member of an auditor's family by an 86944
ICF/IID that the auditor does not audit does not constitute a 86945
direct or indirect financial interest in the ownership, 86946
financing, or operation of the ICF/IID. 86947

(F) To the extent authorized by section 5162.021 of the 86948
Revised Code, the director of developmental disabilities shall 86949
adopt rules in accordance with Chapter 119. of the Revised Code 86950
establishing a definition of cost report audits pursuant to 86951
division (A) of this section. 86952

Sec. 5124.15. (A) Except as otherwise provided by section 86953
5124.101 of the Revised Code, sections 5124.151 to 5124.154 of 86954
the Revised Code, and division (B) of this section, the total 86955
per medicaid day payment rate that the department of 86956
developmental disabilities shall pay to an ICF/IID provider for 86957
ICF/IID services the provider's ICF/IID provides during a fiscal 86958
year shall equal the sum of all of the following: 86959

(1) The per medicaid day capital component rate determined 86960
for the ICF/IID under section 5124.17 of the Revised Code; 86961

(2) The per medicaid day direct care costs component rate 86962
determined for the ICF/IID under section 5124.19 of the Revised 86963
Code; 86964

(3) The per medicaid day indirect care costs component 86965
rate determined for the ICF/IID under section 5124.21 of the 86966
Revised Code; 86967

(4) The per medicaid day other protected costs component 86968

rate determined for the ICF/IID under section 5124.23 of the Revised Code; 86969
86970

(5) The sum of the following: 86971

(a) The per medicaid day quality incentive payment determined for the ICF/IID under section 5124.24 of the Revised Code; 86972
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(b) A direct support personnel payment equal to two and four-hundredths per cent of the ICF/IID's desk-reviewed, actual, allowable, per medicaid day direct care costs from the applicable cost report year; 86975
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(c) For state fiscal year 2026, a professional workforce development payment equal to ten and four hundred five thousandths per cent of the ICF/IID's desk-reviewed, actual, allowable, per medicaid day direct care costs from the applicable cost report year. 86979
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(B) The department shall adjust the total per medicaid day payment rate otherwise determined for an ICF/IID under this section as directed by the general assembly through the enactment of law governing medicaid payments to ICF/IID providers. 86984
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(C) (1) In addition to paying an ICF/IID provider the total per medicaid day payment rate determined for the provider's ICF/IID under divisions (A) and (B) of this section for a fiscal year, the department may do either or both of the following: 86989
86990
86991
86992

(a) In accordance with section 5124.25 of the Revised Code, pay the provider a rate add-on for ventilator-dependent outlier ICF/IID services if the rate add-on is to be paid under that section and the department approves the provider's application for the rate add-on; 86993
86994
86995
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(b) In accordance with section 5124.26 of the Revised Code, pay the provider for outlier ICF/IID services the ICF/IID provides to residents identified as needing intensive behavioral health support services if the rate add-on is to be paid under that section and the department approves the provider's application for the rate add-on.

(2) The rate add-ons are not to be part of the ICF/IID's total per medicaid day payment rate.

(D) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a reimbursement methodology to use when reimbursing ICFs/IID.

Sec. 5124.152. (A) The total per medicaid day payment rate determined under section 5124.15 of the Revised Code shall not be paid for ICF/IID services provided by an ICF/IID, or discrete unit of an ICF/IID, designated by the department of developmental disabilities as an outlier ICF/IID or unit. Instead, the provider of a designated outlier ICF/IID or unit shall be paid each fiscal year a total per medicaid day payment rate that the department shall prospectively determine in accordance with a methodology established in rules authorized by this section.

(B) The department may designate an ICF/IID, or discrete unit of an ICF/IID, as an outlier ICF/IID or unit if the ICF/IID or unit serves residents who have either of the following:

(1) Diagnoses or special care needs that require direct care resources that are not measured adequately by the resident assessment instrument specified in rules authorized by section

5124.191 of the Revised Code; 87027

(2) Diagnoses or special care needs that are specified in 87028
rules authorized by this section as otherwise qualifying for 87029
consideration under this section. 87030

(C) Notwithstanding any other provision of this chapter, 87031
the costs incurred by a designated outlier ICF/IID or unit shall 87032
not be considered in establishing medicaid payment rates for 87033
other ICFs/IID or units. 87034

~~(D) The (D) (1) (a) To the extent authorized by section~~ 87035
5162.021 of the Revised Code the director of developmental 87036
disabilities shall adopt rules under section 5124.03 of the 87037
Revised Code as necessary to implement this section. 87038

~~(1) (a) The rules shall in accordance with Chapter 119. of~~ 87039
the Revised Code that do both of the following: 87040

(i) Specify the criteria and procedures the department 87041
will apply when designating an ICF/IID, or discrete unit of an 87042
ICF/IID, as an outlier ICF/IID or unit; 87043

(ii) Establish a methodology for prospectively determining 87044
the total per medicaid day payment rate that will be paid each 87045
fiscal year for ICF/IID services provided by a designated 87046
outlier ICF/IID or unit. 87047

(b) The rules adopted under division (D) (1) (a) (i) of this 87048
section regarding the criteria for designating outlier ICFs/IID 87049
and units shall do both of the following: 87050

(i) Provide for consideration of whether all of the 87051
allowable costs of an ICF/IID, or discrete unit of an ICF/IID, 87052
would be paid by the rate determined under section 5124.15 of 87053
the Revised Code; 87054

(ii) Specify the minimum number of ICF/IID beds that an ICF/IID, or discrete unit of an ICF/IID, must have to be designated an outlier ICF/IID or unit.

(c) The rules authorized by division (D)(1)(a)(i) of this section regarding the criteria for designating outlier ICFs/IID and units shall not limit the designation to ICFs/IID, or discrete units of ICFs/IID, located in large cities.

(d) The rules authorized by division (D)(1)(a)(ii) of this section regarding the methodology for prospectively determining the rates of designated outlier ICFs/IID and units shall provide for the methodology to consider the historical costs of providing ICF/IID services to the residents of designated outlier ICFs/IID and units.

(2)(a) ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities may adopt rules may in accordance with Chapter 119. of the Revised Code that do both of the following:

(i) Include for designation as an outlier ICF/IID or unit, an ICF/IID, or discrete unit of an ICF/IID, that serves residents who have complex medical conditions or severe behavioral problems;

(ii) Require that a designated outlier ICF/IID or unit receive authorization from the department before admitting or retaining a resident.

(b) If the director adopts rules authorized by division (D)(2)(a)(ii) of this section regarding the authorization of a designated outlier ICF/IID or unit to admit or retain a resident, the rules shall specify the criteria and procedures the department will apply when granting the authorization.

Sec. 5124.153. (A) To the extent, if any, provided for in 87084
rules authorized by this section, the total per medicaid day 87085
payment rate determined under section 5124.15 of the Revised 87086
Code shall not be paid for ICF/IID services that an ICF/IID not 87087
designated as an outlier ICF/IID or unit provides to a resident 87088
who meets the criteria for admission to a designated outlier 87089
ICF/IID or unit, as specified in rules authorized by section 87090
5124.152 of the Revised Code. Instead, the provider of an 87091
ICF/IID providing ICF/IID services to such a resident shall be 87092
paid each fiscal year a total per medicaid day payment rate that 87093
the department shall prospectively determine in accordance with 87094
a methodology established in rules authorized by this section. 87095

(B) ~~The~~ To the extent authorized by section 5162.021 of 87096
the Revised Code, the director of developmental disabilities may 87097
~~adopt rules under section 5124.03 of the Revised Code to~~ 87098
~~implement this section. The rules may~~ in accordance with Chapter 87099
119. of the Revised Code to require that an ICF/IID receive 87100
authorization from the department before admitting or retaining 87101
a resident who meets the criteria for admission to a designated 87102
outlier ICF/IID or unit. If the director adopts such rules, the 87103
rules shall specify the criteria and procedures the department 87104
will apply when granting the authorization. 87105

Sec. 5124.17. (A) For each fiscal year, the department of 87106
developmental disabilities shall determine each ICF/IID's per 87107
medicaid day capital component rate. An ICF/IID's rate for a 87108
fiscal year shall equal the sum of the following: 87109

(1) The lesser of the following: 87110

(a) The sum of all of the following: 87111

(i) The ICF/IID's per diem fair rental value rate for the 87112

fiscal year as determined under division (B) of this section;	87113
(ii) The ICF/IID's per diem equipment rate for the fiscal year as determined under division (D) of this section;	87114
(iii) The ICF/IID's per diem secondary building rate for the fiscal year as determined under division (E) of this section.	87116
	87117
	87118
(b) The sum determined for the fiscal year under division (G) of this section.	87119
	87120
(2) The ICF/IID's per diem nonextensive renovation rate for the fiscal year as determined under division (H) of this section.	87121
	87122
	87123
(B) An ICF/IID's per diem fair rental value rate for a fiscal year is the quotient of the following:	87124
	87125
(1) The ICF/IID's fair rental value as determined under division (C) of this section;	87126
	87127
(2) The greater of the following:	87128
(a) The number of the ICF/IID's inpatient days for the applicable cost report year;	87129
	87130
(b) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year.	87131
	87132
	87133
(C) (1) An ICF/IID's fair rental value is the product of the following:	87134
	87135
(a) The sum of the following:	87136
(i) The ICF/IID's depreciated current asset value as determined under division (C) (2) of this section;	87137
	87138

(ii) The ICF/IID's land value as determined under division (C) (10) of this section.	87139 87140
(b) Eleven per cent.	87141
(2) An ICF/IID's depreciated current asset value is its current asset value, as determined under division (C) (3) of this section, depreciated by the product of the following:	87142 87143 87144
(a) The ICF/IID's effective age as determined under division (C) (5) of this section;	87145 87146
(b) One and six-tenths per cent.	87147
(3) An ICF/IID's current asset value is the product of the following:	87148 87149
(a) The ICF/IID's value per square foot as determined under division (C) (4) of this section;	87150 87151
(b) The lesser of the ICF/IID's square footage and the following:	87152 87153
(i) If the ICF/IID is in peer group 1 and is a downsized ICF/IID, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by one thousand;	87154 87155 87156
(ii) If the ICF/IID is in peer group 1 and is not a downsized ICF/IID, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by five hundred fifty;	87157 87158 87159 87160
(iii) If the ICF/IID is in peer group 2 and is a downsized ICF/IID, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by one thousand;	87161 87162 87163
(iv) If the ICF/IID is in peer group 2 and is not a downsized ICF/IID, its medicaid-certified capacity on the last	87164 87165

day of the applicable cost report year multiplied by seven 87166
hundred fifty; 87167

(v) If the ICF/IID is in peer group 3, its medicaid- 87168
certified capacity on the last day of the applicable cost report 87169
year multiplied by eight hundred fifty; 87170

(vi) If the ICF/IID is in peer group 4 or peer group 5, 87171
its medicaid-certified capacity on the last day of the 87172
applicable cost report year multiplied by nine hundred. 87173

(4) (a) An ICF/IID's value per square foot shall be 87174
determined by using the version of the following RS means data 87175
that was most recently published at the time the determination 87176
is made: 87177

(i) If the ICF/IID is in peer group 1 or peer group 2, the 87178
RS means data for assisted-senior living facility construction 87179
costs; 87180

(ii) If the ICF/IID is in peer group 3, peer group 4, or 87181
peer group 5, the RS means data for nursing home construction 87182
costs. 87183

(b) Except as provided in division (C) (4) (c) of this 87184
section, in determining an ICF/IID's value per square foot, the 87185
following modifier shall be used: 87186

(i) If the ICF/IID is located in Summit county, the 87187
modifier specified in the applicable RS means data for Akron; 87188

(ii) If the ICF/IID is located in Athens county, the 87189
modifier specified in the applicable RS means data for Athens; 87190

(iii) If the ICF/IID is located in Ashtabula, Geauga, 87191
Lake, Medina, Portage, Stark, Trumbull, or Wayne county, the 87192
modifier specified in the applicable RS means data for Canton; 87193

(iv) If the ICF/IID is located in Ross county, the modifier specified in the applicable RS means data for Chillicothe;	87194 87195 87196
(v) If the ICF/IID is located in Hamilton county, the modifier specified in the applicable RS means data for Cincinnati;	87197 87198 87199
(vi) If the ICF/IID is located in Cuyahoga county, the modifier specified in the applicable RS means data for Cleveland;	87200 87201 87202
(vii) If the ICF/IID is located in Franklin county, the modifier specified in the applicable RS means data for Columbus;	87203 87204
(viii) If the ICF/IID is located in Montgomery county, the modifier specified in the applicable RS means data for Dayton;	87205 87206
(ix) If the ICF/IID is located in Brown, Butler, Clermont, Clinton, Champaign, Darke, Greene, Logan, Miami, Preble, Shelby, or Warren county, the modifier specified in the applicable RS means data for Hamilton;	87207 87208 87209 87210
(x) If the ICF/IID is located in Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Henry, Huron, Mercer, Paulding, Putnam, Ottawa, Sandusky, Seneca, Van Wert, Williams, or Wood county, the modifier specified in the applicable RS means data for Lima;	87211 87212 87213 87214 87215
(xi) If the ICF/IID is located in Lorain county, the modifier specified in the applicable RS means data for Lorain;	87216 87217
(xii) If the ICF/IID is located in Ashland, Crawford, Delaware, Fairfield, Fayette, Hardin, Knox, Licking, Madison, Morrow, Pickaway, Richland, Union, or Wyandot county, the modifier specified in the applicable RS means data for	87218 87219 87220 87221

Mansfield;	87222
(xiii) If the ICF/IID is located in Marion county, the modifier specified in the applicable RS means data for Marion;	87223 87224
(xiv) If the ICF/IID is located in Clark county, the modifier specified in the applicable RS means data for Springfield;	87225 87226 87227
(xv) If the ICF/IID is located in Jefferson county, the modifier specified in the applicable RS means data for Steubenville;	87228 87229 87230
(xvi) If the ICF/IID is located in Lucas county, the modifier specified in the applicable RS means data for Toledo;	87231 87232
(xvii) If the ICF/IID is located in Mahoning county, the modifier specified in the applicable RS means data for Youngstown;	87233 87234 87235
(xviii) If the ICF/IID is located in Adams, Belmont, Carroll, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Scioto, Tuscarawas, Vinton, or Washington county, the modifier specified in the applicable RS means data for Zanesville.	87236 87237 87238 87239 87240 87241
(c) If a modifier ceases to be specified in the applicable RS means data for a city listed in division (C) (4) (b) of this section, the director of developmental disabilities shall specify in rules adopted under <u>this</u> section 5124.03 of the Revised Code a different modifier for the counties that are affected by the change.	87242 87243 87244 87245 87246 87247
(5) An ICF/IID's effective age shall be determined as follows:	87248 87249

(a) Determine the sum of the numbers of the ICF/IID's new bed equivalents for renovations for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for each of those years under division (C) (7) (a) of this section;

(b) Determine the sum of the numbers of the ICF/IID's new bed equivalents for additions that do not increase the ICF/IID's medicaid-certified capacity for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for each of those years under division (C) (8) (a) of this section;

(c) Determine the sum of the numbers of the ICF/IID's new beds resulting from additions that increase the ICF/IID's medicaid-certified capacity for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for each of those years under division (C) (9) (a) of this section;

(d) Determine the sum of the sums determined under divisions (C) (5) (a), (b), and (c) of this section;

(e) Determine the difference of the following:

(i) The ICF/IID's medicaid-certified capacity on the last day of the applicable cost report year;

(ii) The lesser of the amount specified in division (C) (5) (e) (i) of this section and the sum determined under division (C) (5) (d) of this section.

(f) For the purpose of determining the weighted age of the ICF/IID's original beds, determine the product of the following:

(i) The difference determined under division (C) (5) (e) of

this section;	87278
(ii) The ICF/IID's age as determined under division (C) (6) of this section.	87279 87280
(g) Determine the sum of the weighted ages of the ICF/IID's new bed equivalents for renovations for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for each of those years under division (C) (7) (c) of this section;	87281 87282 87283 87284 87285
(h) Determine the sum of the weighted ages of the ICF/IID's new bed equivalents for additions that do not increase its medicaid-certified capacity for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for each of those years under division (C) (8) (d) of this section;	87286 87287 87288 87289 87290 87291
(i) Determine the sum of the weighted ages of the ICF/IID's new beds resulting from additions that increase its medicaid-certified capacity for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for that period and each of those years under division (C) (9) (b) of this section;	87292 87293 87294 87295 87296 87297
(j) Determine the sum of the following:	87298
(i) The product determined under division (C) (5) (f) of this section;	87299 87300
(ii) The sum of the sums determined under divisions (C) (5) (g), (h), and (i) of this section.	87301 87302
(k) Determine the quotient of the following:	87303
(i) The sum determined under division (C) (5) (j) of this section;	87304 87305

(ii) The ICF/IID's medicaid-certified capacity on the last day of the applicable cost report year.	87306 87307
(6) An ICF/IID's age is the lesser of the following:	87308
(a) The difference between the following:	87309
(i) The calendar year in which occurs the last day of the period covered by the cost report being used to determine the ICF/IID's rate under this section;	87310 87311 87312
(ii) The calendar year in which the ICF/IID was initially constructed.	87313 87314
(b) Forty.	87315
(7) (a) The number, for a year, of an ICF/IID's new bed equivalents for renovations is the quotient of the following:	87316 87317
(i) The ICF/IID's desk-reviewed, actual, allowable renovation costs for the year;	87318 87319
(ii) Seventy thousand dollars.	87320
(b) The age of an ICF/IID's new bed equivalents for renovations is the difference of the following:	87321 87322
(i) The calendar year in which occurs the last day of the period covered by the cost report being used to determine the ICF/IID's rate under this section;	87323 87324 87325
(ii) The calendar year the renovations were completed.	87326
(c) The weighted age, for a year, of an ICF/IID's new bed equivalents for renovations is the product of the following:	87327 87328
(i) The number, for that year, of the ICF/IID's new bed equivalents for renovations as determined under division (C) (7) (a) of this section;	87329 87330 87331

(ii) The age of those new bed equivalents as determined under division (C) (7) (b) of this section.	87332 87333
(8) (a) The number, for a year, of an ICF/IID's new bed equivalents for additions that do not increase its medicaid-certified capacity is the quotient of the following:	87334 87335 87336
(i) The value of such additions made to the ICF/IID that year as determined under division (C) (8) (b) of this section;	87337 87338
(ii) Seventy thousand dollars.	87339
(b) The value of additions that do not increase an ICF/IID's medicaid-certified capacity is the product of the following:	87340 87341 87342
(i) The total square footage of the additions;	87343
(ii) The ICF/IID's value per square foot as determined under division (C) (4) of this section.	87344 87345
(c) The age of an ICF/IID's new bed equivalents for additions that do not increase its medicaid-certified capacity is the difference of the following:	87346 87347 87348
(i) The calendar year in which occurs the last day of the period covered by the cost report being used to determine the ICF/IID's rate under this section;	87349 87350 87351
(ii) The calendar year the additions were completed.	87352
(d) The weighted age, for a year, of an ICF/IID's new bed equivalents for additions that do not increase its medicaid-certified capacity is the product of the following:	87353 87354 87355
(i) The number, for that year, of the ICF/IID's new bed equivalents for such additions as determined under division (C) (8) (a) of this section;	87356 87357 87358

(ii) The age of those new bed equivalents as determined under division (C) (8) (c) of this section.	87359 87360
(9) (a) The number, for a year, of new beds resulting from additions that increase an ICF/IID's medicaid-certified capacity is the number by which the new beds increased the ICF/IID's medicaid-certified capacity that year.	87361 87362 87363 87364
(b) The weighted age, for a year, of new beds resulting from additions that increase an ICF/IID's medicaid-certified capacity is the product of the following:	87365 87366 87367
(i) The number by which those new beds increased the ICF/IID's medicaid-certified capacity that year;	87368 87369
(ii) The difference of the calendar year in which occurs the last day of the period covered by the cost report being used to determine the ICF/IID's rate under this section and the calendar year the ICF/IID's medicaid-certified capacity was so increased.	87370 87371 87372 87373 87374
(10) An ICF/IID's land value is the product of the following:	87375 87376
(a) The ICF/IID's current asset value as determined under division (C) (3) of this section;	87377 87378
(b) Ten per cent.	87379
(D) An ICF/IID's per diem equipment rate for a fiscal year shall be the lesser of the following:	87380 87381
(1) The quotient of the following:	87382
(a) The ICF/IID's costs for capital equipment for the applicable cost report year;	87383 87384
(b) The greater of the following:	87385

(i) The number of the ICF/IID's inpatient days for the applicable cost report year;	87386 87387
(ii) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year.	87388 87389 87390
(2) The following amount:	87391
(a) If the ICF/IID is in peer group 1, five dollars;	87392
(b) If the ICF/IID is in peer group 2, six dollars and fifty cents;	87393 87394
(c) If the ICF/IID is in peer group 3, eight dollars;	87395
(d) If the ICF/IID is in peer group 4 or peer group 5, nine dollars.	87396 87397
(E) An ICF/IID's per diem secondary building rate for a fiscal year is the quotient of the following:	87398 87399
(1) The ICF/IID's secondary building value as determined under division (F) of this section;	87400 87401
(2) The greater of the following:	87402
(a) The number of the ICF/IID's inpatient days for the applicable cost report year;	87403 87404
(b) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year.	87405 87406 87407
(F) (1) An ICF/IID's secondary building value is the product of the following:	87408 87409
(a) The sum of the following:	87410
(i) The sum of the depreciated current asset values of the	87411

ICF/IID's secondary buildings as determined under division (F)	87412
(2) of this section;	87413
(ii) The sum of the land values of the ICF/IID's secondary	87414
buildings as determined under division (F) (6) of this section.	87415
(b) A rental rate of eleven per cent.	87416
(2) The depreciated current asset value of an ICF/IID's	87417
secondary building is the current asset value of the secondary	87418
building, as determined under division (F) (3) of this section,	87419
depreciated by the product of the following:	87420
(a) The age of the secondary building as determined under	87421
division (F) (5) of this section;	87422
(b) One and six-tenths per cent.	87423
(3) The current asset value of an ICF/IID's secondary	87424
building is the product of the following:	87425
(a) The part of the secondary building's square footage	87426
that is allocated to the ICF/IID;	87427
(b) The secondary building's value per square foot as	87428
determined under division (F) (4) of this section.	87429
(4) The value per square foot of an ICF/IID's secondary	87430
building shall be determined by using the following:	87431
(a) Except as provided in division (F) (4) (b) of this	87432
section, the most recent national average commercial cost	87433
estimate for office/warehouse buildings according to information	87434
available at buildingjournal.com on the last day of the	87435
applicable cost report year;	87436
(b) If the national average commercial cost estimate for	87437
office/warehouse buildings ceases to be available at	87438

buildingjournal.com, the most recent comparable cost estimate as 87439
specified in rules the director of developmental disabilities 87440
shall adopt under this section ~~5124.03~~ of the Revised Code. 87441

(5) The age of an ICF/IID's secondary building is the 87442
lesser of the following: 87443

(a) The difference of the following: 87444

(i) The calendar year in which occurs the last day of the 87445
period covered by the cost report being used to determine the 87446
ICF/IID's rate under this section; 87447

(ii) The calendar year the secondary building was 87448
initially constructed. 87449

(b) Forty. 87450

(6) The land value of an ICF/IID's secondary building is 87451
the product of the following: 87452

(a) The current asset value of the ICF/IID's secondary 87453
building as determined under division (F) (3) of this section; 87454

(b) Ten per cent. 87455

(G) For the purposes of divisions (A) (1) (b) and (H) (1) (b) 87456
(ii) of this section, the department shall determine the sum of 87457
the following for each ICF/IID for each fiscal year: 87458

(1) The quotient of the following: 87459

(a) The ICF/IID's desk-reviewed, actual, allowable capital 87460
costs for the applicable cost report year; 87461

(b) The greater of the following: 87462

(i) The number of the ICF/IID's inpatient days for the 87463
applicable cost report year; 87464

(ii) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year. 87465
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(2) The following amount: 87468

(a) If the ICF/IID is in peer group 1 or peer group 2, three dollars; 87469
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(b) If the ICF/IID is in peer group 3, peer group 4, or peer group 5, five dollars. 87471
87472

(3) The greater of the following: 87473

(a) Ten per cent of the difference of the following: 87474

(i) The sum of the quotient determined for the fiscal year under division (G) (1) of this section and the applicable amount specified in division (G) (2) of this section; 87475
87476
87477

(ii) The sum determined for the fiscal year under division (A) (1) (a) of this section. 87478
87479

(b) Zero. 87480

(H) An ICF/IID's per diem nonextensive renovation rate for a fiscal year is the following: 87481
87482

(1) If the sum of the ICF/IID's per diem costs of nonextensive renovations for the applicable cost report year as determined under division (I) of this section and the ICF/IID's per diem costs of ownership for the applicable cost report year as determined under division (J) of this section is greater than the sum determined for the ICF/IID for the fiscal year under division (G) of this section, the lesser of the following: 87483
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(a) The ICF/IID's per diem costs of nonextensive renovations for the applicable cost report year as determined 87490
87491

under division (I) of this section; 87492

(b) The difference of the following: 87493

(i) The sum of the ICF/IID's per diem costs of 87494
nonextensive renovation for the applicable cost report year as 87495
determined under division (I) of this section and the ICF/IID's 87496
per diem costs of ownership for the applicable cost report year 87497
as determined under division (J) of this section; 87498

(ii) The sum determined for the ICF/IID for the fiscal 87499
year under division (G) of this section. 87500

(2) If the sum of the ICF/IID's per diem costs of 87501
nonextensive renovation for the applicable cost report year as 87502
determined under division (I) of this section and the ICF/IID's 87503
per diem costs of ownership for the applicable cost report year 87504
as determined under division (J) of this section is less than or 87505
equal to the sum determined for the ICF/IID for the fiscal year 87506
under division (G) of this section, zero. 87507

(I) An ICF/IID's per diem costs of nonextensive 87508
renovations for an applicable cost report year are the quotient 87509
of the following: 87510

(1) The ICF/IID's desk-reviewed, actual, allowable costs 87511
of nonextensive renovations for the applicable cost report year; 87512

(2) The greater of the following: 87513

(a) The number of the ICF/IID's inpatient days for the 87514
applicable cost report year; 87515

(b) The number of inpatient days the ICF/IID would have 87516
had during the applicable cost report year if its occupancy rate 87517
had been ninety-two per cent that year. 87518

- (J) An ICF/IID's per diem costs of ownership for an applicable cost report year are the quotient of the following: 87519
87520
- (1) The ICF/IID's desk-reviewed, actual, allowable costs of ownership for the applicable cost report year; 87521
87522
- (2) The greater of the following: 87523
- (a) The number of the ICF/IID's inpatient days for the applicable cost report year; 87524
87525
- (b) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year. 87526
87527
87528
- (K) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code that do both of the following: 87529
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87531
87532
- (1) Specify a modifier for counties that are not specified in RS means data pursuant to division (C) (4) (c) of this section; 87533
87534
- (2) Specify the comparable cost estimate for the value per square foot of an ICF/IID's secondary building if the national average commercial cost estimate for office/warehouse buildings ceases to be available at buildingjournal.com pursuant to division (F) (4) (b) of this section. 87535
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- Sec. 5124.19.** (A) For each fiscal year, the department of developmental disabilities shall determine each ICF/IID's per medicaid day direct care costs component rate. An ICF/IID's rate shall be determined as follows: 87540
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87542
87543
- (1) Determine the product of the following: 87544
- (a) The ICF/IID's quarterly case-mix score determined or 87545

assigned under section 5124.193 of the Revised Code for the 87546
following calendar quarter: 87547

(i) For the rate determined for fiscal year 2019, the 87548
calendar quarter ending December 31, 2017; 87549

(ii) For the rate determined for each subsequent fiscal 87550
year, the calendar quarter ending on the last day of March of 87551
the calendar year in which the fiscal year begins. 87552

(b) The lesser of the following: 87553

(i) The ICF/IID's cost per case-mix unit for the 87554
applicable cost report year as determined under division (B) of 87555
this section; 87556

(ii) The maximum cost per case-mix unit for the ICF/IID's 87557
peer group for the fiscal year for which the rate is determined 87558
as determined under division (C) of this section. 87559

(2) Adjust the product determined under division (A)(1) of 87560
this section by the inflation rate estimated under division (D) 87561
of this section. 87562

(B) To determine an ICF/IID's cost per case-mix unit for a 87563
cost report year, the department shall determine the quotient of 87564
the following: 87565

(1) The ICF/IID's desk-reviewed, actual, allowable, per 87566
diem direct care costs for the cost report year; 87567

(2) The ICF/IID's annual average case-mix score as 87568
determined under section 5124.193 of the Revised Code for the 87569
fiscal year for which the rate is determined. 87570

(C)(1) The maximum cost per case-mix unit for a peer group 87571
for a fiscal year, other than peer group 5, is the following 87572

percentage above the peer group's median cost per case-mix unit 87573
for that fiscal year: 87574

(a) For peer group 1, sixteen per cent; 87575

(b) For peer group 2, fourteen per cent; 87576

(c) For peer group 3, eighteen per cent; 87577

(d) For peer group 4, twenty-two per cent. 87578

(2) The maximum cost per case-mix unit for peer group 5 87579
for a fiscal year is the ninety-fifth percentile of all ICFs/IID 87580
in peer group 5 for the applicable cost report year. 87581

(3) In determining the maximum cost per case-mix unit for 87582
a peer group under division (C)(1) of this section, the 87583
department shall exclude from its determination the cost per 87584
case-mix unit of any ICF/IID in the peer group that participated 87585
in the medicaid program under the same provider for less than 87586
twelve months during the applicable cost report year. 87587

(4) In determining the maximum cost per case-mix unit for 87588
a peer group under division (C)(1) or (2) of this section, the 87589
department shall exclude from its determination the cost per 87590
case-mix unit of any ICF/IID in the peer group that has a case- 87591
mix score that was assigned by the department to the ICF/IID 87592
under division (B) of section 5124.193 of the Revised Code. 87593

(5) The department shall not reset a peer group's maximum 87594
cost per case-mix unit for a fiscal year under division (C)(1) 87595
or (2) of this section based on additional information that the 87596
department receives after it sets the maximum for that fiscal 87597
year. The department shall reset a peer group's maximum cost per 87598
case-mix unit for a fiscal year only if it made an error in 87599
setting the maximum for that fiscal year based on information 87600

available to the department at the time it originally sets the 87601
maximum for that fiscal year. 87602

(D) The department shall estimate the rate of inflation 87603
for the eighteen-month period beginning on the first day of July 87604
of the applicable cost report year and ending on the last day of 87605
December of the fiscal year for which the rate is determined, 87606
using the following: 87607

(1) Subject to division (D)(2) of this section, the 87608
employment cost index for total compensation, health care and 87609
social assistance component, published by the United States 87610
bureau of labor statistics; 87611

(2) If the United States bureau of labor statistics ceases 87612
to publish the index specified in division (D)(1) of this 87613
section, the index that is subsequently published by the bureau 87614
and covers the staff costs of ICFs/IID. 87615

(E) To the extent authorized by section 5162.021 of the 87616
Revised Code, the director of developmental disabilities may 87617
adopt rules in accordance with Chapter 119. of the Revised Code 87618
establishing the following: 87619

(1) Costs related to training and staff development, 87620
employee benefits, payroll taxes, and workers' compensation 87621
premiums or costs for self-insurance claims for the personnel 87622
listed in divisions (N)(1) to (3) of section 5124.01 of the 87623
Revised Code to be included in calculations of direct care 87624
costs; 87625

(2) Direct-care resources that are not listed in division 87626
(N) of section 5124.01 of the Revised Code but are to be 87627
included in calculations of direct care costs. 87628

Sec. 5124.191. (A) As used in sections 5124.191 to 87629

5124.193 of the Revised Code, "ICF/IID resident" includes an 87630
individual who is on hospital or therapeutic leave from an 87631
ICF/IID. 87632

~~(B) In accordance with rules adopted under section 5124.03~~ 87633
~~of the Revised Code, the~~ The department of developmental 87634
disabilities shall assess each ICF/IID resident regardless of 87635
payment source and compile complete assessment data on the 87636
residents. The department shall perform the initial assessment 87637
of an ICF/IID resident. The department may perform a subsequent 87638
assessment of an ICF/IID resident under any of the following 87639
circumstances: 87640

(1) The provider of the ICF/IID in which the resident 87641
resides or from which the resident is on hospital or therapeutic 87642
leave has submitted to the department under division (D) of this 87643
section revised assessment data for the resident or an 87644
attestation of no changes in the resident's assessment data and 87645
the department has reason to believe that the revised assessment 87646
data or attestation is inaccurate; 87647

(2) The department has reason to believe that the 87648
resident's most recent assessment no longer accurately reflects 87649
the resident's condition; 87650

(3) The department determines that the resident's most 87651
recent assessment should be updated because of the passage of 87652
time since that assessment was performed. 87653

(C) If an ICF/IID provider disagrees with the results of 87654
an assessment performed by the department under this section, 87655
the provider may request that the department reconsider the 87656
results in accordance with rules adopted under this section- 87657
~~5124.03 of the Revised Code.~~ 87658

(D) After the department assesses an ICF/IID resident under this section, the provider of the ICF/IID in which the resident resides or from which the resident is on hospital or therapeutic leave shall submit to the department, not later than fifteen days after the end of each subsequent calendar quarter and through the medium or media specified in rules adopted under this section 5124.03 of the Revised Code, either of the following:

(1) Revised assessment data for the resident if there are changes in the resident's assessment data;

(2) An attestation that there are no changes in the resident's assessment data.

(E) A resident assessment instrument specified in rules adopted under this section 5124.03 of the Revised Code shall be used to compile or revise assessment data of ICF/IID residents under this section.

(F) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Establish a process for an ICF/IID provider to request that the department reconsider the results of an assessment performed by the department pursuant to division (C) of this section;

(2) Specify the medium or media through which a provider shall submit revised assessment data or an attestation that there are no changes in a resident's assessment data pursuant to division (D) of this section;

(3) Specify a resident assessment instrument to compile or

revise assessment data of ICF/IID residents pursuant to division 87688
(E) of this section. 87689

Sec. 5124.192. (A) The department of developmental 87690
disabilities shall establish six acuity groups for the purpose 87691
of assigning case-mix scores to ICF/IID residents. An ICF/IID 87692
resident's case-mix score shall be the score of the resident's 87693
acuity group as specified in rules authorized by this section. 87694

(B) The department shall place each ICF/IID resident into 87695
one of the acuity groups. In determining which acuity group an 87696
ICF/IID resident is to be placed into, the department shall do 87697
all of the following: 87698

(1) In accordance with rules authorized by this section 87699
and using the most recent resident assessment data for the 87700
ICF/IID resident available to the department, calculate for the 87701
resident an assessment score for each of the medical, 87702
behavioral, and adaptive skills domains on the resident 87703
assessment instrument used to compile or revise assessment data 87704
for ICF/IID residents under section 5124.191 of the Revised 87705
Code; 87706

(2) For each of the ICF/IID resident's domain assessment 87707
scores and using values specified in rules authorized by this 87708
section, assign the following points: 87709

(a) If the resident's assessment score for the domain is 87710
more than one standard deviation above the mean assessment score 87711
for the domain for all ICF/IID residents as of December 31, 87712
2017, one point; 87713

(b) If the resident's assessment score for the domain is 87714
more than one-half standard deviation above the mean assessment 87715
score for the domain for all ICF/IID residents as of December 87716

31, 2017, and not more than one standard deviation above that mean, two points; 87717
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(c) If the resident's assessment score for the domain is more than the mean assessment score for the domain for all ICF/IID residents as of December 31, 2017, and not more than one-half standard deviation above that mean, three points; 87719
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(d) If the resident's assessment score for the domain is not more than the mean assessment score for the domain for all ICF/IID residents as of December 31, 2017, and not more than one-half standard deviation below that mean, four points; 87723
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(e) If the resident's assessment score for the domain is more than one-half standard deviation below the mean assessment score for the domain for all ICF/IID residents as of December 31, 2017, and not more than one standard deviation below that mean, five points; 87727
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(f) If the resident's assessment score for the domain is more than one standard deviation below the mean assessment score for the domain for all ICF/IID residents as of December 31, 2017, six points. 87732
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(3) Using the following weights, determine the weighted sum of the points assigned under division (B) (2) of this section to each of the ICF/IID resident's domain assessment scores and round the weighted sum to the nearest whole number: 87736
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(a) Points assigned to the resident's assessment score for the medical domain shall be weighted at thirty-five per cent. 87740
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(b) Points assigned to the resident's assessment score for the behavioral domain shall be weighted at thirty per cent. 87742
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(c) Points assigned to the resident's assessment score for 87744

the adaptive skills domain shall be weighted at thirty-five per cent. 87745
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(4) Place the ICF/IID resident into the following acuity group: 87747
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(a) If the resident's weighted sum of points is five or lower, group one; 87749
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(b) If the resident's weighted sum of points is at least six and not more than eight, group two; 87751
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(c) If the resident's weighted sum of points is nine or ten, group three; 87753
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(d) If the resident's weighted sum of points is eleven or twelve, group four; 87755
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(e) If the resident's weighted sum of points is at least thirteen and not more than fifteen, group five; 87757
87758

(f) If the resident's weighted sum of points is sixteen or higher, group six. 87759
87760

(C) (1) ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules under section 5124.03 of the Revised Code as necessary to implement this section, including rules in accordance with Chapter 119. of the Revised Code that do all of the following: 87761
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(a) Subject to division (C) (2) of this section, specify case-mix scores for each acuity group established under this section; 87767
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(b) Prescribe a methodology for calculating assessment scores for the medical, behavioral, and adaptive skills domains 87770
87771

on the resident assessment instrument used to compile or revise 87772
assessment data of ICF/IID residents under section 5124.191 of 87773
the Revised Code; 87774

(c) Specify values to be used in assigning points to 87775
domain assessment scores. 87776

(2) The case-mix score specified for an acuity group shall 87777
be based on relative resource use by ICF/IID residents who are 87778
placed in the group and were included in a time study of ICF/IID 87779
residents performed by the department. 87780

Sec. 5124.193. (A) Except as provided in division (B) of 87781
this section, the department of developmental disabilities shall 87782
do both of the following: 87783

(1) For each calendar quarter, determine a case-mix score 87784
for each ICF/IID using both of the following: 87785

(a) The most recent (as of the date the determination is 87786
made) resident assessment data compiled and revised for the 87787
ICF/IID's residents under section 5124.191 of the Revised Code; 87788

(b) The case-mix scores of the ICF/IID's residents as 87789
determined under section 5124.192 of the Revised Code. 87790

(2) After the end of each calendar year, determine an 87791
annual average case-mix score for each ICF/IID using the 87792
ICF/IID's quarterly case-mix scores for that calendar year. 87793

(B) (1) Subject to divisions (B) (2) and (3) of this 87794
section, the department, for one or more months of a calendar 87795
quarter, may assign to an ICF/IID a case-mix score that is five 87796
per cent less than the ICF/IID's case-mix score as of the day 87797
immediately preceding the day on which the reduction takes 87798
effect if the provider does not timely comply with division (D) 87799

of section 5124.191 of the Revised Code. 87800

(2) Subject to division (B)(3) of this section, before 87801
assigning a case-mix score to an ICF/IID under division (B)(1) 87802
of this section, the department shall permit the provider to 87803
come into compliance with division (D) of section 5124.191 of 87804
the Revised Code. The department may assign the case-mix score 87805
if the provider fails to comply not later than forty-five days 87806
after the end of the calendar quarter to which the noncompliance 87807
pertains or a later date specified in rules authorized by this 87808
section. 87809

(3) The department shall take action under division (B)(1) 87810
or (2) of this section only in accordance with rules authorized 87811
by this section. The department shall not take an action that 87812
affects medicaid payment rates for prior payment periods except 87813
in accordance with sections 5124.41 and 5124.42 of the Revised 87814
Code. 87815

(C) The To the extent authorized by section 5162.021 of 87816
the Revised Code, the director of developmental disabilities 87817
shall may adopt rules under section 5124.03 of the Revised Code 87818
as necessary to implement this section in accordance with Chapter 87819
119. of the Revised Code to specify a timeframe after which the 87820
department may assign the case-mix score if the provider fails 87821
to comply with division (D) of section 5124.191 of the Revised 87822
Code pursuant to division (B)(2) of this section. 87823

Sec. 5124.21. (A) For each fiscal year, the department of 87824
developmental disabilities shall determine each ICF/IID's per 87825
medicaid day indirect care costs component rate. An ICF/IID's 87826
rate shall be the lesser of the individual rate determined under 87827
division (B) of this section and the maximum rate determined for 87828
the ICF/IID's peer group under division (C) of this section. 87829

(B) An ICF/IID's individual rate is the sum of the 87830
following: 87831

(1) The ICF/IID's desk-reviewed, actual, allowable, per 87832
diem indirect care costs for the applicable cost report year, 87833
adjusted for the inflation rate estimated under division (E) of 87834
this section; 87835

(2) Subject to division (D) of this section, an efficiency 87836
incentive equal to the difference between the amount of the per 87837
diem indirect care costs for the applicable cost report year 87838
determined for the ICF/IID under division (B)(1) of this section 87839
and the maximum rate established for the ICF/IID's peer group 87840
under division (C) of this section for that year. 87841

(C)(1) The maximum rate for an ICF/IID's peer group shall 87842
be the following percentage above the peer group's median per 87843
diem indirect care costs for the applicable cost report year: 87844

(a) For ICFs/IID in peer group 1, eight per cent; 87845

(b) For ICFs/IID in peer group 2 or peer group 3, ten per 87846
cent; 87847

(c) For ICFs/IID in peer group 4 or peer group 5, twelve 87848
per cent. 87849

(2) The department shall not redetermine a peer group's 87850
maximum rate under division (C)(1) of this section based on 87851
additional information that it receives after the maximum rate 87852
is set. The department shall redetermine a peer group's maximum 87853
rate only if the department made an error in computing the 87854
maximum rate based on the information available to the 87855
department at the time of the original calculation. 87856

(D) The efficiency incentive for an ICF/IID shall not 87857

exceed the following: 87858

(1) If the ICF/IID is in peer group 1, five per cent of 87859
the peer group's maximum rate established under division (C) (1) 87860
(a) of this section; 87861

(2) If the ICF/IID is in peer group 2, peer group 3, peer 87862
group 4, or peer group 5, six per cent of the peer group's 87863
maximum rate established under division (C) (1) (b) or (c) of this 87864
section. 87865

(E) When adjusting rates for inflation under division (B) 87866
(1) of this section, the department shall estimate the rate of 87867
inflation for the eighteen-month period beginning on the first 87868
day of July of the applicable cost report year and ending on the 87869
thirty-first day of December of the fiscal year for which the 87870
rate is determined. To estimate the rate of inflation, the 87871
department shall use the following: 87872

(1) Subject to division (E) (2) of this section, the 87873
consumer price index for all items for all urban consumers for 87874
the midwest region, published by the United States bureau of 87875
labor statistics; 87876

(2) If the United States bureau of labor statistics ceases 87877
to publish the index specified in division (E) (1) of this 87878
section, a comparable index that the bureau publishes and the 87879
department determines is appropriate. 87880

(F) To the extent authorized by section 5162.021 of the 87881
Revised Code, the director of developmental disabilities may 87882
adopt rules in accordance with Chapter 119. of the Revised Code 87883
establishing costs related to the indirect care costs specified 87884
in division (AA) of section 5124.01 of the Revised Code to be 87885
included in calculations of indirect care costs. 87886

Sec. 5124.23. (A) For each fiscal year, the department of developmental disabilities shall determine each ICF/IID's per medicaid day other protected costs component rate. An ICF/IID's rate shall be the ICF/IID's desk-reviewed, actual, allowable, per diem other protected costs from the applicable cost report year, adjusted for inflation using the following:

~~(A)~~ (1) Subject to division (B) of this section, the consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics;

~~(B)~~ (2) If the United States bureau of labor statistics ceases to publish the index specified in division (A) of this section, the index that is subsequently published by the bureau and covers nonprescription drugs and medical supplies.

(B) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code establishing other protected costs in addition to the other protected costs specified in division (KK) of section 5124.01 of the Revised Code.

Sec. 5124.24. (A) For fiscal year 2022 and each fiscal year thereafter, the department of developmental disabilities shall determine in accordance with division (C) of this section a per medicaid day quality incentive payment for each ICF/IID that earns for the fiscal year at least one point under division (B) of this section.

(B) Each fiscal year beginning with fiscal year 2022, the department, in accordance with rules authorized by this section, shall award to an ICF/IID points for quality indicators the

ICF/IID meets for the fiscal year. The quality indicators used 87916
under this division shall be based on the recommendations 87917
contained in the report submitted to the director of 87918
developmental disabilities by the ICF/IID quality indicators 87919
workgroup established by Section 261.230 ~~this act~~ of H.B. 166 of 87920
the 133rd General Assembly. 87921

(C) An ICF/IID's per medicaid day quality incentive 87922
payment for a fiscal year shall be the product of the following: 87923

(1) The relative weight point value for the fiscal year as 87924
determined under division (D) of this section; 87925

(2) The number of points the ICF/IID was awarded under 87926
division (B) of this section for the fiscal year. 87927

(D) The relative weight point value for a fiscal year 87928
shall be determined as follows: 87929

(1) For each ICF/IID, determine the product of the 87930
following: 87931

(a) The number of inpatient days the ICF/IID had for the 87932
applicable cost report year; 87933

(b) The number of points the ICF/IID was awarded under 87934
division (B) of this section for the fiscal year. 87935

(2) Determine the sum of all of the products determined 87936
under division (D)(1) of this section for the fiscal year; 87937

(3) Determine the amount equal to one per cent of the 87938
total desk-reviewed, actual, allowable direct care costs of all 87939
ICFs/IID for the applicable cost report year; 87940

(4) Divide the amount determined under division (D)(3) of 87941
this section by the sum determined under division (D)(2) of this 87942

section. 87943

(E) ~~The~~ To the extent authorized by section 5162.021 of 87944
the Revised Code, the director of developmental disabilities 87945
~~shall adopt rules under section 5124.03 of the Revised Code as~~ 87946
~~necessary to implement this section, including rules in~~ 87947
accordance with Chapter 119. of the Revised Code that specify or 87948
establish all of the following: 87949

(1) The data needed for the department to determine 87950
whether an ICF/IID meets the quality indicators specified in 87951
division (B) of this section, the medium through which a report 87952
of the data is to be submitted to the department, and the date 87953
by which the report of the data must be submitted to the 87954
department; 87955

(2) Satisfactory evidence needed to determine that an 87956
ICF/IID has met the quality indicators; 87957

(3) The method by which ICFs/IID are to be awarded points 87958
under division (B) of this section and the number of points that 87959
each quality indicator is worth based on the quality indicator's 87960
relative importance compared to the other quality indicators. 87961

Sec. 5124.26. (A) Subject to division (D) of this section, 87962
the department of developmental disabilities may pay a medicaid 87963
rate add-on to an ICF/IID provider for outlier ICF/IID services 87964
the ICF/IID provides to residents identified as needing 87965
intensive behavioral support services, if the provider applies 87966
to the department to receive the rate add-on and the department 87967
approves the application. The department may approve a 87968
provider's application if both of the following apply: 87969

(1) The provider submits to the department a best 87970
practices protocol for providing outlier ICF/IID services under 87971

this section and the department determines that the protocol is acceptable; 87972
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(2) The provider meets all other eligibility requirements 87974
for the rate add-on established in rules adopted under this 87975
~~section 5124.03 of the Revised Code.~~ 87976

(B) An ICF/IID that has been approved by the department to 87977
provide outlier ICF/IID services under this section shall 87978
provide the services in accordance with both of the following: 87979

(1) The best practices protocol described in division (A) 87980
(1) of this section; 87981

(2) Requirements regarding the services established in 87982
rules adopted under this ~~section 5124.03 of the Revised Code.~~ 87983

(C) To qualify to receive outlier ICF/IID services from an 87984
ICF/IID under this section, a resident of the ICF/IID must be a 87985
medicaid recipient, be determined to need intensive behavioral 87986
support services, and meet all other eligibility requirements 87987
established in rules adopted under this ~~section 5124.03 of the~~ 87988
~~Revised Code.~~ 87989

(D) The department shall negotiate with the department of 87990
medicaid the amount of the medicaid payment rate add-on, if any, 87991
to be paid under this section or the method by which that amount 87992
is to be determined. 87993

(E) To the extent authorized by section 5162.021 of the 87994
Revised Code, the director of developmental disabilities shall 87995
adopt rules in accordance with Chapter 119. of the Revised Code 87996
that establish all of the following: 87997

(1) Eligibility requirements for the rate add-on to an 87998
ICF/IID provider for outlier ICF/IID services the ICF/IID 87999

provides to residents identified as needing intensive behavioral 88000
support services pursuant to division (A) (2) of this section; 88001

(2) Requirements for the provision of outlier ICF/IID 88002
services pursuant to division (B) (2) of this section; 88003

(3) Eligibility requirements to receive outlier ICF/IID 88004
services from an ICF/IID pursuant to division (C) of this 88005
section. 88006

Sec. 5124.29. Except as otherwise provided in section 88007
5124.30 of the Revised Code, the department of developmental 88008
disabilities, in determining whether an ICF/IID's direct care 88009
costs and indirect care costs are allowable, shall place no 88010
limit on specific categories of reasonable costs other than 88011
compensation of owners, compensation of relatives of owners, and 88012
compensation of administrators. 88013

Compensation cost limits for owners and relatives of 88014
owners shall be based on compensation costs for individuals who 88015
hold comparable positions but who are not owners or relatives of 88016
owners, as reported on ICFs/IID's cost reports. As used in this 88017
section, "comparable position" means the position that is held 88018
by the owner or the owner's relative, if that position is listed 88019
separately on the cost report form, or if the position is not 88020
listed separately, the group of positions that is listed on the 88021
cost report form and that includes the position held by the 88022
owner or the owner's relative. ~~In~~ 88023

Based on civil service equivalents and to the extent 88024
authorized by section 5162.021 of the Revised Code, the director 88025
of developmental disabilities shall adopt rules in accordance 88026
with Chapter 119. of the Revised Code establishing the 88027
compensation cost limit in the case of an owner or owner's 88028

relative who serves the ICFs/IID in a capacity such as corporate officer, proprietor, or partner for which no comparable position or group of positions is listed on the cost report form, ~~the compensation cost limit shall be based on civil service equivalents and shall be specified in rules adopted under section 5124.03 of the Revised Code.~~

Compensation cost limits for administrators shall be based on compensation costs for administrators who are not owners or relatives of owners, as reported on ICFs/IID's cost reports.

Sec. 5124.34. (A) As used in this section, "participation in therapeutic programs" includes visits to potential new residential settings.

(B) The department of developmental disabilities shall pay an ICF/IID provider one hundred per cent of the total per medicaid day payment rate determined for the ICF/IID under this chapter to reserve a bed for a resident who is a medicaid recipient if all of the following apply:

(1) The recipient is temporarily absent from the ICF/IID for a reason that makes the absence qualified for payments under this section as specified in rules authorized by this section;

(2) The resident's plan of care provides for the absence;

(3) Federal financial participation is available for the payments.

(C) The maximum period during which medicaid payments may be made to reserve a bed shall not exceed the maximum period specified in federal regulations and shall not be more than thirty days during any calendar year for hospital stays, visits with relatives and friends, and participation in therapeutic programs. However, a resident shall not be subject to a maximum

period during which payments may be made to reserve a bed if 88058
prior authorization of the department is obtained for hospital 88059
stays, visits with relatives and friends, and participation in 88060
therapeutic programs. 88061

(D) (1) ~~The~~ To the extent authorized by section 5162.021 of 88062
the Revised Code, the director of developmental disabilities 88063
shall adopt ~~rules under section 5124.03 of the Revised Code as~~ 88064
~~necessary to implement this section, including rules in~~ 88065
accordance with Chapter 119. of the Revised Code that do the 88066
following: 88067

(a) Specify the reasons for which a temporary absence from 88068
an ICF/IID makes the absence qualify for payments under this 88069
section; 88070

(b) Establish conditions under which prior authorization 88071
may be obtained for the purpose of division (C) of this section. 88072

(2) The rules authorized by division (D) (1) (a) of this 88073
section shall include the following as reasons for which a 88074
temporary absence from an ICF/IID qualifies for payments under 88075
this section: 88076

(a) Hospitalization for acute conditions; 88077

(b) Visits with relatives and friends; 88078

(c) Participation in therapeutic programs outside the 88079
ICF/IID. 88080

Sec. 5124.38. (A) The director of developmental 88081
disabilities shall establish a process under which an ICF/IID 88082
provider, or a group or association of ICF/IID providers, may 88083
seek reconsideration of medicaid payment rates established under 88084
this chapter. Except as provided in divisions (B) to (E) of this 88085

section, the only issue that a provider, group, or association 88086
may raise in the rate reconsideration is whether the rate was 88087
calculated in accordance with this chapter and the rules adopted 88088
under this section ~~5124.03 of the Revised Code~~. The provider, 88089
group, or association may submit written arguments or other 88090
materials that support its position. The provider, group, or 88091
association and department shall take actions regarding the rate 88092
reconsideration within time frames specified in rules authorized 88093
by this section. 88094

If the department determines, as a result of the rate 88095
reconsideration, that the rate established for one or more 88096
ICFs/IID is less than the rate to which the ICF/IID is entitled, 88097
the department shall increase the rate. If the department has 88098
paid the incorrect rate for a period of time, the department 88099
shall pay the provider of the ICF/IID the difference between the 88100
amount the provider was paid for that period for the ICF/IID and 88101
the amount the provider should have been paid for the ICF/IID. 88102

(B) (1) The department, through the rate reconsideration 88103
process, may increase during a fiscal year the medicaid payment 88104
rate determined for an ICF/IID under this chapter if the 88105
provider demonstrates that the ICF/IID's actual, allowable costs 88106
have increased because of any of the following extreme 88107
circumstances: 88108

(a) A natural disaster; 88109

(b) If the ICF/IID has an appropriate claims management 88110
program, an increase in the ICF/IID's workers' compensation 88111
experience rating of greater than five per cent; 88112

(c) If the ICF/IID is an inner-city ICF/IID, increased 88113
security costs; 88114

(d) A change of ownership that results from bankruptcy, 88115
foreclosure, or findings by the department of health of 88116
violations of medicaid certification requirements; 88117

(e) Other extreme circumstances specified in rules 88118
authorized by this section. 88119

(2) An ICF/IID may qualify for a rate increase under this 88120
division only if its per diem, actual, allowable costs have 88121
increased to a level that exceeds its total rate. An increase 88122
under this division is subject to any rate limitations or 88123
maximum rates established by this chapter for specific cost 88124
centers. Any rate increase granted under this division shall 88125
take effect on the first day of the first month after the 88126
department receives the request. 88127

(C) The department, through the rate reconsideration 88128
process, may increase an ICF/IID's rate as determined under this 88129
chapter if the department, in the department's sole discretion, 88130
determines that the rate as determined under those sections 88131
works an extreme hardship on the ICF/IID. 88132

(D) (1) Subject to any applicable limitation under section 88133
5124.17 of the Revised Code, when beds certified for the 88134
medicaid program are added to an existing ICF/IID or replaced at 88135
the same site, the department, through the rate reconsideration 88136
process, may proportionately increase the ICF/IID's per medicaid 88137
day capital component rate determined under that section to 88138
account for the costs of the beds that are added or replaced. 88139

(2) If the department grants an increase under division 88140
(D) (1) of this section, the increase shall go into effect one 88141
month after the first day of the month after the department 88142
receives sufficient documentation needed to determine the amount 88143

of the increase. 88144

(3) The provider of an ICF/IID that has its per medicaid 88145
day payment rate for reasonable capital costs increased under 88146
division (D)(1) of this section shall report double accumulated 88147
depreciation in an amount equal to the depreciation included in 88148
the rate adjustment on its cost report for the first year of 88149
operation. During the term of any loan used to finance a project 88150
for which the rate increase is granted, the provider, if the 88151
ICF/IID is operated by the same provider, shall subtract from 88152
the interest costs it reports on the ICF/IID's cost report an 88153
amount equal to the difference between the following: 88154

(a) The actual, allowable interest costs for the loan 88155
during the calendar year for which the costs are being reported; 88156

(b) The actual, allowable interest costs attributable to 88157
the loan that were used to calculate the rates paid to the 88158
provider for the ICF/IID during the same calendar year. 88159

(E) If the provider of an ICF/IID submits to the 88160
department revised assessment data for a resident of the ICF/IID 88161
under division (D) of section 5124.191 of the Revised Code and 88162
the revised assessment data results in at least a fifteen per 88163
cent increase in the ICF/IID's case-mix score determined under 88164
section 5124.193 of the Revised Code, the provider may request 88165
that the department, through the rate reconsideration process, 88166
increase the ICF/IID's per medicaid day direct care costs 88167
component rate determined under section 5124.19 of the Revised 88168
Code to account for the increase in the ICF/IID's case-mix 88169
score. If the department determines that the revised assessment 88170
data so increases the ICF/IID's case-mix score, the department 88171
shall grant the rate increase. The increase shall go into effect 88172
one month after the first day of the month after the department 88173

receives sufficient documentation needed to determine the amount of the increase. 88174
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(F) The department's decision at the conclusion of a rate reconsideration process is not subject to any administrative proceedings under Chapter 119. or any other provision of the Revised Code. 88176
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(G) ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules establishing a timeline for the process through which an ICF/IID provider, or a group or association of ICF/IID providers, may seek reconsideration of medicaid payment rates pursuant to division (A) of this section. 88180
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(H) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall ~~may~~ adopt rules under section 5124.03 of the Revised Code as necessary to implement this sectionspecifying extreme circumstances under which the department may increase during a fiscal year the medicaid payment rate determined for an ICF/IID pursuant to division (B) (1) (e) of this section. 88186
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Sec. 5124.516. ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities may adopt rules under section 5124.03 of the Revised Code in accordance with Chapter 119. of the Revised Code governing adjustments to the medicaid reimbursement rate for an ICF/IID that undergoes a change of operator. No rate adjustment resulting from a change of operator shall be effective before the effective date of the entering operator's provider agreement. This is the case regardless of whether the provider agreement is entered into under section 5124.511, section 5124.512, or, pursuant to section 5124.515, section 5124.07 of 88193
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the Revised Code. 88204

Sec. 5124.53. ~~The~~ To the extent authorized by section 88205
5162.021 of the Revised Code, the director of developmental 88206
disabilities shall adopt rules ~~under section 5124.03 of the~~ 88207
~~Revised Code to implement sections 5124.50 to 5124.53 of the~~ 88208
~~Revised Code. The rules shall in accordance with Chapter 119. of~~ 88209
the Revised Code that specify all of the following: 88210

(A) The method by which written notices to the department 88211
required by sections 5124.50 to 5124.53 of the Revised Code are 88212
to be provided; 88213

(B) The forms and documents that are to be provided to the 88214
department under sections 5124.511 and 5124.512 of the Revised 88215
Code, which shall include, in the case of such forms and 88216
documents provided by entering operators, all the fully executed 88217
leases, management agreements, merger agreements and supporting 88218
documents, and fully executed sales contracts and any other 88219
supporting documents culminating in the change of operator; 88220

(C) The method by which the forms and documents identified 88221
in division (B) of this section are to be provided to the 88222
department. 88223

Sec. 5126.0220. (A) The superintendent of the county board 88224
of developmental disabilities shall do all of the following: 88225

(1) Administer the work of the board, ~~subject to the~~ 88226
~~board's rules;~~ 88227

(2) Recommend to the board the changes necessary to 88228
increase the effectiveness of the programs and services offered 88229
pursuant to Chapters 3323. and 5126. of the Revised Code; 88230

(3) Employ persons for all positions authorized by the 88231

board, approve contracts of employment for management employees 88232
that are for a term of one year or less, and approve personnel 88233
actions that involve employees in the classified civil service 88234
as may be necessary for the work of the board; 88235

(4) Approve compensation for employees within the limits 88236
set by the salary schedule and budget set by the board, and 88237
ensure that all employees and consultants are properly 88238
reimbursed for actual and necessary expenses incurred in the 88239
performance of official duties; 88240

(5) Provide consultation to public agencies as defined in 88241
division (C) of section 102.01 of the Revised Code, including 88242
other county boards of developmental disabilities, and to 88243
individuals, agencies, or organizations providing services 88244
supported by the board. 88245

(B) The superintendent may authorize the payment of board 88246
obligations by the county auditor. 88247

Sec. 5126.04. (A) Each county board of developmental 88248
disabilities shall plan and set priorities based on available 88249
resources for the provision of facilities, programs, and other 88250
services to meet the needs of county residents who are 88251
individuals with developmental disabilities, former residents of 88252
the county residing in state institutions or, before September 88253
29, 2011, placed under purchase of service agreements under 88254
section 5123.18 of the Revised Code, and children subject to a 88255
determination made pursuant to section 121.38 of the Revised 88256
Code. 88257

Each county board shall assess the facility and service 88258
needs of the individuals with developmental disabilities who are 88259
residents of the county or former residents of the county 88260

residing in state institutions or, before September 29, 2011, 88261
placed under purchase of service agreements under section 88262
5123.18 of the Revised Code. 88263

Each county board shall require individual habilitation or 88264
service plans for individuals with developmental disabilities 88265
who are being served or who have been determined eligible for 88266
services and are awaiting the provision of services. Each board 88267
shall ensure that methods of having their service needs 88268
evaluated are available. 88269

(B) (1) If a foster child is in need of assessment for 88270
eligible services or is receiving services from a county board 88271
of developmental disabilities and that child is placed in a 88272
different county, the agency that placed the child, immediately 88273
upon placement, shall inform the county board in the new county 88274
all of the following: 88275

(a) That a foster child has been placed in that county; 88276

(b) The name and other identifying information of the 88277
foster child; 88278

(c) The name of the foster child's previous county of 88279
residence; 88280

(d) That the foster child was in need of assessment for 88281
eligible services or was receiving services from the county 88282
board of developmental disabilities in the previous county. 88283

(2) Upon receiving the notice described in division (B) (1) 88284
of this section or otherwise learning that the child was in need 88285
of assessment for eligible services or was receiving services 88286
from a county board of developmental disabilities in the 88287
previous county, the county board in the new county shall 88288
communicate with the county board of the previous county to 88289

determine how services for the foster child shall be provided in accordance with each board's plan and priorities as described in division (A) of this section.

If the two county boards are unable to reach an agreement within ten days of the child's placement, the county board in the new county shall send notice to the Ohio department of developmental disabilities of the failure to agree. The department shall decide how services shall be provided for the foster child within ten days of receiving notice that the county boards could not reach an agreement. The department may decide that one, or both, of the county boards shall provide services. The services shall be provided in accordance with the board's plan and priorities as described in division (A) of this section.

~~(C) The department of developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the Revised Code, the rules shall be consistent with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.~~

~~(D)~~ The responsibility or authority of a county board to provide services under this chapter does not affect the responsibility of any other entity of state or local government to provide services to individuals with developmental disabilities.

~~(E)~~ (D) On or before the first day of February prior to a school year, a county board of developmental disabilities may elect not to participate during that school year in the

provision of or contracting for educational services for 88320
children ages six through twenty-one years of age, provided that 88321
on or before that date the board gives notice of this election 88322
to the director of education and workforce, each school district 88323
in the county, and the educational service center serving the 88324
county. If a board makes this election, it shall not have any 88325
responsibility for or authority to provide educational services 88326
that school year for children ages six through twenty-one years 88327
of age. If a board does not make an election for a school year 88328
in accordance with this division, the board shall be deemed to 88329
have elected to participate during that school year in the 88330
provision of or contracting for educational services for 88331
children ages six through twenty-one years of age. 88332

~~(F)~~ (E) If a county board of developmental disabilities 88333
elects to provide educational services during a school year to 88334
individuals six through twenty-one years of age who have 88335
multiple disabilities, the board may provide these services to 88336
individuals who are appropriately identified and determined 88337
eligible pursuant to Chapter 3323. of the Revised Code, and in 88338
accordance with applicable rules of the department of education 88339
and workforce. The county board may also provide related 88340
services to individuals six through twenty-one years of age who 88341
have one or more disabling conditions, in accordance with 88342
section 3317.20 and Chapter 3323. of the Revised Code and 88343
applicable rules of the department of education and workforce. 88344

Sec. 5126.08. (A) The director of developmental 88345
disabilities shall adopt rules in accordance with Chapter 119. 88346
of the Revised Code ~~for all programs and services offered by a~~ 88347
~~county board of developmental disabilities. Such rules shall~~ 88348
~~include, but are not limited to,~~ establish the following: 88349

(1) Determination of what constitutes a program or service offered by a county board of developmental disabilities;	88350 88351
(2) Standards to be followed by a board in administering, providing, arranging, or operating programs and services;	88352 88353
(3) Standards for determining the nature and degree of developmental disability;	88354 88355
(4) Standards and procedures for making eligibility determinations for the programs and services;	88356 88357
(5) Procedures for obtaining consent for the arrangement of services under section 5126.31 of the Revised Code and for obtaining signatures on individualized service plans under that section;	88358 88359 88360 88361
(6) Specification of the service and support administration to be provided by a county board and standards for resolving grievances in connection with service and support administration.	88362 88363 88364 88365
(B) The director shall be the final authority in determining the nature and degree of developmental disability.	88366 88367
Sec. 5126.081. (A) In addition to the rules adopted under division (A) (2) of section 5126.08 of the Revised Code establishing standards for the administration, provision, arrangement, and operation of programs and services by county boards of developmental disabilities, the department of developmental disabilities shall establish a system of accreditation for county boards of developmental disabilities to ensure that the boards are in compliance with federal and state statutes and rules. The department shall adopt rules in accordance with Chapter 119. of the Revised Code governing the system of accreditation. The rules shall include specifying	88368 88369 88370 88371 88372 88373 88374 88375 88376 88377 88378

appropriate timelines for compliance when a board is found to be 88379
not in compliance and appropriate actions to be taken by boards 88380
in complying with the accreditation requirements. 88381

(B) Prior to accrediting a board, the department shall 88382
conduct a comprehensive, on-site review of the board. During the 88383
review, the department shall document the board's compliance 88384
with the department's accreditation requirements. After 88385
completing the review, the department shall conduct an exit 88386
conference with the president of the board, the superintendent 88387
of the board, and any other officials the board asks to have 88388
present. The department shall discuss its findings from the 88389
review with the board's representatives and provide a written 88390
report of its findings not later than thirty days following the 88391
exit conference. If the department finds that the board is in 88392
compliance with the requirements for accreditation, the 88393
department shall issue evidence of accreditation to the board. 88394

Accreditation may be granted for periods of up to five 88395
years and may be renewed. Not less than once prior to the date a 88396
board's accreditation is scheduled to expire, the department 88397
shall conduct a comprehensive, on-site review of the board. 88398

Each board shall conduct an annual audit of itself to 88399
evaluate its compliance with the requirements for accreditation. 88400
The department may conduct an interim review of any new program 88401
or service initiated by a board after its last comprehensive 88402
review. The department may conduct other reviews and 88403
investigations as necessary to enforce this section. 88404

(C) If the department determines through its review of a 88405
board that the board is not in compliance with the requirements 88406
for accreditation, the department shall, except as provided in 88407
division (F) of this section, grant the board an opportunity to 88408

correct the matters in which it is not in compliance. The 88409
department shall grant the board an appropriate length of time 88410
to comply with the requirements prior to taking any action to 88411
deny accreditation to the board. To avoid denial of 88412
accreditation, the board superintendent shall prepare a plan of 88413
correction to remediate the matters specified in the 88414
department's written report as not being in compliance with the 88415
requirements for accreditation. The superintendent shall submit 88416
the plan to the board for review, and the board shall review the 88417
plan. If the board believes that the plan is sufficient to 88418
correct the matters, the board shall approve the plan by 88419
resolution and submit the plan to the department for its review. 88420
The department shall review the plan of correction. If the 88421
department approves the plan, the board shall commence action to 88422
implement the plan. The department shall, as necessary, conduct 88423
follow-up reviews of the board to determine whether it has met 88424
the requirements for accreditation. If the plan of correction 88425
submitted by a board is disapproved, the department shall inform 88426
the board of the reasons for disapproval and may grant the board 88427
an opportunity to submit a revised plan of correction. 88428

A board may request technical assistance from the 88429
department, other boards, or professional organizations in 88430
preparing plans of correction and in implementing plans of 88431
correction. 88432

(D) If, after being given the opportunity to implement a 88433
plan of correction, a board continues to fail to meet the 88434
requirements for accreditation, the department shall issue an 88435
order denying accreditation to the board. The department may 88436
deny accreditation to the board for all or part of the programs 88437
or services offered by the board. 88438

The department shall simultaneously notify all of the 88439
following officials in the county: the members of the board of 88440
county commissioners, the senior probate judge, the county 88441
auditor, and the president and superintendent of the county 88442
board of developmental disabilities. The notice shall identify 88443
the programs and services that have been denied accreditation, 88444
the requirements for accreditation with which the board is not 88445
in compliance, and the responsibilities of the county officials 88446
to contract under division (E) (1) of this section to have the 88447
board's programs and services administered by another party or 88448
become subject to administrative receivership under division (E) 88449
(2) of this section. 88450

(E) (1) When a board is denied accreditation, the 88451
department shall first give the board the option of contracting 88452
to have the board's programs and services that were denied 88453
accreditation administered by an accredited county board of 88454
developmental disabilities or another qualified entity subject 88455
to the approval of the department. The board may contract with 88456
more than one board that has been accredited. When a board 88457
enters into a contract, the board shall, by resolution, give the 88458
contractor full administrative authority over the programs and 88459
services that the contractor will administer. 88460

(2) If a board fails to exercise its option of entering 88461
into a contract under division (E) (1) of this section sooner 88462
than thirty days after the department denies accreditation, the 88463
department shall appoint an administrative receiver of the 88464
board's programs and services that were denied accreditation. 88465
The department may appoint employees of the department, 88466
management personnel from county boards of developmental 88467
disabilities, or individuals from other entities as necessary to 88468
meet its needs for appointing an administrative receiver, except 88469

that individuals from other entities may be appointed only when 88470
qualified department employees or board management personnel are 88471
unavailable. The department may not appoint an individual who is 88472
employed by or affiliated with an entity that is under contract 88473
with the board. The administrative receiver shall assume full 88474
administrative responsibility for the board's programs and 88475
services that were denied accreditation. 88476

(3) The board or entity that contracts with a board under 88477
division (E) (1) of this section, or the administrative receiver 88478
appointed under division (E) (2) of this section, shall develop 88479
and implement a plan of correction to remediate the matters that 88480
caused the department to deny accreditation. The contractor or 88481
administrative receiver shall submit the plan to the department, 88482
and the department shall review the plan. If the plan is 88483
approved by the department, the contractor or administrative 88484
receiver shall commence action to implement the plan. The 88485
contractor or administrative receiver shall report to the 88486
department any findings it can make pertaining to issues or 88487
circumstances that are beyond the control of the board and 88488
result in the unlikelihood that compliance with the requirements 88489
for accreditation can be achieved unless the issues or 88490
circumstances are remediated. 88491

(4) For purposes of divisions (E) (1) and (2) of this 88492
section, the department shall require the board that has been 88493
denied accreditation to transfer control of state and federal 88494
funds it is eligible to receive for the board's programs and 88495
services that have been denied accreditation in an amount 88496
necessary for the contractor or administrative receiver to 88497
fulfill its duties in administering the programs and services 88498
for the board. The transfer of control of funds does not cause 88499
any programs and services of the board that are accredited to 88500

lose their accreditation. If the board refuses to transfer 88501
control of funds, the department may withhold state and federal 88502
funds from the board in an amount necessary for the contractor 88503
or administrative receiver to fulfill its duties. The amount 88504
transferred or withheld from a board shall include 88505
reimbursements for the personnel of the contractor or 88506
administrative receiver, including amounts for time worked, 88507
travel, and related expenses. 88508

A contractor or administrative receiver that has assumed 88509
the administration of a board's programs and services has the 88510
right to authorize the payment of bills in the same manner that 88511
a board may authorize payment of bills under this chapter and 88512
section 319.16 of the Revised Code. 88513

(F) When the department's review of a board reveals 88514
serious health and safety issues within the programs and 88515
services offered by the board, the department shall order the 88516
board to correct the violations immediately or appoint an 88517
administrative receiver. 88518

(G) At any time a board can demonstrate that it is capable 88519
of assuming its duties in compliance with the department's 88520
requirements for accreditation, the department shall reverse its 88521
order denying accreditation and issue evidence of accreditation 88522
to the board. 88523

A board may appeal the department's denial of 88524
accreditation or refusal to reverse a denial of accreditation 88525
only by filing a complaint under section 5123.043 of the Revised 88526
Code. If in its appeal the board can demonstrate that it is 88527
capable of assuming its duties in compliance with the 88528
department's requirements for accreditation, the department 88529
shall reverse its order denying accreditation and shall issue 88530

evidence of accreditation to the board. 88531

(H) All notices issued to a board by the department under 88532
this section shall be delivered to the board's president and 88533
superintendent. 88534

(I) A board's president may designate another member of 88535
the board as the individual to be responsible for fulfilling all 88536
or part of the president's responsibilities established under 88537
this section. 88538

Sec. 5126.11. (A) As used in this section, "respite care" 88539
means appropriate, short-term, temporary care that is provided 88540
to an individual with a developmental disability to sustain the 88541
family structure or to meet planned or emergency needs of the 88542
family. 88543

(B) Subject to rules adopted by the director of 88544
developmental disabilities, and subject to the availability of 88545
money from state and federal sources, the county board of 88546
developmental disabilities shall establish a family support 88547
services program. Under such a program, the board shall make 88548
payments to an individual with a developmental disability or the 88549
family of an individual with a developmental disability who 88550
desires to remain in and be supported in the family home. 88551
Payments shall be made for all or part of costs incurred or 88552
estimated to be incurred for services that would promote self- 88553
sufficiency and normalization, prevent or reduce inappropriate 88554
institutional care, and further the unity of the family by 88555
enabling the family to meet the special needs of the individual 88556
and to live as much like other families as possible. Payments 88557
may be made in the form of reimbursement for expenditures or in 88558
the form of vouchers to be used to purchase services. 88559

(C) Payment shall not be made under this section to an individual or the individual's family if the individual is living in a residential facility that is providing residential services under contract with the department of developmental disabilities or a county board.

(D) Payments may be made for the following services:

(1) Respite care, in or out of the home;

(2) Counseling, supervision, training, and education of the individual, the individual's caregivers, and members of the individual's family that aid the family in providing proper care for the individual, provide for the special needs of the family, and assist in all aspects of the individual's daily living;

(3) Special diets, purchase or lease of special equipment, or modifications of the home, if such diets, equipment, or modifications are necessary to improve or facilitate the care and living environment of the individual;

(4) Providing support necessary for the individual's continued skill development, including such services as development of interventions to cope with unique problems that may occur within the complexity of the family, enrollment of the individual in special summer programs, provision of appropriate leisure activities, and other social skills development activities;

(5) Any other services that are consistent with the purposes specified in division (B) of this section and specified in the individual's service plan.

(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and

the individual must be in need of habilitation. Payments shall 88589
be adjusted for income in accordance with the payment schedule 88590
established in rules adopted under this section. Payments shall 88591
be made only after the county board has taken into account all 88592
other available assistance for which the individual or family is 88593
eligible. 88594

(F) Before incurring expenses for a service for which 88595
payment will be sought under a family support services program, 88596
the individual or family shall apply to the county board for a 88597
determination of eligibility and approval of the service. The 88598
service need not be provided in the county served by the county 88599
board. After being determined eligible and receiving approval 88600
for the service, the individual or family may incur expenses for 88601
the service or use the vouchers received from the county board 88602
for the purchase of the service. 88603

If the county board refuses to approve a service, an 88604
appeal may be made in accordance with rules adopted by the 88605
department under this section. 88606

(G) To be reimbursed for expenses incurred for approved 88607
services, the individual or family shall submit to the county 88608
board a statement of the expenses incurred accompanied by any 88609
evidence required by the board. To redeem vouchers used to 88610
purchase approved services, the entity that provided the service 88611
shall submit to the county board evidence that the service was 88612
provided and a statement of the charges. The county board shall 88613
make reimbursements and redeem vouchers not later than forty- 88614
five days after it receives the statements and evidence required 88615
by this division. 88616

(H) A county board shall consider the following objectives 88617
in carrying out a family support services program: 88618

(1) Enabling individuals to return to their families from 88619
an institution under the jurisdiction of the department of 88620
developmental disabilities; 88621

(2) Enabling individuals found to be subject to 88622
institutionalization by court order under section 5123.76 of the 88623
Revised Code to remain with their families with the aid of 88624
payments provided under this section; 88625

(3) Providing services to eligible children and adults 88626
currently residing in the community; 88627

(4) Providing services to individuals with developmental 88628
disabilities who are not receiving other services from the 88629
board. 88630

(I) The director shall adopt, and may amend and rescind, 88631
~~rules for the implementation of family support services programs~~ 88632
~~by county boards. The rules shall include specifying all of the~~ 88633
~~following regarding family support services programs by county~~ 88634
~~boards:~~ 88635

(1) A payment schedule adjusted for income; 88636

(2) Standards for supervision, training, and quality 88637
control in the provision of respite care services; 88638

(3) Eligibility standards and procedures for providing 88639
temporary emergency respite care; 88640

(4) Procedures for hearing and deciding appeals made under 88641
division (F) of this section. 88642

Rules adopted under division (I)(1) of this section shall 88643
be adopted in accordance with section 111.15 of the Revised 88644
Code. Rules adopted under divisions (I)(2) to (4) of this 88645
section shall be adopted in accordance with Chapter 119. of the 88646

Revised Code. 88647

(J) All individuals certified by the superintendent of the 88648
county board as eligible for temporary emergency respite care in 88649
accordance with rules adopted under this section shall be 88650
considered eligible for temporary emergency respite care for not 88651
more than five days to permit the determination of eligibility 88652
for family support services. The requirements of divisions (E) 88653
and (F) of this section do not apply to temporary emergency 88654
respite care. 88655

(K) The county board shall not be required to make 88656
payments for family support services at a level that exceeds 88657
available state and federal funds for such payments. 88658

Sec. 5126.131. (A) (1) Each regional council established 88659
under section 5126.13 of the Revised Code shall file with the 88660
department of developmental disabilities an annual cost report 88661
detailing the regional council's income and expenditures. 88662

(2) Each county board of developmental disabilities shall 88663
file with the department an annual cost report detailing the 88664
board's income and expenditures. 88665

(B) (1) (a) Unless the department establishes a later date 88666
for all regional council cost reports, each council shall file 88667
its cost report not later than the last day of April. At the 88668
written request of a regional council, the department may grant 88669
a fourteen-day extension for filing the cost report. 88670

(b) Unless the department establishes a later date for all 88671
county board cost reports, each board shall file its cost report 88672
not later than the last day of May. At the written request of a 88673
board, the department may grant a fourteen-day extension for 88674
filing the board's cost report. 88675

(2) The cost report shall contain information on the 88676
previous calendar year's income and expenditures. Once filed by 88677
a regional council or board, no changes may be made to the cost 88678
report, including the submission of additional documentation, 88679
except as otherwise provided in this section. 88680

(C) Each cost report filed under this section by a 88681
regional council or board may be audited by the department or an 88682
entity designated by the department, utilizing methodology 88683
approved by the United States centers for medicare and medicaid 88684
services. The department or designated entity shall notify the 88685
regional council or board of the date on which the audit is to 88686
begin. The department may permit a regional council or board to 88687
submit changes to the cost report before the audit begins. 88688

If the department or designated entity determines that a 88689
filed cost report is not auditable, it shall provide written 88690
notification to the regional council or board of the cost 88691
report's deficiencies and may request additional documentation. 88692
If the department or designated entity requests additional 88693
documentation, the regional council or board shall be given 88694
sixty days after the request is made to provide the additional 88695
documentation. After sixty days, the department or designated 88696
entity shall determine whether the cost report is auditable with 88697
any additional documentation provided and shall notify the 88698
regional council or board of its determination. The 88699
determination of the department or designated entity is final. 88700

(D) The department or designated entity shall certify its 88701
audit as complete and file a copy of the certified audit in the 88702
office of the clerk of the governing body, executive officer of 88703
the governing body, and chief fiscal officer of the audited 88704
regional council or board. Changes may not be made to a cost 88705

report once the department or designated entity files the 88706
certified audit. The cost report is not a public record under 88707
section 149.43 of the Revised Code until copies of the cost 88708
report are filed pursuant to this section. 88709

(E) The department may withhold any funds that it 88710
distributes to a regional council or board as subsidy payments 88711
if either of the following is the case: 88712

(1) The cost report is not timely filed by the regional 88713
council or board with the department in accordance with division 88714
(B) of this section. 88715

(2) The cost report is determined not auditable under 88716
division (C) of this section after the department or designated 88717
entity gives the regional council or board sixty days to provide 88718
additional documentation. 88719

(F) Cost reports shall be retained by regional councils 88720
and boards for seven years. The department shall provide annual 88721
training to regional council and board employees regarding cost 88722
reports required by this section. 88723

(G) The department, in accordance with Chapter 119. of the 88724
Revised Code, may adopt any rules ~~necessary to implement this~~ 88725
section regarding annual cost reports filed with the department 88726
by regional councils and county boards of developmental 88727
disabilities. 88728

Sec. 5126.25. (A) The director of developmental 88729
disabilities shall adopt rules under division (C) of this 88730
section establishing uniform standards and procedures for the 88731
certification and registration of persons, other than the 88732
persons described in division (I) of this section, who are 88733
seeking employment with or are employed by either of the 88734

following: 88735

(1) A county board of developmental disabilities; 88736

(2) An entity that contracts with a county board to 88737
operate programs and services for individuals with developmental 88738
disabilities. 88739

(B) No person shall be employed in a position for which 88740
certification or registration is required pursuant to the rules 88741
adopted under this section without the certification or 88742
registration that is required for that position. The person 88743
shall not be employed or shall not continue to be employed if 88744
the required certification or registration is denied, revoked, 88745
or not renewed. 88746

(C) The director shall adopt rules in accordance with 88747
Chapter 119. of the Revised Code ~~as the director considers~~ 88748
~~necessary to implement and administer this section, including~~ 88749
~~rules~~ establishing all of the following: 88750

(1) Positions of employment that are subject to this 88751
section and, for each position, whether a person must receive 88752
certification or receive registration to be employed in that 88753
position; 88754

(2) Requirements that must be met to receive the 88755
certification or registration required to be employed in a 88756
particular position, including standards regarding education, 88757
specialized training, and experience, taking into account the 88758
needs of individuals with developmental disabilities and the 88759
specialized techniques needed to serve them, except that the 88760
rules shall not require a person designated as a service 88761
employee under section 5126.22 of the Revised Code to have or 88762
obtain a bachelor's or higher degree; 88763

(3) Procedures to be followed in applying for initial certification or registration and for renewing the certification or registration. 88764
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(4) Requirements that must be met for renewal of certification or registration, which may include continuing education and professional training requirements; 88767
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(5) Subject to section 5126.23 of the Revised Code, grounds for which certification or registration may be denied, suspended, or revoked and procedures for appealing the denial, suspension, or revocation; 88770
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(6) The time period, which must be at least one year after the effective date of new rules, that a person with valid certification or registration under this section on the effective date of any rules adopted under this section has to meet new certification or registration standards. 88774
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(D) Each person seeking certification or registration for employment shall apply in the manner established in rules adopted under this section. 88779
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(E) (1) Except as provided in division (E) (2) of this section, the superintendent of each county board is responsible for taking all actions regarding certification and registration of employees, other than the position of superintendent, early intervention specialist, or investigative agent. For the position of superintendent, early intervention specialist, or investigative agent, the director of developmental disabilities is responsible for taking all such actions. 88782
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Actions that may be taken by the superintendent or director include issuing, renewing, denying, suspending, and revoking certification and registration. All actions shall be 88790
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taken in accordance with the rules adopted under this section. 88793

The superintendent may charge a fee to persons applying 88794
for certification or registration. The superintendent shall 88795
establish the amount of the fee according to the costs the 88796
county board incurs in administering its program for 88797
certification and registration of employees. 88798

A person subject to the denial, suspension, or revocation 88799
of certification or registration may appeal the decision. The 88800
appeal shall be made in accordance with the rules adopted under 88801
this section. 88802

(2) Pursuant to division (C) of section 5126.05 of the 88803
Revised Code, the superintendent may enter into a contract with 88804
any other entity under which the entity is given authority to 88805
carry out all or part of the superintendent's responsibilities 88806
under division (E) (1) of this section. 88807

(F) A person with valid certification or registration 88808
under this section on the effective date of any rules adopted 88809
under this section that increase the standards applicable to the 88810
certification or registration shall have such period as the 88811
rules prescribe, but not less than one year after the effective 88812
date of the rules, to meet the new certification or registration 88813
standards. 88814

(G) A person with valid certification or registration is 88815
qualified to be employed according to that certification or 88816
registration by any county board or entity contracting with a 88817
county board. 88818

(H) The director shall monitor county boards to ensure 88819
that their employees and the employees of their contracting 88820
entities have the applicable certification or registration 88821

required under this section and that the employees are 88822
performing only those functions they are authorized to perform 88823
under the certification or registration. The superintendent of 88824
each county board or the superintendent's designee shall 88825
maintain in appropriate personnel files evidence acceptable to 88826
the director that the employees have met the requirements. On 88827
request, representatives of the department of developmental 88828
disabilities shall be given access to the evidence. 88829

(I) The certification and registration requirements of 88830
this section and the rules adopted under it do not apply to 88831
either of the following: 88832

(1) A person who holds a valid license issued or 88833
certificate issued under Chapter 3319. of the Revised Code and 88834
performs no duties other than teaching or supervision of a 88835
teaching program; 88836

(2) A person who holds a valid license or certificate 88837
issued under Title XLVII of the Revised Code and performs only 88838
those duties governed by the license or certificate. 88839

(J) (1) Beginning January 1, 2025, the rules adopted under 88840
this section shall not require an individual employed by a 88841
county board of developmental disabilities to be certified to 88842
provide, or supervise the provision of, adult services. 88843

(2) Beginning on the date that is one year after ~~the~~ 88844
~~effective date of this amendment~~ April 6, 2023, the rules 88845
adopted under this section shall not establish varying levels of 88846
certification for an individual to receive an investigative 88847
agent certification and instead shall establish uniform 88848
qualifications for all applicants and a process for converting 88849
any existing certificates of varying levels to a single level of 88850

certification for investigative agents. 88851

(K) The director shall issue a certification or 88852
registration in accordance with Chapter 4796. of the Revised 88853
Code to a person if either of the following applies: 88854

(1) The person holds a license, certification, or 88855
registration in another state. 88856

(2) The person has satisfactory work experience, a 88857
government certification, or a private certification as 88858
described in that chapter in a state that does not issue that 88859
license, certification, or registration. 88860

Sec. 5139.04. The department of youth services shall do 88861
all of the following: 88862

(A) Support service districts through a central 88863
administrative office that shall have as its administrative head 88864
a deputy director who shall be appointed by the director of the 88865
department. When a vacancy occurs in the office of that deputy 88866
director, an assistant deputy director shall act as that deputy 88867
director until the vacancy is filled. The position of deputy 88868
director and assistant deputy director described in this 88869
division shall be in the unclassified civil service of the 88870
state. 88871

(B) Receive custody of all children committed to it under 88872
Chapter 2152. of the Revised Code, cause a study to be made of 88873
those children, and issue any orders, as it considers best 88874
suited to the needs of any of those children and the interest of 88875
the public, for the treatment of each of those children; 88876

(C) Obtain personnel necessary for the performance of its 88877
duties; 88878

~~(D) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to 5139.43 of the Revised Code, and that pertain to the administration of other sections of this chapter;~~ 88879
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~~(E)~~ Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year; 88883
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~~(F)~~(E) Conduct a program of research in diagnosis, training, and treatment of delinquent children to evaluate the effectiveness of the department's services and to develop more adequate methods; 88886
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~~(G)~~(F) Develop a standard form for the disposition investigation report that a juvenile court is required pursuant to section 2152.18 of the Revised Code to complete and provide to the department when the court commits a child to the legal custody of the department; 88890
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~~(H)~~(G) Provide the state public defender the reasonable access authorized under division (I) of section 120.06 of the Revised Code in order to fulfill the department's constitutional obligation to provide juveniles who have been committed to the department's care access to the courts. 88895
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~~(I)~~(H) Do all other acts, except for adopting rules, necessary or desirable to carry out this chapter. 88900
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Sec. 5139.281. The department of youth services shall adopt rules prescribing the manner of application for financial assistance under this section for the operation and maintenance of a detention facility provided, or district detention facility established, under section 2151.41 of the Revised Code and prescribing minimum standards of operation, including criteria 88902
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for programs of education, training, counseling, recreation, 88908
health, and safety, and qualifications of personnel with which a 88909
facility shall comply as a condition of eligibility for 88910
assistance under this section. If the board of county 88911
commissioners providing a detention facility or the board of 88912
trustees of a district detention facility applies to the 88913
department for assistance and if the department finds that the 88914
application is in accordance with the rules adopted under this 88915
section and that the facility meets the minimum standards 88916
adopted under this section, the department may grant assistance 88917
to the applicant board for the operation and maintenance of each 88918
facility in an amount not to exceed fifty per cent of the 88919
approved annual operating cost. The board shall make a separate 88920
application for each year for which assistance is requested. 88921

The department shall adopt ~~any necessary~~ rules for the 88922
care, treatment, and training in a district detention facility 88923
of children found to be delinquent children and committed to the 88924
facility by the juvenile court under section 2151.19 of the 88925
Revised Code and may approve for this purpose any facility that 88926
is found to be in compliance with the rules it adopts. 88927

The department shall fund, at least once every six months, 88928
in-service training programs approved by the department for 88929
staff members of detention facilities or district detention 88930
facilities. 88931

Sec. 5139.33. (A) The department of youth services shall 88932
make grants in accordance with this section to encourage 88933
counties to use community-based programs and services for 88934
juveniles who are adjudicated delinquent children for the 88935
commission of acts that would be felonies if committed by an 88936
adult. 88937

(B) Each county seeking a grant under this section shall 88938
file an application with the department of youth services. The 88939
application shall be filed at the time and in accordance with 88940
procedures established by the department in rules adopted under 88941
this section. Each application shall be accompanied by a plan 88942
designed to reduce the county's commitment percentage, or to 88943
enable it to maintain or attain a commitment percentage that is 88944
equal to or below the statewide average commitment percentage. A 88945
county's commitment percentage is the percentage determined by 88946
dividing the number of juveniles the county committed to the 88947
department during the year by the number of juveniles who were 88948
eligible to be committed. The statewide average commitment 88949
percentage is the percentage determined by dividing the number 88950
of juveniles in the state committed to the department during the 88951
year by the number of juveniles who were eligible to be 88952
committed. These percentages shall be determined by the 88953
department using the most reliable data available to it. 88954

Each plan shall include a method of ensuring equal access 88955
for minority youth to the programs and services for which the 88956
grant will be used. 88957

The department shall review each application and plan to 88958
ensure that the requirements of this division are satisfied. Any 88959
county applying for a grant under this section that received a 88960
grant under this section during the preceding year and that 88961
failed to meet its commitment goals for that year shall make the 88962
changes in its plan that the department requires in order to 88963
continue to be eligible for grants under this section. 88964

(C) Subject to division (E) of this section, the amounts 88965
appropriated for the purpose of making grants under this section 88966
shall be distributed annually on a per capita basis among the 88967

counties that have complied with division (B) of this section. 88968

(D) The department shall adopt rules to ~~implement this~~ 88969
~~section. The rules shall include, but are not limited~~ 88970
~~to,~~ establish procedures and schedules for submitting 88971
applications and plans under this section, including procedures 88972
allowing joint-county applications and plans; and procedures for 88973
monitoring and evaluating the effectiveness of the programs and 88974
services financed with grant money, the enhancement of the use 88975
of local facilities and services, and the adequacy of the 88976
supervision and treatment provided to juveniles by those 88977
programs and services. 88978

(E) (1) Three months prior to the implementation of the 88979
felony delinquent care and custody program described in section 88980
5139.43 of the Revised Code, each county that is entitled to a 88981
grant under this section shall receive its grant money for the 88982
fiscal year or the remainder of its grant money for the fiscal 88983
year, other than any grant money to which it is entitled and 88984
that is set aside by the department of youth services for 88985
purposes of division (E) (2) of this section. The grant money so 88986
distributed shall be paid in a lump sum. 88987

(2) During the first twelve months that the felony 88988
delinquent care and custody program described in section 5139.43 88989
of the Revised Code is implemented in a county, any grant or the 88990
remainder of any grant to which a county is entitled and that is 88991
payable from the appropriation made to the department of youth 88992
services for community sanctions shall be distributed as 88993
follows: 88994

(a) In the first quarter of the twelve-month period, the 88995
county shall receive one hundred per cent of the quarterly 88996
distribution. 88997

(b) In the second quarter of the twelve-month period, the county shall receive seventy-five per cent of the quarterly distribution. 88998
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(c) In the third quarter of the twelve-month period, the county shall receive fifty per cent of the quarterly distribution. 89001
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(d) In the fourth quarter of the twelve-month period, the county shall receive twenty-five per cent of the quarterly distribution. 89004
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(3) Grant moneys received pursuant to divisions (E) (1) and (2) of this section shall be transmitted by the juvenile court of the recipient county to the county treasurer, shall be deposited by the county treasurer into the felony delinquent care and custody fund created pursuant to division (B) (1) of section 5139.43 of the Revised Code, and shall be used by the juvenile court in accordance with division (B) (2) of that section. The grant moneys shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders. 89007
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(4) One year after the commencement of its operation of the felony delinquent care and custody program described in section 5139.43 of the Revised Code, the department shall not make any further grants under this section. 89020
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Sec. 5139.34. (A) Funds may be appropriated to the department of youth services for the purpose of granting state subsidies to counties. A county or the juvenile court that 89024
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89027 serves a county shall use state subsidies granted to the county
89028 pursuant to this section only in accordance with divisions (B)
89029 (2) (a) and (3) (a) of section 5139.43 of the Revised Code ~~and the~~
89030 ~~rules pertaining to the state subsidy funds that the department~~
89031 ~~adopts pursuant to division (D) of section 5139.04 of the~~
89032 ~~Revised Code.~~ The department shall not grant financial
89033 assistance pursuant to this section for the provision of care
89034 and services for children in a placement facility unless the
89035 facility has been certified, licensed, or approved by a state or
89036 national agency with certification, licensure, or approval
89037 authority, including, but not limited to, the department of
89038 children and youth, department of education and workforce,
89039 department of mental health and addiction services, department
89040 of developmental disabilities, or American correctional
89041 association. For the purposes of this section, placement
89042 facilities do not include a state institution or a county or
89043 district children's home.

89044 The department of youth services also shall not grant
89045 financial assistance pursuant to this section for the provision
89046 of care and services for children, including, but not limited
89047 to, care and services in a detention facility, in another
89048 facility, or in out-of-home placement, ~~unless the minimum~~
89049 ~~standards applicable to the care and services that the~~
89050 ~~department prescribes in rules adopted pursuant to division (D)~~
89051 ~~of section 5139.04 of the Revised Code have been satisfied.~~

89052 (B) The department of youth services shall apply the
89053 following formula to determine the amount of the annual grant
89054 that each county is to receive pursuant to division (A) of this
89055 section, subject to the appropriation for this purpose to the
89056 department made by the general assembly:

(1) Each county shall receive a basic annual grant of 89057
fifty thousand dollars. 89058

(2) The sum of the basic annual grants provided under 89059
division (B) (1) of this section shall be subtracted from the 89060
total amount of funds appropriated to the department of youth 89061
services for the purpose of making grants pursuant to division 89062
(A) of this section to determine the remaining portion of the 89063
funds appropriated. The remaining portion of the funds 89064
appropriated shall be distributed on a per capita basis to each 89065
county that has a population of more than twenty-five thousand 89066
for that portion of the population of the county that exceeds 89067
twenty-five thousand. 89068

(C) (1) Prior to a county's receipt of an annual grant 89069
pursuant to this section, the juvenile court that serves the 89070
county shall prepare, submit, and file in accordance with 89071
division (B) (3) (a) of section 5139.43 of the Revised Code an 89072
annual grant agreement and application for funding that is for 89073
the combined purposes of, and that satisfies the requirements 89074
of, this section and section 5139.43 of the Revised Code. In 89075
addition to the subject matters described in division (B) (3) (a) 89076
of section 5139.43 of the Revised Code ~~or in the rules that the~~ 89077
~~department adopts to implement that division~~, the annual grant 89078
agreement and application for funding shall address fiscal 89079
accountability and performance matters pertaining to the 89080
programs, care, and services that are specified in the agreement 89081
and application and for which state subsidy funds granted 89082
pursuant to this section will be used. 89083

(2) The county treasurer of each county that receives an 89084
annual grant pursuant to this section shall deposit the state 89085
subsidy funds so received into the county's felony delinquent 89086

care and custody fund created pursuant to division (B)(1) of 89087
section 5139.43 of the Revised Code. Subject to exceptions 89088
prescribed in section 5139.43 of the Revised Code that may apply 89089
to the disbursement, the department shall disburse the state 89090
subsidy funds to which a county is entitled in a lump sum 89091
payment that shall be made in July of each calendar year. 89092

(3) Upon an order of the juvenile court that serves a 89093
county and subject to appropriation by the board of county 89094
commissioners of that county, a county treasurer shall disburse 89095
from the county's felony delinquent care and custody fund the 89096
state subsidy funds granted to the county pursuant to this 89097
section for use only in accordance with this section, the 89098
applicable provisions of section 5139.43 of the Revised Code, 89099
and the county's approved annual grant agreement and application 89100
for funding. 89101

(4) The moneys in a county's felony delinquent care and 89102
custody fund that represent state subsidy funds granted pursuant 89103
to this section are subject to appropriation by the board of 89104
county commissioners of the county; shall be disbursed by the 89105
county treasurer as required by division (C)(3) of this section; 89106
shall be used in the manners referred to in division (C)(3) of 89107
this section; shall not revert to the county general fund at the 89108
end of any fiscal year; shall carry over in the felony 89109
delinquent care and custody fund from the end of any fiscal year 89110
to the next fiscal year; shall be in addition to, and shall not 89111
be used to reduce, any usual annual increase in county funding 89112
that the juvenile court is eligible to receive or the current 89113
level of county funding of the juvenile court and of any 89114
programs, care, or services for alleged or adjudicated 89115
delinquent children, unruly children, or juvenile traffic 89116
offenders or for children who are at risk of becoming delinquent 89117

children, unruly children, or juvenile traffic offenders; and 89118
shall not be used to pay for the care and custody of felony 89119
delinquents who are in the care and custody of an institution 89120
pursuant to a commitment, recommitment, or revocation of a 89121
release on parole by the juvenile court of that county or who 89122
are in the care and custody of a community corrections facility 89123
pursuant to a placement by the department as described in 89124
division (E) of section 5139.36 of the Revised Code. 89125

(5) As a condition of the continued receipt of state 89126
subsidy funds pursuant to this section, each county and the 89127
juvenile court that serves each county that receives an annual 89128
grant pursuant to this section shall comply with divisions (B) 89129
(3) (b), (c), and (d) of section 5139.43 of the Revised Code. 89130

Sec. 5139.43. (A) The department of youth services shall 89131
operate a felony delinquent care and custody program that shall 89132
be operated in accordance with the formula developed pursuant to 89133
section 5139.41 of the Revised Code, subject to the conditions 89134
specified in this section. 89135

(B) (1) Each juvenile court shall use the moneys disbursed 89136
to it by the department of youth services pursuant to division 89137
(B) of section 5139.41 of the Revised Code in accordance with 89138
the applicable provisions of division (B) (2) of this section and 89139
shall transmit the moneys to the county treasurer for deposit in 89140
accordance with this division. The county treasurer shall create 89141
in the county treasury a fund that shall be known as the felony 89142
delinquent care and custody fund and shall deposit in that fund 89143
the moneys disbursed to the juvenile court pursuant to division 89144
(B) of section 5139.41 of the Revised Code. The county treasurer 89145
also shall deposit into that fund the state subsidy funds 89146
granted to the county pursuant to section 5139.34 of the Revised 89147

Code. The moneys disbursed to the juvenile court pursuant to 89148
division (B) of section 5139.41 of the Revised Code and 89149
deposited pursuant to this division in the felony delinquent 89150
care and custody fund shall not be commingled with any other 89151
county funds except state subsidy funds granted to the county 89152
pursuant to section 5139.34 of the Revised Code; shall not be 89153
used for any capital construction projects; upon an order of the 89154
juvenile court and subject to appropriation by the board of 89155
county commissioners, shall be disbursed to the juvenile court 89156
for use in accordance with the applicable provisions of division 89157
(B) (2) of this section; shall not revert to the county general 89158
fund at the end of any fiscal year; and shall carry over in the 89159
felony delinquent care and custody fund from the end of any 89160
fiscal year to the next fiscal year. The maximum balance carry- 89161
over at the end of each respective fiscal year in the felony 89162
delinquent care and custody fund in any county from funds 89163
allocated to the county pursuant to sections 5139.34 and 5139.41 89164
of the Revised Code in the previous fiscal year shall not exceed 89165
an amount to be calculated as provided in the formula set forth 89166
in this division, unless that county has applied for and been 89167
granted an exemption by the director of youth services. 89168
Beginning June 30, 2008, the maximum balance carry-over at the 89169
end of each respective fiscal year shall be determined by the 89170
following formula: for fiscal year 2008, the maximum balance 89171
carry-over shall be one hundred per cent of the allocation for 89172
fiscal year 2007, to be applied in determining the fiscal year 89173
2009 allocation; for fiscal year 2009, it shall be fifty per 89174
cent of the allocation for fiscal year 2008, to be applied in 89175
determining the fiscal year 2010 allocation; for fiscal year 89176
2010, it shall be twenty-five per cent of the allocation for 89177
fiscal year 2009, to be applied in determining the fiscal year 89178
2011 allocation; and for each fiscal year subsequent to fiscal 89179

year 2010, it shall be twenty-five per cent of the allocation 89180
for the immediately preceding fiscal year, to be applied in 89181
determining the allocation for the next immediate fiscal year. 89182
The department shall withhold from future payments to a county 89183
an amount equal to any moneys in the felony delinquent care and 89184
custody fund of the county that exceed the total maximum balance 89185
carry-over that applies for that county for the fiscal year in 89186
which the payments are being made and shall reallocate the 89187
withheld amount. The department shall adopt rules for the 89188
withholding and reallocation of moneys disbursed under sections 89189
5139.34 and 5139.41 of the Revised Code and for the criteria and 89190
process for a county to obtain an exemption from the withholding 89191
requirement. The moneys disbursed to the juvenile court pursuant 89192
to division (B) of section 5139.41 of the Revised Code and 89193
deposited pursuant to this division in the felony delinquent 89194
care and custody fund shall be in addition to, and shall not be 89195
used to reduce, any usual annual increase in county funding that 89196
the juvenile court is eligible to receive or the current level 89197
of county funding of the juvenile court and of any programs or 89198
services for delinquent children, unruly children, or juvenile 89199
traffic offenders. 89200

(2) (a) A county and the juvenile court that serves the 89201
county shall use the moneys in its felony delinquent care and 89202
custody fund ~~in accordance with rules that the department of~~ 89203
~~youth services adopts pursuant to division (D) of section~~ 89204
~~5139.04 of the Revised Code and as follows:~~ 89205

(i) The moneys in the fund that represent state subsidy 89206
funds granted to the county pursuant to section 5139.34 of the 89207
Revised Code shall be used to aid in the support of prevention, 89208
early intervention, diversion, treatment, and rehabilitation 89209
programs that are provided for alleged or adjudicated unruly 89210

children or delinquent children or for children who are at risk 89211
of becoming unruly children or delinquent children. The county 89212
shall not use for capital improvements more than fifteen per 89213
cent of the moneys in the fund that represent the applicable 89214
annual grant of those state subsidy funds. 89215

(ii) The moneys in the fund that were disbursed to the 89216
juvenile court pursuant to division (B) of section 5139.41 of 89217
the Revised Code and deposited pursuant to division (B)(1) of 89218
this section in the fund shall be used to provide programs and 89219
services for the training, treatment, or rehabilitation of 89220
felony delinquents that are alternatives to their commitment to 89221
the department, including, but not limited to, community 89222
residential programs, day treatment centers, services within the 89223
home, and electronic monitoring, and shall be used in connection 89224
with training, treatment, rehabilitation, early intervention, or 89225
other programs or services for any delinquent child, unruly 89226
child, or juvenile traffic offender who is under the 89227
jurisdiction of the juvenile court. 89228

The fund also may be used for prevention, early 89229
intervention, diversion, treatment, and rehabilitation programs 89230
that are provided for alleged or adjudicated unruly children, 89231
delinquent children, or juvenile traffic offenders or for 89232
children who are at risk of becoming unruly children, delinquent 89233
children, or juvenile traffic offenders. Consistent with 89234
division (B)(1) of this section, a county and the juvenile court 89235
of a county shall not use any of those moneys for capital 89236
construction projects. 89237

(iii) Moneys in the fund shall not be used to support 89238
programs or services that do not comply with federal juvenile 89239
justice and delinquency prevention core requirements or to 89240

support programs or services that research has shown to be 89241
ineffective. Research-supported, outcome-based programs and 89242
services, to the extent they are available, shall be encouraged. 89243

(iv) The county and the juvenile court that serves the 89244
county may use moneys in the fund to provide out-of-home 89245
placement of children only in detention centers, community 89246
rehabilitation centers, or community corrections facilities 89247
approved by the department pursuant to standards adopted by the 89248
department, licensed by an authorized state agency, or 89249
accredited by the American correctional association or another 89250
national organization recognized by the department. 89251

(b) Each juvenile court shall comply with division (B) (3) 89252
(d) of this section as implemented by the department. If a 89253
juvenile court fails to comply with division (B) (3) (d) of this 89254
section, the department shall not be required to make any 89255
disbursements in accordance with division (C) of section 5139.41 89256
or division (C) (2) of section 5139.34 of the Revised Code. 89257

~~(3) In accordance with rules adopted by the department~~ 89258
~~pursuant to division (D) of section 5139.04 of the Revised Code,~~ 89259
~~each~~ Each juvenile court and the county served by that juvenile 89260
court shall do all of the following that apply: 89261

(a) The juvenile court shall prepare an annual grant 89262
agreement and application for funding that satisfies the 89263
requirements of this section and section 5139.34 of the Revised 89264
Code and that pertains to the use, upon an order of the juvenile 89265
court and subject to appropriation by the board of county 89266
commissioners, of the moneys in its felony delinquent care and 89267
custody fund for specified programs, care, and services as 89268
described in division (B) (2) (a) of this section, shall submit 89269
that agreement and application to the county family and children 89270

first council, the regional family and children first council, 89271
or the local intersystem services to children cluster as 89272
described in sections 121.37 and 121.38 of the Revised Code, 89273
whichever is applicable, and shall file that agreement and 89274
application with the department for its approval. The annual 89275
grant agreement and application for funding shall include a 89276
method of ensuring equal access for minority youth to the 89277
programs, care, and services specified in it. 89278

The department may approve an annual grant agreement and 89279
application for funding only if the juvenile court involved has 89280
complied with the preparation, submission, and filing 89281
requirements described in division (B) (3) (a) of this section. If 89282
the juvenile court complies with those requirements and the 89283
department approves that agreement and application, the juvenile 89284
court and the county served by the juvenile court may expend the 89285
state subsidy funds granted to the county pursuant to section 89286
5139.34 of the Revised Code only in accordance with division (B) 89287
(2) (a) of this section, ~~the rules pertaining to state subsidy~~ 89288
~~funds that the department adopts pursuant to division (D) of~~ 89289
~~section 5139.04 of the Revised Code,~~ and the approved agreement 89290
and application. 89291

(b) By the thirty-first day of August of each year, the 89292
juvenile court shall file with the department a report that 89293
contains all of the statistical and other information for each 89294
month of the prior state fiscal year. If the juvenile court 89295
fails to file the report required by division (B) (3) (b) of this 89296
section by the thirty-first day of August of any year, the 89297
department shall not disburse any payment of state subsidy funds 89298
to which the county otherwise is entitled pursuant to section 89299
5139.34 of the Revised Code and shall not disburse pursuant to 89300
division (B) of section 5139.41 of the Revised Code the 89301

applicable allocation until the juvenile court fully complies 89302
with division (B) (3) (b) of this section. 89303

(c) If the department requires the juvenile court to 89304
prepare monthly statistical reports and to submit the reports on 89305
forms provided by the department, the juvenile court shall file 89306
those reports with the department on the forms so provided. If 89307
the juvenile court fails to prepare and submit those monthly 89308
statistical reports within the department's timelines, the 89309
department shall not disburse any payment of state subsidy funds 89310
to which the county otherwise is entitled pursuant to section 89311
5139.34 of the Revised Code and shall not disburse pursuant to 89312
division (B) of section 5139.41 of the Revised Code the 89313
applicable allocation until the juvenile court fully complies 89314
with division (B) (3) (c) of this section. If the juvenile court 89315
fails to prepare and submit those monthly statistical reports 89316
within one hundred eighty days of the date the department 89317
establishes for their submission, the department shall not 89318
disburse any payment of state subsidy funds to which the county 89319
otherwise is entitled pursuant to section 5139.34 of the Revised 89320
Code and shall not disburse pursuant to division (B) of section 89321
5139.41 of the Revised Code the applicable allocation, and the 89322
state subsidy funds and the remainder of the applicable 89323
allocation shall revert to the department. If a juvenile court 89324
states in a monthly statistical report that the juvenile court 89325
adjudicated within a state fiscal year five hundred or more 89326
children to be delinquent children for committing acts that 89327
would be felonies if committed by adults and if the department 89328
determines that the data in the report may be inaccurate, the 89329
juvenile court shall have an independent auditor or other 89330
qualified entity certify the accuracy of the data on a date 89331
determined by the department. 89332

(d) If the department requires the juvenile court and the county to participate in a fiscal monitoring program or another monitoring program that is conducted by the department to ensure compliance by the juvenile court and the county with division (B) of this section, the juvenile court and the county shall participate in the program and fully comply with any guidelines for the performance of audits adopted by the department pursuant to that program and all requests made by the department pursuant to that program for information necessary to reconcile fiscal accounting. If an audit that is performed pursuant to a fiscal monitoring program or another monitoring program described in this division determines that the juvenile court or the county used moneys in the county's felony delinquent care and custody fund for expenses that are not authorized under division (B) of this section, within forty-five days after the department notifies the county of the unauthorized expenditures, the county either shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund or shall file a written appeal with the department. If an appeal is timely filed, the director of the department shall render a decision on the appeal and shall notify the appellant county or its juvenile court of that decision within forty-five days after the date that the appeal is filed. If the director denies an appeal, the county's fiscal agent shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund within thirty days after receiving the director's notification of the appeal decision.

(C) The determination of which county a reduction of the care and custody allocation will be charged against for a particular youth shall be made as outlined below for all youths

who do not qualify as public safety beds. The determination of 89364
which county a reduction of the care and custody allocation will 89365
be charged against shall be made as follows until each youth is 89366
released: 89367

(1) In the event of a commitment, the reduction shall be 89368
charged against the committing county. 89369

(2) In the event of a recommitment, the reduction shall be 89370
charged against the original committing county until the 89371
expiration of the minimum period of institutionalization under 89372
the original order of commitment or until the date on which the 89373
youth is admitted to the department of youth services pursuant 89374
to the order of recommitment, whichever is later. Reductions of 89375
the allocation shall be charged against the county that 89376
recommitted the youth after the minimum expiration date of the 89377
original commitment. 89378

(3) In the event of a revocation of a release on parole, 89379
the reduction shall be charged against the county that revokes 89380
the youth's parole. 89381

(D) A juvenile court is not precluded by its allocation 89382
amount for the care and custody of felony delinquents from 89383
committing a felony delinquent to the department of youth 89384
services for care and custody in an institution or a community 89385
corrections facility when the juvenile court determines that the 89386
commitment is appropriate. 89387

Sec. 5145.03. (A) ~~The department of rehabilitation and 89388
correction, subject to the approval of the governor, shall make 89389
any rules for the government of prisoners that tend to promote 89390
their reformation, or be necessary for the purpose of sections 89391
5145.01 to 5145.27 of the Revised Code, except that any rules 89392~~

~~that govern penal manufacturing and service industries and 89393
agriculture or labor performed by prisoners and that do not 89394
govern security shall be adopted pursuant to division (B) of 89395
this section. The department shall make provisions for the 89396
separation or classification of prisoners, their division into 89397
different grades with promotion or degradation according to 89398
merit or demerit, their instruction in industrial pursuits, and 89399
their education. 89400~~

~~(B) The director of the department of rehabilitation and 89401
correction shall adopt rules for the administration of the 89402
department's program for employment of prisoners that is 89403
established pursuant to section 5145.16 of the Revised Code. The 89404
rules shall be adopted, amended, and rescinded pursuant to 89405
Chapter 119. of the Revised Code, except that rules governing 89406
security shall not be adopted pursuant to that chapter and 89407
except that no prisoner who is in the custody of the department 89408
and who is incarcerated has any legal right to attend any 89409
hearing that is held on the rules pursuant to that chapter and 89410
that is held outside the institution in which the prisoner is 89411
incarcerated; however, the attorney for any prisoner may attend 89412
the hearing on behalf of the prisoner. The director may hold 89413
hearings on the rules pursuant to that chapter at any of the 89414
department's correctional institutions to receive comment from 89415
prisoners, which hearings may be attended by prisoners 89416
incarcerated at the institution at which any of the hearings is 89417
held. The rules shall provide for the following: 89418~~

~~(1) A procedure for seeking the employment of prisoners in 89419
penal industries and agriculture, in private industry and 89420
agriculture located within or outside the department's 89421
institutions, in public works, in institutional jobs necessary 89422
for the proper maintenance or operation of the department's 89423~~

institutions, and in other appropriate forms of labor; 89424

(2) A system of compensation, allowances, hours, 89425
conditions of employment, and advancement for prisoners who are 89426
employed in any form of labor; 89427

(3) The regulation of the working conditions for prisoners 89428
who are employed in any form of labor; 89429

(4) The categorization of all jobs performed by prisoners 89430
into levels, grades within the levels, or other appropriate 89431
categories based upon the skills required to perform the job, 89432
the security required for the job, the location at which the job 89433
is performed, and any other relevant characteristics of the job; 89434

(5) A procedure for the assignment of prisoners to perform 89435
jobs in correctional industries and agriculture, and in private 89436
industry and agriculture, that are located in institutions under 89437
the control of the department other than the institutions to 89438
which the prisoners are committed; 89439

(6) A procedure for the periodic review of each prisoner's 89440
performance at ~~his~~the prisoner's jobs and for the periodic 89441
evaluation of the prisoner's qualifications for other jobs at 89442
higher grades, levels, or categories, with different skill 89443
requirements, with different career potential, with other 89444
training potentials, or with other working conditions or 89445
schedules; 89446

(7) An accounting system for the allocation of the 89447
earnings of each prisoner; 89448

(8) A procedure for the transportation of prisoners 89449
whenever necessary between institutions and to and from private 89450
industry or agriculture to perform jobs; 89451

(9) A disciplinary procedure for violations of work or security requirements* 89452
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~~(10) Any other rules on any subject that are otherwise necessary to administer sections 5145.16 and 5145.161 of the Revised Code or to provide employment for as many prisoners as possible.~~ 89454
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~~(C)~~(B) The department shall keep a correct daily record of the conduct of each prisoner and of ~~his~~the prisoner's fidelity and diligence in the performance of ~~his~~the prisoner's work. 89458
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Sec. 5145.14. Labor or service shall not be performed by a prisoner within a correctional institution, unless the labor or service is expressly authorized by rules adopted by the department of rehabilitation and correction pursuant to division ~~(B)~~(A) of section 5145.03 of the Revised Code. 89461
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Sec. 5145.15. The department of rehabilitation and correction may, in accordance with rules adopted pursuant to division ~~(B)~~(A) of section 5145.03 of the Revised Code, employ a portion of the prisoners in the manufacture of articles that are used by the state, any other state, any political subdivision or institution of this state, any other state, or the United States, or private persons. The department may procure machinery and prepare shop room for that purpose. The department may employ a portion of the prisoners in the preparation and manufacture of any or all forms of road-making material for use in the construction, improvement, maintenance, and repair of highways, roads, or streets. 89466
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For these purposes the department may, with the approval of the governor, purchase the necessary land, quarries, buildings, machinery, and erect buildings and shops for these 89478
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purposes, and employ any persons necessary to instruct the 89481
prisoners in such manufacture. The terms and manner of 89482
employment of the persons who instruct the prisoners shall be 89483
fixed and determined by the department. 89484

Sec. 5145.161. (A) The program for the employment of 89485
prisoners within the custody of the department of rehabilitation 89486
and correction that the department is required to establish by 89487
division (A) of section 5145.16 of the Revised Code shall be 89488
administered in accordance with any rules adopted pursuant to 89489
division ~~(B)~~(A) of section 5145.03 of the Revised Code and with 89490
the following requirements: 89491

(1) The department shall consider the nature of the 89492
offense committed by a prisoner, the availability of employment, 89493
the security requirements for the prisoner, the prisoner's 89494
present state of mind, the prisoner's record in the institution 89495
to which the prisoner has been committed, and all other relevant 89496
factors when assigning a prisoner to the prisoner's initial job 89497
assignment. The department, when making a prisoner's initial job 89498
assignment, shall attempt to develop the prisoner's work skills, 89499
provide rehabilitation for the prisoner, consider the proximity 89500
to the prisoner's family, and permit the prisoner to provide 89501
support for the prisoner's dependents if the prisoner's earnings 89502
are sufficient for that to be feasible. 89503

(2) (a) Except as provided in division (A) (2) (b) of this 89504
section, no prisoner shall be assigned to any job with the Ohio 89505
penal industries, or to any other job level or job grade of 89506
prisoner employment that the director of rehabilitation and 89507
correction may designate, unless the prisoner has obtained, or 89508
enrolled in an education program that leads to, a high school 89509
diploma or a certificate of high school equivalence. 89510

- (b) Division (A) (2) (a) of this section does not apply to 89511
either of the following: 89512
- (i) A prisoner who is determined, in accordance with a 89513
procedure approved by the director, to be incapable of obtaining 89514
a diploma or certificate of high school equivalence; 89515
- (ii) A prisoner working in the Ohio penal industries as of 89516
February 1, 1999, who applied on or before May 1, 1999, for 89517
enrollment in a program leading to a diploma or a certificate of 89518
high school equivalence, and who has been enrolled in that 89519
program for less than one year. 89520
- (3) Each prisoner shall be required to perform the 89521
prisoner's job satisfactorily, be permitted to be absent from 89522
the prisoner's job only for legitimate reasons, be required to 89523
comply with all security requirements, and be required to comply 89524
with any other reasonable job performance standards. 89525
- (4) A prisoner who advances from one job grade to the next 89526
higher job grade within the job level, advances from one job 89527
level to the next higher job level, or advances from one job 89528
category to the next highest job category shall receive 89529
additional benefits in accordance with the rules adopted 89530
pursuant to division ~~(B)~~(A) of section 5145.03 of the Revised 89531
Code. 89532
- (5) A prisoner shall not be eligible for a job in private 89533
industry or agriculture, unless the prisoner meets the 89534
requirements of the department for private employment that are 89535
set forth in rules adopted pursuant to division ~~(B)~~(A) of 89536
section 5145.03 of the Revised Code. 89537
- (6) A prisoner who violates the work requirements of any 89538
job grade, level, or category shall be disciplined pursuant to 89539

the disciplinary procedure adopted pursuant to division ~~(B)(9)~~ 89540
(A) (9) of section 5145.03 of the Revised Code. 89541

(B) The department of rehabilitation and correction may 89542
administer the program that it is required to establish by 89543
division (A) of section 5145.16 of the Revised Code in any 89544
manner that is consistent with division (A) of this section, 89545
division ~~(B)~~(A) of section 5145.03, and section 5145.16 of the 89546
Revised Code. 89547

Sec. 5147.30. (A) As used in this section, "prisoner" 89548
means any person confined in the county jail in lieu of bail 89549
while awaiting trial, any person committed to jail for 89550
nonpayment of a fine, or any person sentenced by a court to the 89551
jail. 89552

(B) A board of county commissioners, by resolution adopted 89553
by a majority vote of its members, may approve the establishment 89554
of a county jail industry program for its county in accordance 89555
with this section. 89556

(C) Upon the adoption by the board of the resolution 89557
described in division (B) of this section, a jail industry board 89558
shall be established, consisting of three voting members 89559
appointed by the board of county commissioners, three voting 89560
members appointed by the county sheriff, and one voting member 89561
appointed jointly by the board of county commissioners and the 89562
county sheriff. One of these voting members shall have knowledge 89563
of and experience in the social services, one in the field of 89564
labor, one in law enforcement, and one in business. The initial 89565
appointments to the jail industry board shall be made on the 89566
same date. Of the initial appointments, one by the board of 89567
county commissioners and one by the county sheriff shall be for 89568
terms ending one year after the date of appointment, two by the 89569

board of county commissioners and two by the county sheriff 89570
shall be for terms ending two years after that date, and the 89571
joint appointment shall be for a term ending three years after 89572
that date. Thereafter, terms of office for all appointed members 89573
shall be for three years, with each term ending on the same day 89574
of the same month as did the term that it succeeds. Any vacancy 89575
on the board shall be filled in the same manner as the original 89576
appointment. Any member appointed to fill a vacancy occurring 89577
prior to the expiration date of the term for which the member's 89578
predecessor was appointed shall hold office as a member for the 89579
remainder of that term. Any member shall continue in office 89580
subsequent to the expiration date of the member's term until the 89581
member's successor takes office, or until a period of sixty days 89582
has elapsed, whichever occurs first. 89583

The jail industry board, by majority vote, may appoint 89584
additional persons to serve as nonvoting members of the board. 89585

Each member of the jail industry board shall be reimbursed 89586
for expenses actually and necessarily incurred in the 89587
performance of the member's duties as a board member. The board 89588
of county commissioners, by resolution, shall approve the 89589
expenses to be reimbursed. 89590

(D) A jail industry board established under division (C) 89591
of this section shall establish a program for the employment of 89592
as many prisoners as possible, except those unable to perform 89593
labor because of illness or other health problems, security 89594
requirements, routine processing, disciplinary action, or other 89595
reasonable circumstances or because they are engaged in 89596
education or vocational or other training. The employment may be 89597
in jail manufacturing and service industries and agriculture, in 89598
private industry or agriculture that is located within or 89599

outside the jail, in public works, in institutional jobs 89600
necessary for the proper maintenance and operation of the jail, 89601
or in any other appropriate form of labor. The county shall 89602
attempt to employ, provide employment for, and seek employment 89603
for as many prisoners as possible through the program. The 89604
county is not required to provide employment for every 89605
employable prisoner when the available funds, facilities, or 89606
jobs are insufficient to provide the employment; however, a 89607
county that has a county jail industry program shall 89608
continuously seek sources of employment for as many employable 89609
prisoners as possible. 89610

(E) The jail industry program established under division 89611
(D) of this section shall do all of the following: 89612

(1) Establish a system for assigning prisoners to perform 89613
jobs, for periodically evaluating the job performance of each 89614
prisoner, and for periodically evaluating the qualifications of 89615
each prisoner for other jobs; 89616

(2) Attempt to provide jobs and job training for prisoners 89617
that will be useful to them in obtaining employment when 89618
released, except that institutional jobs at the jail need not be 89619
related to any previous employment of the prisoner or relevant 89620
to any job the prisoner intends to pursue after release from 89621
jail; 89622

(3) Establish an accounting system to administer and 89623
allocate the earnings of each prisoner. The accounting system 89624
may permit earnings to be used for payment of the employee taxes 89625
and workers' compensation of the prisoner, for reimbursing the 89626
county for room and board and for the expense of providing 89627
employment to the prisoner, for restitution to the victims of 89628
the prisoner's offenses if the prisoner voluntarily requests or 89629

is under court order to make restitution payments, for fines and 89630
court costs, for support of the dependents of the prisoner, and 89631
for an account for the prisoner. 89632

(4) Require all persons who employ prisoners to meet all 89633
applicable work safety standards. 89634

(F) The jail industry board, with the approval of the 89635
county sheriff, shall adopt rules ~~for the establishment and~~ 89636
~~administration of the~~ regarding the jail industry program. ~~The~~ 89637
~~rules shall~~ that provide for all of the following: 89638

(1) A procedure for seeking the employment of prisoners in 89639
penal industries and agriculture, in private industry and 89640
agriculture located within or outside the county jail, in public 89641
works, in institutional jobs necessary for the proper 89642
maintenance or operation of the county's institutions, and in 89643
other appropriate forms of labor; 89644

(2) A system of compensation, allowances, hours, 89645
conditions of employment, and advancement for prisoners employed 89646
in any form of labor; 89647

(3) The regulation of the working conditions of prisoners 89648
employed in any form of labor; 89649

(4) An accounting system for the allocation of the 89650
earnings of each prisoner; 89651

~~(5) Any other rules on any subject that are necessary to~~ 89652
~~administer the program or to provide employment for as many~~ 89653
~~prisoners as possible.~~ 89654

(G) In establishing and administering a county jail 89655
industry program, the board of county commissioners, upon the 89656
recommendation of the jail industry board and the county sheriff 89657

may do any of the following: 89658

(1) Enter into contracts with private industry, 89659
agriculture, and other organizations or persons, and receive 89660
grants to establish test work programs within or outside 89661
institutions under the control of the county; 89662

(2) Enter into contracts with private industry for the 89663
establishment of manufacturing and service industries within or 89664
near institutions under the control of the county for the 89665
employment of prisoners; 89666

(3) Enter into contracts with private industry, 89667
agriculture, and other organizations or persons to provide 89668
employment for prisoners; 89669

(4) Enter into any other contracts or perform any other 89670
functions that are necessary for the county jail industry 89671
program. 89672

(H) The jail industry program established under division 89673
(D) of this section shall be administered in accordance with any 89674
rules adopted by the jail industry board pursuant to division 89675
(F) of this section and with the following requirements: 89676

(1) The county sheriff at all times shall be responsible 89677
for the security and discipline of the prisoners in the program. 89678
The sheriff shall adopt a procedure for the discipline of a 89679
prisoner who violates the requirements of a job in the program, 89680
and the sheriff may remove a prisoner from the program if the 89681
sheriff determines that considerations of security or discipline 89682
require it. 89683

(2) When making the initial job assignment for a prisoner 89684
whom the county sheriff has approved for participation in the 89685
program, the board shall consider the nature of the offense 89686

committed by the prisoner, the availability of employment, the 89687
security requirements of the prisoner, the prisoner's present 89688
state of mind, the prisoner's jail record, and all other 89689
relevant factors. When making the initial job assignment of a 89690
prisoner, the board shall attempt to develop the work skills of 89691
the prisoner, provide the prisoner rehabilitation, consider the 89692
proximity of the job to the prisoner's family, and permit the 89693
prisoner to provide support for the prisoner's dependents if the 89694
prisoner's earnings are sufficient to make that feasible. 89695

(3) Each prisoner shall be required to perform 89696
satisfactorily the job to which the prisoner is assigned, be 89697
permitted to be absent from that job only for legitimate 89698
reasons, be required to comply with all security requirements, 89699
and be required to comply with any other reasonable job 89700
performance standards. 89701

(4) A prisoner who violates the work requirements of any 89702
job shall be disciplined pursuant to the disciplinary procedure 89703
adopted by the county sheriff pursuant to division (H) (1) of 89704
this section. 89705

Sec. 5149.101. (A) (1) (a) A victim of a violation of 89706
section 2903.01 or 2903.02 of the Revised Code, an offense of 89707
violence that is a felony of the first, second, or third degree, 89708
or an offense punished by a sentence of life imprisonment, the 89709
victim's representative, or any person described in division (B) 89710
(5) of this section may request, through the office of victims' 89711
services, for the board to hold a full board hearing that 89712
relates to the proposed parole or re-parole of the person that 89713
committed the violation. If a victim, victim's representative, 89714
or any person described in division (B) (5) of this section 89715
requests a full board hearing pursuant to this division, the 89716

board shall hold a full board hearing. 89717

(b) A family member of a victim who is not described in 89718
division (B) (5) of this section may request, through the office 89719
of victims' services, for the board to hold a full board hearing 89720
that relates to the proposed parole or re-parole of a person who 89721
committed a violation of section 2903.01 or 2903.02 of the 89722
Revised Code, an offense of violence that is a felony of the 89723
first, second, or third degree, or an offense punished by a 89724
sentence of life imprisonment. At a meeting of the board at 89725
which a majority of board members are present, the majority of 89726
those present shall determine whether a full board hearing shall 89727
be held, if a family member of the victim makes a request 89728
pursuant to this division. 89729

(c) If a person is convicted of a violation of section 89730
2903.01 or 2903.02 of the Revised Code, an offense of violence 89731
that is a felony of the first, second, or third degree, or an 89732
offense punished by a sentence of life imprisonment, the 89733
prosecuting attorney may submit a request directly to the board 89734
to hold a full board hearing that relates to the proposed parole 89735
or re-parole of the person who committed the violation. If the 89736
prosecutor requests a full board hearing pursuant to this 89737
division, the board shall hold a full board hearing. 89738

(2) At least thirty days before the full hearing, except 89739
as otherwise provided in this division, the board shall give 89740
notice of the date, time, and place of the hearing to the victim 89741
regardless of whether the victim has requested the notification. 89742
The notice of the date, time, and place of the hearing shall not 89743
be given under this division to a victim if the victim has 89744
requested pursuant to division (B) (2) of section 2930.03 of the 89745
Revised Code that the notice not be provided to the victim. At 89746

least thirty days before the full board hearing and regardless 89747
of whether the victim has requested that the notice be provided 89748
or not be provided under this division to the victim, the board 89749
shall give similar notice to the prosecuting attorney in the 89750
case, the law enforcement agency that arrested the prisoner if 89751
any officer of that agency was a victim of the offense, and, if 89752
different than the victim, the person who requested the full 89753
hearing. If the prosecuting attorney has not previously been 89754
sent an institutional summary report with respect to the 89755
prisoner, upon the request of the prosecuting attorney, the 89756
board shall include with the notice sent to the prosecuting 89757
attorney an institutional summary report that covers the 89758
offender's participation while confined in a state correctional 89759
institution in training, work, and other rehabilitative 89760
activities and any disciplinary action taken against the 89761
offender while so confined. Upon the request of a law 89762
enforcement agency that has not previously been sent an 89763
institutional summary report with respect to the prisoner, the 89764
board also shall send a copy of the institutional summary report 89765
to the law enforcement agency. If notice is to be provided as 89766
described in this division, the board may give the notice by any 89767
reasonable means, including regular mail, telephone, and 89768
electronic mail, in accordance with division (D)(1) of section 89769
2930.16 of the Revised Code. If the notice is based on an 89770
offense committed prior to March 22, 2013, the notice also shall 89771
include the opt-out information described in division (D)(1) of 89772
section 2930.16 of the Revised Code. The board, in accordance 89773
with division (D)(2) of section 2930.16 of the Revised Code, 89774
shall keep a record of all attempts to provide the notice, and 89775
of all notices provided, under this division. 89776

The preceding paragraph, and the notice-related provisions 89777

of divisions (E) (2) and (K) of section 2929.20, division (D) (1) 89778
of section 2930.16, division (H) of section 2967.12, division 89779
(E) (1) (b) of section 2967.19 as it existed prior to April 4, 89780
2023, division (A) (3) (b) of section 2967.26, and division (D) (1) 89781
of section 2967.28 of the Revised Code enacted in the act in 89782
which this paragraph was enacted, shall be known as "Roberta's 89783
Law." 89784

(B) At a full board hearing that relates to the proposed 89785
parole or re-parole of a prisoner and that has been petitioned 89786
for or requested in accordance with division (A) of this 89787
section, the parole board shall permit the following persons to 89788
appear and to give testimony or to submit written statements: 89789

(1) The prosecuting attorney of the county in which the 89790
original indictment against the prisoner was found and members 89791
of any law enforcement agency that assisted in the prosecution 89792
of the original offense; 89793

(2) The judge of the court of common pleas who imposed the 89794
original sentence of incarceration upon the prisoner, or the 89795
judge's successor; 89796

(3) The victim of the original offense for which the 89797
prisoner is serving the sentence or the victim's representative 89798
designated pursuant to section 2930.02 of the Revised Code; 89799

(4) The victim of any behavior that resulted in parole 89800
being revoked; 89801

(5) With respect to a full board hearing held pursuant to 89802
division (A) (1) (a) or (c) of this section, all of the following: 89803

(a) The spouse of the victim of the original offense; 89804

(b) The parent or parents of the victim of the original 89805

offense; 89806

(c) The sibling of the victim of the original offense; 89807

(d) The child or children of the victim of the original offense. 89808
89809

(6) A state public defender when designated by the 89810
director of the department of rehabilitation and correction 89811
pursuant to division (A) (5) of section 120.06 of the Revised 89812
Code, private counsel, or some other person designated by the 89813
prisoner as a representative, as permitted by the board. 89814

(C) Except as otherwise provided in this division, a full 89815
board hearing of the parole board is not subject to section 89816
121.22 of the Revised Code. The persons who may attend a full 89817
board hearing are the persons described in divisions (B) (1) to 89818
(6) of this section, and representatives of the press, radio and 89819
television stations, and broadcasting networks who are members 89820
of a generally recognized professional media organization. 89821

At the request of a person described in division (B) (3) of 89822
this section, representatives of the news media described in 89823
this division shall be excluded from the hearing while that 89824
person is giving testimony at the hearing. The prisoner being 89825
considered for parole has no right to be present at the hearing, 89826
but may be represented as described in division (B) (6) of this 89827
section. 89828

If there is an objection at a full board hearing to a 89829
recommendation for the parole of a prisoner, the board may 89830
approve or disapprove the recommendation or defer its decision 89831
until a subsequent full board hearing. The board may permit 89832
interested persons other than those listed in this division and 89833
division (B) of this section to attend full board hearings 89834

pursuant to rules adopted by the adult parole authority. 89835

(D) If the victim of the original offense died as a result 89836
of the offense and the offense was aggravated murder, murder, an 89837
offense of violence that is a felony of the first, second, or 89838
third degree, or an offense punished by a sentence of life 89839
imprisonment, the family of the victim may show at a full board 89840
hearing a video recording not exceeding five minutes in length 89841
memorializing the victim. 89842

(E) The adult parole authority shall adopt rules ~~for the~~ 89843
~~implementation of this section. The rules shall specify~~ 89844
specifying reasonable restrictions on the number of media 89845
representatives that may attend a hearing, based on 89846
considerations of space, and ~~other procedures designed to~~ 89847
~~accomplish an effective, orderly process for full board~~ 89848
~~hearings~~ a protocol for permitting interested persons other than 89849
those listed in divisions (B) and (C) of this section to attend 89850
full board hearings. 89851

Sec. 5149.31. (A) The department of rehabilitation and 89852
correction shall do all of the following: 89853

(1) Establish and administer a program of subsidies for 89854
eligible counties and groups of counties for felony offenders 89855
and a program of subsidies for eligible municipal corporations, 89856
counties, and groups of counties for misdemeanor offenders for 89857
the development, implementation, and operation of community 89858
corrections programs. Department expenditures for administration 89859
of both programs of subsidies shall not exceed ten per cent of 89860
the moneys appropriated for each of the purposes of this 89861
division. 89862

(2) Adopt and promulgate rules, under Chapter 119. of the 89863

Revised Code, providing standards for community corrections 89864
programs. ~~The standards adopted by the department shall specify~~ 89865
that do both of the following: 89866

(a) Specify the class of offender whose degree of felony, 89867
whose community control sanction revocation history, or whose 89868
risk level as assessed by the single validated risk assessment 89869
tool described in section 5120.114 of the Revised Code, make the 89870
offender suitable for participation in community corrections 89871
programs. ~~The rules shall make;~~ 89872

(b) Make the level of subsidy provided to every county or 89873
group of counties contingent upon the number of offenders 89874
participating in community corrections programs each fiscal year 89875
who satisfy the participation suitability standards established 89876
by the department and upon the outcomes of any performance-based 89877
standards established by the department. The standards shall be 89878
designed to improve the quality and efficiency of the programs, 89879
to support evidence-based policies and practices, as defined by 89880
the department, and to reduce the number of persons committed to 89881
state correctional institutions and to county, multicounty, 89882
municipal, municipal-county, or multicounty-municipal jails or 89883
workhouses for offenses for which community control sanctions 89884
are authorized under section 2929.13, 2929.15, or 2929.25 of the 89885
Revised Code. In developing the standards, the department shall 89886
consult with, and seek the advice of, local corrections 89887
agencies, law enforcement agencies, and other public and private 89888
agencies concerned with corrections. The department shall 89889
conduct, and permit participation by local corrections planning 89890
boards established under section 5149.34 of the Revised Code and 89891
joint county corrections planning boards established under 89892
section 5149.35 of the Revised Code in, an annual review of the 89893
standards to measure their effectiveness in promoting the 89894

purposes specified in this division and shall amend or rescind 89895
any existing rule providing a standard or adopt and promulgate 89896
additional rules providing standards, under Chapter 119. of the 89897
Revised Code, if the review indicates that the standards fail to 89898
promote the purposes. 89899

(3) Accept and use any funds, goods, or services from the 89900
federal government or any other public or private source for the 89901
support of the subsidy programs established under division (A) 89902
of this section. The department may comply with any conditions 89903
and enter into any agreements that it considers necessary to 89904
obtain these funds, goods, or services. 89905

~~(4) Adopt rules, in accordance with Chapter 119. of the 89906
Revised Code, and do all other things necessary to implement 89907
sections 5149.30 to 5149.37 of the Revised Code; 89908~~

~~(5) Evaluate or provide for the evaluation of community 89909
corrections programs funded by the subsidy programs established 89910
under division (A) (1) of this section and establish means of 89911
measuring their effectiveness; 89912~~

~~(6)~~ (5) Prepare an annual report evaluating the subsidy 89913
programs established under division (A) (1) of this section. The 89914
report shall include, but need not be limited to, analyses of 89915
the structure of the programs and their administration by the 89916
department, the effectiveness of the programs in the development 89917
and implementation of community corrections programs, the 89918
specific standards adopted and promulgated under division (A) (2) 89919
of this section and their effectiveness in promoting the 89920
purposes of the programs, and the findings of the evaluations 89921
conducted under division (A) (5) of this section. The director of 89922
rehabilitation and correction shall review and certify the 89923
accuracy of the report and provide copies of it, upon request, 89924

to members of the general assembly. 89925

~~(7)~~ (6) Provide training or assistance, upon the request 89926
of a local corrections planning board or a joint county 89927
corrections planning board, to any local unit of government, 89928
subject to available resources of the department. 89929

(B) (1) In order to be eligible for the subsidies under 89930
this section, counties, groups of counties, and municipal 89931
corporations shall satisfy all applicable requirements under 89932
sections 2301.27 and 2301.30 of the Revised Code and, except for 89933
sentencing decisions made by a court when use of the risk 89934
assessment tool is discretionary, shall utilize the single 89935
validated risk assessment tool selected by the department under 89936
section 5120.114 of the Revised Code. 89937

(2) The department shall give any county, group of 89938
counties, or municipal corporation found to be noncompliant with 89939
the requirements described in division (B) (1) of this section a 89940
reasonable period of time to come into compliance. If the 89941
noncompliant county, group of counties, or municipal corporation 89942
does not become compliant after a reasonable period of time, the 89943
department shall reduce or eliminate the subsidy granted to that 89944
county, group of counties, or municipal corporation. 89945

Sec. 5153.111. (A) (1) The executive director of a public 89946
children services agency shall request the superintendent of the 89947
bureau of criminal identification and investigation to conduct a 89948
criminal records check with respect to any applicant who has 89949
applied to the agency for employment as a person responsible for 89950
the care, custody, or control of a child. If the applicant does 89951
not present proof that the applicant has been a resident of this 89952
state for the five-year period immediately prior to the date 89953
upon which the criminal records check is requested or does not 89954

provide evidence that within that five-year period the 89955
superintendent has requested information about the applicant 89956
from the federal bureau of investigation in a criminal records 89957
check, the executive director shall request that the 89958
superintendent obtain information from the federal bureau of 89959
investigation as a part of the criminal records check for the 89960
applicant. If the applicant presents proof that the applicant 89961
has been a resident of this state for that five-year period, the 89962
executive director may request that the superintendent include 89963
information from the federal bureau of investigation in the 89964
criminal records check. 89965

(2) Any person required by division (A)(1) of this section 89966
to request a criminal records check shall provide to each 89967
applicant a copy of the form prescribed pursuant to division (C) 89968
(1) of section 109.572 of the Revised Code, provide to each 89969
applicant a standard impression sheet to obtain fingerprint 89970
impressions prescribed pursuant to division (C)(2) of section 89971
109.572 of the Revised Code, obtain the completed form and 89972
impression sheet from each applicant, and forward the completed 89973
form and impression sheet to the superintendent of the bureau of 89974
criminal identification and investigation at the time the person 89975
requests a criminal records check pursuant to division (A)(1) of 89976
this section. 89977

(3) Any applicant who receives pursuant to division (A)(2) 89978
of this section a copy of the form prescribed pursuant to 89979
division (C)(1) of section 109.572 of the Revised Code and a 89980
copy of an impression sheet prescribed pursuant to division (C) 89981
(2) of that section and who is requested to complete the form 89982
and provide a set of fingerprint impressions shall complete the 89983
form or provide all the information necessary to complete the 89984
form and shall provide the impression sheet with the impressions 89985

of the applicant's fingerprints. If an applicant, upon request, 89986
fails to provide the information necessary to complete the form 89987
or fails to provide impressions of the applicant's fingerprints, 89988
that agency shall not employ that applicant for any position for 89989
which a criminal records check is required by division (A)(1) of 89990
this section. 89991

(B)(1) Except as provided in rules adopted by the director 89992
of children and youth in accordance with division (E) of this 89993
section, no public children services agency shall employ a 89994
person as a person responsible for the care, custody, or control 89995
of a child if the person previously has been convicted of or 89996
pleaded guilty to any of the following: 89997

(a) A violation of section 2903.01, 2903.02, 2903.03, 89998
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 89999
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 90000
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 90001
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 90002
2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 90003
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 90004
2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised 90005
Code, a violation of section 2905.04 of the Revised Code as it 90006
existed prior to July 1, 1996, a violation of section 2919.23 of 90007
the Revised Code that would have been a violation of section 90008
2905.04 of the Revised Code as it existed prior to July 1, 1996, 90009
had the violation occurred prior to that date, a violation of 90010
section 2925.11 of the Revised Code that is not a minor drug 90011
possession offense, or felonious sexual penetration in violation 90012
of former section 2907.12 of the Revised Code; 90013

(b) A violation of an existing or former law of this 90014
state, any other state, or the United States that is 90015

substantially equivalent to any of the offenses or violations 90016
described in division (B) (1) (a) of this section. 90017

(2) A public children services agency may employ an 90018
applicant conditionally until the criminal records check 90019
required by this section is completed and the agency receives 90020
the results of the criminal records check. If the results of the 90021
criminal records check indicate that, pursuant to division (B) 90022
(1) of this section, the applicant does not qualify for 90023
employment, the agency shall release the applicant from 90024
employment. 90025

(C) (1) Each public children services agency shall pay to 90026
the bureau of criminal identification and investigation the fee 90027
prescribed pursuant to division (C) (3) of section 109.572 of the 90028
Revised Code for each criminal records check conducted in 90029
accordance with that section upon the request pursuant to 90030
division (A) (1) of this section of the executive director of the 90031
agency. 90032

(2) A public children services agency may charge an 90033
applicant a fee for the costs it incurs in obtaining a criminal 90034
records check under this section. A fee charged under this 90035
division shall not exceed the amount of fees the agency pays 90036
under division (C) (1) of this section. If a fee is charged under 90037
this division, the agency shall notify the applicant at the time 90038
of the applicant's initial application for employment of the 90039
amount of the fee and that, unless the fee is paid, the agency 90040
will not consider the applicant for employment. 90041

(D) The report of any criminal records check conducted by 90042
the bureau of criminal identification and investigation in 90043
accordance with section 109.572 of the Revised Code and pursuant 90044
to a request under division (A) (1) of this section is not a 90045

public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the public children services agency requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The director of children and youth shall adopt rules pursuant to Chapter 119. of the Revised Code ~~to implement this section, including rules~~ specifying circumstances under which a public children services agency may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with the agency as a person responsible for the care, custody, or control of a child.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 90075
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(3) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code. 90077
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Sec. 5153.113. (A) (1) As used in this section, "applicant" has the same meaning as in section 5153.111 of the Revised Code, and includes an intern applicant or a volunteer applicant. 90079
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(2) "Intern applicant" means a trainee seeking practical educational and career experience who is under consideration for a position with a public children services agency to work, with or without monetary gain or compensation, as a person responsible for the care, custody, or control of a child; 90082
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(3) "Volunteer applicant" means a person who is under consideration for a position with a public children services agency to perform services within the agency voluntarily, without monetary gain or compensation, as a person responsible for the care, custody, or control of a child. 90087
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(B) Notwithstanding division (I) (1) of section 2151.421, section 5153.17, and any other section of the Revised Code pertaining to confidentiality, before a public children services agency employs an applicant, the executive director of the agency, or the executive director's designee within the agency, shall review promptly any information the agency determines to be relevant for the purpose of evaluating the fitness of the applicant, including, but not limited to, the following: 90092
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(1) Abuse and neglect reports made pursuant to section 2151.421 of the Revised Code of which the applicant is the subject where it has been determined that abuse or neglect occurred; 90100
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(2) The final disposition of investigations of the abuse and neglect reports, or if the investigations have not been completed, the status of the investigations; 90104
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(3) Any underlying documentation concerning the reports. 90107

(C) The information reviewed under division (B) of this section shall not include the name of the person or entity that made the report or participated in the making of the report of child abuse or neglect. 90108
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~~(D) The director of children and youth shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section.~~ 90112
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Sec. 5153.124. ~~(A)(1) The director of children and youth shall adopt rules as necessary to implement the training requirements of sections 5153.122 and 5153.123 of the Revised Code.~~ 90115
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~~(2)~~ (A) Not later than nine months after September 30, 2021, the director shall adopt rules in accordance with Chapter 119. of the Revised Code to establish the circumstances under which an executive director of a public children services agency may waive portions of in-service training for PCSA caseworkers, in addition to the waiver described in section 5153.122 of the Revised Code. 90119
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(B) Notwithstanding sections 5103.37 to 5103.42 and sections 5153.122 to 5153.127 of the Revised Code, the department of children and youth may require additional training for PCSA caseworkers and PCSA caseworker supervisors as necessary to comply with federal requirements. 90126
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Sec. 5153.16. (A) Except as provided in section 2151.422 of the Revised Code, in accordance with rules adopted under 90131
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section 5153.166 of the Revised Code, and on behalf of children 90133
in the county whom the public children services agency considers 90134
to be in need of public care or protective services, the public 90135
children services agency shall do all of the following: 90136

(1) Make an investigation concerning any child alleged to 90137
be an abused, neglected, or dependent child; 90138

(2) Enter into agreements with the parent, guardian, or 90139
other person having legal custody of any child, or with the 90140
department of children and youth, department of mental health 90141
and addiction services, department of developmental 90142
disabilities, other department, any certified organization 90143
within or outside the county, or any agency or institution 90144
outside the state, having legal custody of any child, with 90145
respect to the custody, care, or placement of any child, or with 90146
respect to any matter, in the interests of the child, provided 90147
the permanent custody of a child shall not be transferred by a 90148
parent to the public children services agency without the 90149
consent of the juvenile court; 90150

(3) Enter into a contract with an agency providing 90151
prevention services in an effort to prevent neglect or abuse, to 90152
enhance a child's welfare, and to preserve the family unit 90153
intact when referring a family for prevention services under 90154
division (J) of section 2151.421 of the Revised Code. 90155

(4) Accept custody of children committed to the public 90156
children services agency by a court exercising juvenile 90157
jurisdiction; 90158

(5) Provide such care as the public children services 90159
agency considers to be in the best interests of any child 90160
adjudicated to be an abused, neglected, or dependent child the 90161

agency finds to be in need of public care or service; 90162

(6) Provide social services to any unmarried girl 90163
adjudicated to be an abused, neglected, or dependent child who 90164
is pregnant with or has been delivered of a child; 90165

(7) Make available to the children with medical handicaps 90166
program of the department of health at its request any 90167
information concerning a child with a disability found to be in 90168
need of treatment under sections 3701.021 to 3701.028 of the 90169
Revised Code who is receiving services from the public children 90170
services agency; 90171

(8) Provide temporary emergency care for any child 90172
considered by the public children services agency to be in need 90173
of such care, without agreement or commitment; 90174

(9) Find certified foster homes, within or outside the 90175
county, for the care of children, including children with 90176
disabilities from other counties attending special schools in 90177
the county; 90178

(10) Subject to the approval of the board of county 90179
commissioners and the department of children and youth, 90180
establish and operate a training school or enter into an 90181
agreement with any municipal corporation or other political 90182
subdivision of the county respecting the operation, acquisition, 90183
or maintenance of any children's home, training school, or other 90184
institution for the care of children maintained by such 90185
municipal corporation or political subdivision; 90186

(11) Acquire and operate a county children's home, 90187
establish, maintain, and operate a receiving home for the 90188
temporary care of children, or procure certified foster homes 90189
for this purpose; 90190

(12) Enter into an agreement with the trustees of any district children's home, respecting the operation of the district children's home in cooperation with the other county boards in the district;

(13) Cooperate with, make its services available to, and act as the agent of persons, courts, the department of children and youth, the department of health, and other organizations within and outside the state, in matters relating to the welfare of children, except that the public children services agency shall not be required to provide supervision of or other services related to the exercise of parenting time rights granted pursuant to section 3109.051 or 3109.12 of the Revised Code or companionship or visitation rights granted pursuant to section 3109.051, 3109.11, or 3109.12 of the Revised Code unless a juvenile court, pursuant to Chapter 2151. of the Revised Code, or a common pleas court, pursuant to division (E) (6) of section 3113.31 of the Revised Code, requires the provision of supervision or other services related to the exercise of the parenting time rights or companionship or visitation rights;

(14) Make investigations at the request of any superintendent of schools in the county or the principal of any school concerning the application of any child adjudicated to be an abused, neglected, or dependent child for release from school, where such service is not provided through a school attendance department;

(15) Administer funds provided under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended, ~~in accordance with rules adopted under section 5180.42 of the Revised Code;~~

(16) In addition to administering Title IV-E adoption

assistance funds, enter into agreements to make adoption 90221
assistance payments under section 5153.163 of the Revised Code; 90222

(17) Implement a system of safety and risk assessment, in 90223
accordance with rules adopted by the director of children and 90224
youth, to assist the public children services agency in 90225
determining the risk of abuse or neglect to a child; 90226

(18) Enter into a plan of cooperation with the board of 90227
county commissioners under section 307.983 of the Revised Code 90228
and comply with each fiscal agreement the board enters into 90229
under section 307.98 of the Revised Code that include family 90230
services duties of public children services agencies and 90231
contracts the board enters into under sections 307.981 and 90232
307.982 of the Revised Code that affect the public children 90233
services agency; 90234

(19) Make reasonable efforts to prevent the removal of an 90235
alleged or adjudicated abused, neglected, or dependent child 90236
from the child's home, eliminate the continued removal of the 90237
child from the child's home, or make it possible for the child 90238
to return home safely, except that reasonable efforts of that 90239
nature are not required when a court has made a determination 90240
under division (A) (2) of section 2151.419 of the Revised Code; 90241

(20) Make reasonable efforts to place the child in a 90242
timely manner in accordance with the permanency plan approved 90243
under division (E) of section 2151.417 of the Revised Code and 90244
to complete whatever steps are necessary to finalize the 90245
permanent placement of the child; 90246

(21) Administer a Title IV-A program identified under 90247
division (A) (4) (c) or (h) of section 5101.80 of the Revised Code 90248
that the department of children and youth provides for the 90249

public children services agency to administer under the 90250
department's supervision pursuant to section 5101.801 of the 90251
Revised Code; 90252

(22) Administer the kinship permanency incentive program 90253
created under section 5180.52 of the Revised Code under the 90254
supervision of the director of children and youth; 90255

(23) Provide independent living services pursuant to 90256
sections 2151.81 to 2151.84 of the Revised Code; 90257

(24) File a missing child report with a local law 90258
enforcement agency upon becoming aware that a child in the 90259
custody of the public children services agency is or may be 90260
missing. 90261

(B) The public children services agency shall use the 90262
system implemented pursuant to division (A) (17) of this section 90263
in connection with an investigation undertaken pursuant to 90264
division (G) (1) of section 2151.421 of the Revised Code to 90265
assess both of the following: 90266

(1) The ongoing safety of the child; 90267

(2) The appropriateness of the intensity and duration of 90268
the services provided to meet child and family needs throughout 90269
the duration of a case. 90270

(C) Except as provided in section 2151.422 of the Revised 90271
Code, in accordance with rules of the director of children and 90272
youth, and on behalf of children in the county whom the public 90273
children services agency considers to be in need of public care 90274
or protective services, the public children services agency may 90275
do the following: 90276

(1) Provide or find, with other child serving systems, 90277

specialized foster care for the care of children in a 90278
specialized foster home, as defined in section 5103.02 of the 90279
Revised Code, certified under section 5103.03 of the Revised 90280
Code; 90281

(2) (a) Except as limited by divisions (C) (2) (b) and (c) of 90282
this section, contract with the following for the purpose of 90283
assisting the agency with its duties: 90284

(i) County departments of job and family services; 90285

(ii) Boards of alcohol, drug addiction, and mental health 90286
services; 90287

(iii) County boards of developmental disabilities; 90288

(iv) Regional councils of political subdivisions 90289
established under Chapter 167. of the Revised Code; 90290

(v) Private and government providers of services; 90291

(vi) Managed care organizations and prepaid health plans. 90292

(b) A public children services agency contract under 90293
division (C) (2) (a) of this section regarding the agency's duties 90294
under section 2151.421 of the Revised Code may not provide for 90295
the entity under contract with the agency to perform any service 90296
not authorized by the department's rules. 90297

(c) Only a county children services board appointed under 90298
section 5153.03 of the Revised Code that is a public children 90299
services agency may contract under division (C) (2) (a) of this 90300
section. If an entity specified in division (B) or (C) of 90301
section 5153.02 of the Revised Code is the public children 90302
services agency for a county, the board of county commissioners 90303
may enter into contracts pursuant to section 307.982 of the 90304
Revised Code regarding the agency's duties. 90305

Sec. 5153.163. (A) As used in this section:	90306
(1) "Adoptive parent" means, as the context requires, a prospective adoptive parent or an adoptive parent.	90307 90308
(2) "Relative" has the same meaning as in section 5180.42 of the Revised Code.	90309 90310
(B) (1) Before a child's adoption is finalized, a public children services agency may enter into an agreement with the child's adoptive parent under which the agency, to the extent state funds are available, may make state adoption maintenance subsidy payments as needed on behalf of the child when all of the following apply:	90311 90312 90313 90314 90315 90316
(a) The child is a child with special needs.	90317
(b) The child was placed in the adoptive home by a public children services agency or a private child placing agency and may legally be adopted.	90318 90319 90320
(c) The adoptive parent has the capability of providing the permanent family relationships needed by the child.	90321 90322
(d) The needs of the child are beyond the economic resources of the adoptive parent.	90323 90324
(e) Acceptance of the child as a member of the adoptive parent's family would not be in the child's best interest without payments on the child's behalf under this section.	90325 90326 90327
(f) The gross income of the adoptive parent's family does not exceed one hundred twenty per cent of the median income of a family of the same size, including the child, as most recently determined for this state by the secretary of health and human services under Title XX of the "Social Security Act," 88 Stat. 2337, 42 U.S.C.A. 1397, as amended.	90328 90329 90330 90331 90332 90333

(g) The child is not eligible for adoption assistance 90334
payments under Title IV-E of the "Social Security Act," 94 Stat. 90335
501 (1980), 42 U.S.C.A. 671, as amended. 90336

(2) State adoption maintenance subsidy payment agreements 90337
must be made by either the public children services agency that 90338
has permanent custody of the child or the public children 90339
services agency of the county in which the private child placing 90340
agency that has permanent custody of the child is located. 90341

(3) State adoption maintenance subsidy payments shall be 90342
made in accordance with the agreement between the public 90343
children services agency and the adoptive parent and are subject 90344
to an annual redetermination of need. 90345

(4) Payments under this division may begin either before 90346
or after issuance of the final adoption decree, except that 90347
payments made before issuance of the final adoption decree may 90348
be made only while the child is living in the adoptive parent's 90349
home. Preadoption payments may be made for not more than twelve 90350
months, unless the final adoption decree is not issued within 90351
that time because of a delay in court proceedings. Payments that 90352
begin before issuance of the final adoption decree may continue 90353
after its issuance. 90354

(C) (1) A public children services agency may enter into an 90355
agreement with a child's relative under which the agency, to the 90356
extent state funds are available, may provide state kinship 90357
guardianship assistance as needed on behalf of the child when 90358
all of the following apply: 90359

(a) The relative has cared for the eligible child as a 90360
foster caregiver as defined by section 5103.02 of the Revised 90361
Code for at least six consecutive months. 90362

- (b) Both of the following apply: 90363
- (i) A juvenile court issued an order granting legal custody of the child to the relative, or a probate court issued an order granting guardianship of the child to the relative, and the order is not a temporary court order. 90364
90365
90366
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- (ii) The relative has committed to care for the child on a permanent basis. 90368
90369
- (c) The relative signed a state kinship guardianship assistance agreement prior to assuming legal guardianship or legal custody of the child. 90370
90371
90372
- (d) The child had been removed from home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child. 90373
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- (e) Returning the child home or adoption are not appropriate permanency options for the child. 90377
90378
- (f) The child demonstrates a strong attachment to the relative and the relative has a strong commitment to caring permanently for the child. 90379
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- (g) With respect to a child who has attained fourteen years of age, the child has been consulted regarding the state kinship guardianship assistance arrangement. 90382
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90384
- (h) The child is not eligible for kinship guardianship assistance payments under Title IV-E of the "Social Security Act," 42 U.S.C. 673(d), as amended. 90385
90386
90387
- (2) The public children services agency that had custody of a child immediately prior to a court granting legal custody or guardianship of the child to a relative of the child 90388
90389
90390

described in division (C) (1) of this section is authorized to 90391
enter into a state kinship guardianship assistance agreement 90392
with that relative. 90393

(3) State kinship guardianship assistance for a child 90394
shall be provided in accordance with a state kinship 90395
guardianship assistance agreement entered into between the 90396
public children services agency and relative of the child 90397
described in division (C) (1) of this section and is subject to 90398
an annual redetermination of need. 90399

(D) No payment shall be made under division (B) or (C) of 90400
this section on behalf of any person eighteen years of age or 90401
older beyond the end of the school year during which the person 90402
attains the age of eighteen or on behalf of a person with a 90403
mental or physical disability twenty-one years of age or older. 90404

(E) The director of children and youth shall adopt rules 90405
in accordance with Chapter 119. of the Revised Code ~~that are~~ 90406
~~needed to implement this section. The rules shall that~~ establish 90407
all of the following: 90408

(1) The application process for all forms of assistance 90409
provided under this section; 90410

(2) The method to determine the amount of assistance 90411
payable under division (B) of this section; 90412

(3) The definition of "child with special needs" for this 90413
section; 90414

(4) The process whereby a child's continuing need for 90415
services provided under division (B) or (C) of this section is 90416
annually redetermined; ~~—~~ 90417

~~(5) Any other rule, requirement, or procedure the~~ 90418

~~department considers appropriate for the implementation of this~~ 90419
~~section.~~ 90420

(F) The state adoption special services subsidy program 90421
ceases to exist on July 1, 2004, except that, subject to the 90422
findings of the annual redetermination process established under 90423
division (E) of this section and the child's individual need for 90424
services, a public children services agency may continue to 90425
provide state adoption special services subsidy payments on 90426
behalf of a child for whom payments were being made prior to 90427
July 1, 2004. 90428

(G) Benefits and services provided under this section are 90429
inalienable whether by way of assignment, charge, or otherwise 90430
and exempt from execution, attachment, garnishment, and other 90431
like processes. 90432

Sec. 5160.052. The department of medicaid shall 90433
collaborate with the superintendent of the bureau of criminal 90434
identification and investigation to develop procedures and 90435
formats necessary to produce the notices described in division 90436
(D) of section 109.5721 of the Revised Code in a format that is 90437
acceptable for use by the department. The medicaid director may 90438
adopt rules ~~under section 5160.02 of the Revised Code necessary~~ 90439
for such collaboration. Any such rules shall be adopted in 90440
accordance with section 111.15 of the Revised Code as if they 90441
were internal management rules. 90442

The medicaid director may adopt rules ~~under section~~ 90443
~~5160.02 of the Revised Code necessary~~ for utilizing the 90444
information received pursuant to section 109.5721 of the Revised 90445
Code. The rules shall be adopted in accordance with Chapter 119. 90446
of the Revised Code. 90447

Sec. 5160.10. The medicaid director may expend funds 90448
appropriated or available to the department of medicaid from 90449
persons and government entities. For purposes of this section, 90450
the director may enter into contracts or agreements with persons 90451
and government entities and make grants to persons and 90452
government entities. To the extent permitted by federal law, the 90453
director may advance funds to a grantee when necessary for the 90454
grantee to perform duties under the grant as specified by the 90455
director. 90456

~~The director may adopt rules under section 5160.02 of the~~ 90457
~~Revised Code as necessary to define terms and adopt procedures~~ 90458
~~and other provisions necessary to implement this section.~~ 90459

Sec. 5160.12. (A) As used in this section, "entity" 90460
includes an agency, board, commission, or department of the 90461
state or a political subdivision of the state; a private, 90462
nonprofit entity; a school district; a private school; or a 90463
public or private institution of higher education. 90464

(B) This section does not apply to contracts entered into 90465
under section 5162.32 or 5162.35 of the Revised Code. 90466

(C) At the request of any public entity having authority 90467
to implement a program administered by the department of 90468
medicaid or any private entity under contract with a public 90469
entity to implement a program administered by the department, 90470
the department may seek to obtain federal financial 90471
participation for costs incurred by the entity. Federal 90472
financial participation may be sought from programs operated 90473
pursuant to Title XIX of the "Social Security Act," 42 U.S.C. 90474
1396, et seq., and any other statute or regulation under which 90475
federal financial participation may be available, except that 90476
federal financial participation may be sought only for 90477

expenditures made with funds for which federal financial participation is available under federal law. 90478
90479

(D) All funds collected by the department pursuant to division (C) of this section shall be distributed to the entities that incurred the costs. 90480
90481
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(E) In distributing federal financial participation pursuant to this section, the department may either enter into an agreement with the entity that is to receive the funds or distribute the funds in accordance with rules authorized by division (H) of this section. If the department decides to enter into an agreement to distribute the funds, the agreement may include terms that do any of the following: 90483
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(1) Provide for the whole or partial reimbursement of any cost incurred by the entity in implementing the program; 90490
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(2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the department or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures; 90492
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(3) Require the entity to certify to the department the availability of sufficient unencumbered funds to match the federal financial participation the entity receives under this section; 90497
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90499
90500

(4) Establish the length of the agreement, which may be for a fixed or a continuing period of time; 90501
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(5) Establish any other requirements determined by the department to be necessary for the efficient administration of the agreement. 90503
90504
90505

(F) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department for the use of the funds to improve and expand the program.

(G) Federal financial participation received pursuant to this section shall not be included in any calculation made under section 5101.16 or 5101.161 of the Revised Code.

(H) The medicaid director may adopt rules ~~under section 5160.02 of the Revised Code as necessary to implement this section, including rules for the distribution of federal~~ financial participation pursuant to this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5160.20. (A) The department of medicaid may conduct any audits or investigations that are necessary in the performance of the department's duties, and to that end, the department has the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers.

The department shall keep a record of the department's audits and investigations stating the time, place, charges, or subject; witnesses summoned and examined; and the department's conclusions.

Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code.

(B) Any judge of any division of the court of common pleas, on application of the department, may compel the attendance of witnesses, the production of books or papers, and

the giving of testimony before the department, by a judgment for 90535
contempt or otherwise, in the same manner as in cases before 90536
those courts. 90537

(C) Until an audit report is formally released by the 90538
department, the audit report or any working paper or other 90539
document or record prepared by the department and related to the 90540
audit that is the subject of the audit report is not a public 90541
record under section 149.43 of the Revised Code. 90542

(D) The medicaid director may adopt rules ~~under section~~ 90543
~~5160.02 of the Revised Code as necessary to implement this~~ 90544
~~section~~regarding audits and investigations the department 90545
conducts. The rules shall be adopted in accordance with section 90546
111.15 of the Revised Code as if they were internal management 90547
rules. 90548

Sec. 5160.34. (A) As used in this section: 90549

(1) "Chronic condition" means a medical condition that has 90550
persisted after reasonable efforts have been made to relieve or 90551
cure its cause and has continued, either continuously or 90552
episodically, for longer than six continuous months. 90553

(2) "Clinical peer" means a health care provider in the 90554
same, or in a similar, specialty that typically manages the 90555
medical condition, procedure, or treatment under review. 90556

(3) "Emergency services" has the same meaning as in 90557
section 1753.28 of the Revised Code. 90558

(4) "Prior authorization requirement" means any practice 90559
implemented by a medical assistance program in which coverage of 90560
a health care service, device, or drug is dependent upon a 90561
medical assistance recipient or a health care provider, 90562
receiving approval from the department of medicaid or its 90563

designee, including a medicaid managed care organization, prior 90564
to the service, device, or drug being performed, received, or 90565
prescribed, as applicable. "Prior authorization" includes 90566
prospective or utilization review procedures conducted prior to 90567
providing a health care service, device, or drug. 90568

(5) "Urgent care services" means a medical care or other 90569
service for a condition where application of the timeframe for 90570
making routine or non-life threatening care determinations is 90571
either of the following: 90572

(a) Could seriously jeopardize the life, health, or safety 90573
of the recipient or others due to the recipient's psychological 90574
state; 90575

(b) In the opinion of a practitioner with knowledge of the 90576
recipient's medical or behavioral condition, would subject the 90577
recipient to adverse health consequences without the care or 90578
treatment that is the subject of the request. 90579

(6) "Utilization review" and "utilization review 90580
organization" have the same meanings as in section 1751.77 of 90581
the Revised Code. 90582

(B) If a medical assistance program has a prior 90583
authorization requirement, the department of medicaid or its 90584
designee, including a medicaid managed care organization, shall 90585
do all of the following: 90586

(1) On or before January 1, 2018, permit a health care 90587
provider to access the prior authorization form through the 90588
applicable electronic software system. 90589

(2) (a) On or before January 1, 2018, permit the department 90590
or its designee to accept and respond to prior prescription 90591
benefit authorization requests through a secure electronic 90592

transmission. 90593

(b) On or before January 1, 2018, the department or its 90594
designee shall accept and respond to prior prescription benefit 90595
authorization requests through a secure electronic transmission 90596
using NCPDP SCRIPT standard ePA transactions, and for prior 90597
medical benefit authorization requests through a secure 90598
electronic transmission using standards established by the 90599
council for affordable quality health care on operating rules 90600
for information exchange or its successor. 90601

(c) For purposes of division (B) (2) of this section, 90602
neither of the following shall be considered a secure electronic 90603
transmission: 90604

(i) A facsimile; 90605

(ii) A proprietary payer portal for prescription drug 90606
requests that does not use NCPDP SCRIPT standard. 90607

(3) On or before January 1, 2018, a health care provider 90608
and the department of medicaid or its designee may enter into a 90609
contractual arrangement under which the department or its 90610
designee agrees to process prior authorization requests that are 90611
not submitted electronically because of the financial hardship 90612
that electronic submission of prior authorization requests would 90613
create for the provider or if internet connectivity is limited 90614
or unavailable where the provider is located. 90615

(4) (a) On or before January 1, 2018, if the health care 90616
provider submits the request for prior authorization 90617
electronically as described in divisions (B) (1) and (2) of this 90618
section, respond to all prior authorization requests within 90619
forty-eight hours for urgent care services, or ten calendar days 90620
for any prior authorization request that is not for an urgent 90621

care service, of the time the request is received by the 90622
department or its designee. Division (B) (4) of this section does 90623
not apply to emergency services. 90624

(b) The response required under division (B) (4) (a) of this 90625
section shall indicate whether the request is approved or 90626
denied. If the prior authorization is denied, the department or 90627
its designee shall provide the specific reason for the denial. 90628

(c) If the prior authorization request is incomplete, the 90629
department or its designee shall indicate the specific 90630
additional information that is required to process the request. 90631

(5) (a) On or before January 1, 2018, if a health care 90632
provider submits a prior authorization request as described in 90633
divisions (B) (1) and (2) of this section, the department or its 90634
designee shall provide an electronic receipt to the health care 90635
provider acknowledging that the prior authorization request was 90636
received. 90637

(b) On or before January 1, 2018, if the department or its 90638
designee requests additional information that is required to 90639
process a prior authorization request as described in division 90640
(B) (4) (c) of this section, the health care provider shall 90641
provide an electronic receipt to the department or its designee 90642
acknowledging that the request for additional information was 90643
received. 90644

(6) (a) On or before January 1, 2017, honor a prior 90645
authorization approval for an approved drug for the lesser of 90646
the following from the date of approval: 90647

(i) Twelve months; 90648

(ii) The last day of the medical assistance recipient's 90649
eligibility for the medical assistance program. 90650

(b) The duration of all other prior authorization 90651
approvals shall be dictated by the medical assistance program. 90652

(c) The department or its designee, in relation to prior 90653
approval under division (B) (6) (a) of this section, may require a 90654
health care provider to submit information to the department or 90655
its designee indicating that the patient's chronic condition has 90656
not changed. 90657

(i) The request for information by the department or its 90658
designee and the response by the health care provider shall be 90659
in an electronic format, which may be by electronic mail or 90660
other electronic communication. 90661

(ii) The frequency of the submission of requested 90662
information shall be consistent with medical or scientific 90663
evidence as defined in section 3922.01 of the Revised Code, but 90664
shall not be required more frequently than quarterly. 90665

(iii) If the health care provider does not respond within 90666
five calendar days from the date the request was received, the 90667
insurer or plan may terminate the twelve-month approval. 90668

(d) A twelve-month approval provided under division (B) (6) 90669
(a) of this section is no longer valid and automatically 90670
terminates if there are changes to federal or state laws or 90671
federal regulatory guidance or compliance information 90672
prescribing that the drug in question is no longer approved or 90673
safe for the intended purpose. 90674

(e) A twelve-month approval provided under division (B) (6) 90675
(a) of this section does not apply to and is not required for 90676
any of the following: 90677

(i) Medications that are prescribed for a non-maintenance 90678
condition; 90679

(ii) Medications that have a typical treatment of less than one year;	90680 90681
(iii) Medications that require an initial trial period to determine effectiveness and tolerability, beyond which a one-year, or greater, prior authorization period will be given;	90682 90683 90684
(iv) Medications where there is medical or scientific evidence as defined in section 3922.01 of the Revised Code that do not support a twelve-month prior approval;	90685 90686 90687
(v) Medications that are a schedule I or II controlled substance or any opioid analgesic or benzodiazepine, as defined in section 3719.01 of the Revised Code;	90688 90689 90690
(vi) Medications that are not prescribed by an in-network provider as part of a care management program.	90691 90692
(7) On or before January 1, 2017, the department or its designee may, but is not required to, provide the twelve-month approval prescribed in division (B) (6) (a) of this section for a prescription drug that meets either of the following:	90693 90694 90695 90696
(a) The drug is prescribed or administered to treat a rare medical condition and pursuant to medical or scientific evidence as defined in section 3922.01 of the Revised Code.	90697 90698 90699
(b) Medications that are controlled substances not included in division (B) (6) (e) (v) of this section.	90700 90701
For purposes of division (B) (7) of this section, "rare medical condition" means any disease or condition that affects fewer than two-hundred thousand individuals in the United States.	90702 90703 90704 90705
(8) Nothing in division (B) (6) or (7) of this section prohibits the substitution, in accordance with section 4729.38	90706 90707

of the Revised Code, of any drug that has received a twelve- 90708
month approval under division (B)(6)(a) of this section when 90709
there is a release of either of the following: 90710

(a) A United States food and drug administration approved 90711
comparable brand product or a generic counterpart of a brand 90712
product that is listed as therapeutically equivalent in the 90713
United States food and drug administration's publication titled 90714
approved drug products with therapeutic equivalence evaluations; 90715

(b) An interchangeable biological product, as defined in 90716
section 3715.01 of the Revised Code. 90717

(9)(a) On or after January 1, 2017, upon written request, 90718
the department or its designee shall permit a retrospective 90719
review for a claim that is submitted for a service where prior 90720
authorization was required, but not obtained if the service in 90721
question meets all of the following: 90722

(i) The service is directly related to another service for 90723
which prior approval has already been obtained and that has 90724
already been performed. 90725

(ii) The new service was not known to be needed at the 90726
time the original prior authorized service was performed. 90727

(iii) The need for the new service was revealed at the 90728
time the original authorized service was performed. 90729

(b) Once the written request and all necessary information 90730
is received, the department or its designee shall review the 90731
claim for coverage and medical necessity. The department or its 90732
designee shall not deny a claim for such a new service based 90733
solely on the fact that a prior authorization approval was not 90734
received for the new service in question. 90735

(10) (a) On or before January 1, 2017, disclose to all participating health care providers any new prior authorization requirement at least thirty days prior to the effective date of the new requirement.

(b) The notice may be sent via electronic mail or standard mail and shall be conspicuously entitled "Notice of Changes to Prior Authorization Requirements." The notice is not required to contain a complete listing of all changes made to the prior authorization requirements, but shall include specific information on where the health care provider may locate the information on the department's or its designee's web site or, if applicable, the department's or its designee's portal.

(c) All participating health care providers shall promptly notify the department or its designee of any changes to the health care provider's electronic mail or standard mail address.

(11) (a) On or before January 1, 2017, make available to all participating health care providers on its web site or provider portal a listing of its prior authorization requirements, including specific information or documentation that a provider must submit in order for the prior authorization request to be considered complete.

(b) Make available on its web site information about the medical assistance programs offered in this state that clearly identifies specific services, drugs, or devices to which a prior authorization requirement exists.

(12) On or before January 1, 2018, establish a streamlined appeal process relating to adverse prior authorization determinations that shall include all of the following:

(a) For urgent care services, the appeal shall be

considered within forty-eight hours after the department or its
designee receives the appeal. 90765
90766

(b) For all other matters, the appeal shall be considered 90767
within ten calendar days after the department or its designee 90768
receives the appeal. 90769

(c) The appeal shall be between the health care provider 90770
requesting the service in question and a clinical peer appointed 90771
by or contracted by the department or the department's designee. 90772

(d) If the appeal does not resolve the disagreement, the 90773
appeal procedures shall permit the recipient to further appeal 90774
in accordance with section 5160.31 of the Revised Code. 90775

(C) Beginning January 1, 2017, except in cases of 90776
fraudulent or materially incorrect information, the department 90777
or its designee shall not retroactively deny a prior 90778
authorization for a health care service, drug, or device when 90779
all of the following are met: 90780

(1) The health care provider submits a prior authorization 90781
request to the department or its designee for a health care 90782
service, drug, or device. 90783

(2) The department or its designee approves the prior 90784
authorization request after determining that all of the 90785
following are true: 90786

(a) The recipient is eligible for the health care service, 90787
drug, or device under the medical assistance program. 90788

(b) The health care service, drug, or device is covered by 90789
the medical assistance program. 90790

(c) The health care service, drug, or device meets the 90791
department's standards for medical necessity and prior 90792

authorization. 90793

(3) The health care provider renders the health care 90794
service, drug, or device pursuant to the approved prior 90795
authorization request and all of the terms and conditions of the 90796
health care provider's contract with the department or the 90797
department's designee. 90798

(4) On the date the health care provider renders the prior 90799
approved health care service, drug, or device, all of the 90800
following are true: 90801

(a) The recipient is eligible for the medical assistance 90802
program. 90803

(b) The recipient's condition or circumstances related to 90804
the recipient's care has not changed. 90805

(c) The health care provider submits an accurate claim 90806
that matches the information submitted by the health care 90807
provider in the approved prior authorization request. 90808

(5) If the health care provider submits a claim that 90809
includes an unintentional error and the error results in a claim 90810
that does not match the information originally submitted by the 90811
health care provider in the approved prior authorization 90812
request, upon receiving a denial of services from the department 90813
or its designee, the health care provider may resubmit the claim 90814
pursuant to division (C) of this section with the information 90815
that matches the information included in the approved prior 90816
authorization. 90817

(D) Any provision of a contractual arrangement entered 90818
into between the department or its designee and a health care 90819
provider or recipient that is contrary to divisions (A) to (C) 90820
of this section is unenforceable. 90821

(E) The medicaid director ~~of medicaid~~ may adopt rules in 90822
accordance with Chapter 119. of the Revised Code ~~as necessary to~~ 90823
~~implement the provisions of this section~~ regarding prior 90824
authorization under the medical assistance program. 90825

Sec. 5160.37. (A) A medical assistance recipient's 90826
enrollment in a medical assistance program gives an automatic 90827
right of recovery to the department of medicaid and a county 90828
department of job and family services against the liability of a 90829
third party for the cost of medical assistance paid on behalf of 90830
the recipient. When an action or claim is brought against a 90831
third party by a medical assistance recipient, any payment, 90832
settlement or compromise of the action or claim, or any court 90833
award or judgment, is subject to the recovery right of the 90834
department of medicaid or county department. Except in the case 90835
of a medical assistance recipient who receives medical 90836
assistance through a medicaid managed care organization, the 90837
department's or county department's claim shall not exceed the 90838
amount of medical assistance paid by the department or county 90839
department on behalf of the recipient. A payment, settlement, 90840
compromise, judgment, or award that excludes the cost of medical 90841
assistance paid for by the department or county department shall 90842
not preclude a department from enforcing its rights under this 90843
section. 90844

(B) (1) In the case of a medical assistance recipient who 90845
receives medical assistance through a medicaid managed care 90846
organization that has a capitation agreement with a provider, 90847
the amount of the department's or county department's claim 90848
shall be the amount the medicaid managed care organization would 90849
have paid in the absence of a capitation agreement. 90850

(2) In the case of a medical assistance recipient who 90851

receives medical assistance through a medicaid managed care 90852
organization that does not have a capitation agreement with a 90853
provider, the amount of the department's or county department's 90854
claim shall be the amount the medicaid managed care organization 90855
pays for medical assistance rendered to the recipient, even if 90856
that amount is more than the amount the department or county 90857
department pays to the medicaid managed care organization for 90858
the recipient's medical assistance. 90859

(C) A medical assistance recipient, and the recipient's 90860
attorney, if any, shall cooperate with the departments. In 90861
furtherance of this requirement, the medical assistance 90862
recipient, or the recipient's attorney, if any, shall, not later 90863
than thirty days after initiating informal recovery activity or 90864
filing a legal recovery action against a third party, provide 90865
written notice of the activity or action to the department of 90866
medicaid or county department if it has paid for medical 90867
assistance under a medical assistance program. 90868

(D) The written notice that must be given under division 90869
(C) of this section shall disclose the identity and address of 90870
any third party against whom the medical assistance recipient 90871
has or may have a right of recovery. 90872

(E) No settlement, compromise, judgment, or award or any 90873
recovery in any action or claim by a medical assistance 90874
recipient where the department or county department has a right 90875
of recovery shall be made final without first giving the 90876
department or county department written notice as described in 90877
division (C) of this section and a reasonable opportunity to 90878
perfect its rights of recovery. If the department or county 90879
department is not given the appropriate written notice, the 90880
medical assistance recipient and, if there is one, the 90881

recipient's attorney, are liable to reimburse the department or 90882
county department for the recovery received to the extent of 90883
medical assistance payments made by the department or county 90884
department. 90885

(F) The department or county department shall be permitted 90886
to enforce its recovery rights against the third party even 90887
though it accepted prior payments in discharge of its rights 90888
under this section if, at the time the department or county 90889
department received such payments, it was not aware that 90890
additional medical expenses had been incurred but had not yet 90891
been paid by the department or county department. The third 90892
party becomes liable to the department or county department as 90893
soon as the third party is notified in writing of the valid 90894
claims for recovery under this section. 90895

(G) (1) Subject to division (G) (2) of this section, the 90896
right of recovery of the department or county department does 90897
not apply to that portion of any judgment, award, settlement, or 90898
compromise of a claim, to the extent of attorneys' fees, costs, 90899
or other expenses incurred by a medical assistance recipient in 90900
securing the judgment, award, settlement, or compromise, or to 90901
the extent of medical, surgical, and hospital expenses paid by 90902
such recipient from the recipient's own resources. 90903

(2) Reasonable attorneys' fees, not to exceed one-third of 90904
the total judgment, award, settlement, or compromise, plus costs 90905
and other expenses incurred by the medical assistance recipient 90906
in securing the judgment, award, settlement, or compromise, 90907
shall first be deducted from the total judgment, award, 90908
settlement, or compromise. After fees, costs, and other expenses 90909
are deducted from the total judgment, award, settlement, or 90910
compromise, there shall be a rebuttable presumption that the 90911

department of medicaid or county department shall receive no 90912
less than one-half of the remaining amount, or the actual amount 90913
of medical assistance paid, whichever is less. A party may rebut 90914
the presumption in accordance with division (L)(1), (2), or (3) 90915
of this section, as applicable. 90916

(H) A right of recovery created by this section may be 90917
enforced separately or jointly by the department of medicaid or 90918
county department. To enforce its recovery rights, the 90919
department or county department may do any of the following: 90920

(1) Intervene or join in any action or proceeding brought 90921
by the medical assistance recipient or on the recipient's behalf 90922
against any third party who may be liable for the cost of 90923
medical assistance paid; 90924

(2) Institute and pursue legal proceedings against any 90925
third party who may be liable for the cost of medical assistance 90926
paid; 90927

(3) Initiate legal proceedings in conjunction with any 90928
injured, diseased, or disabled medical assistance recipient or 90929
the recipient's attorney or representative. 90930

(I) A medical assistance recipient shall not assess 90931
attorney fees, costs, or other expenses against the department 90932
of medicaid or a county department when the department or county 90933
department enforces its right of recovery created by this 90934
section. 90935

(J) The right of recovery given to the department under 90936
this section includes payments made by a third party under 90937
contract with a person having a duty to support. 90938

(K) The department of medicaid may assign to a medical 90939
assistance provider the right of recovery given to the 90940

department under this section with respect to any claim for 90941
which the department has notified the provider that the 90942
department intends to recoup the department's prior payment for 90943
the claim. 90944

(L) (1) Prior to any payment to the department or a county 90945
department pursuant to the department's or county department's 90946
right of recovery under this section, a party that desires to 90947
rebut the presumption in division (G) of this section shall 90948
submit to the department or county department a request for a 90949
hearing in accordance with the procedure the department 90950
establishes in rules required by division (O) of this section. 90951
The amount sought by the department or county department shall 90952
be held in escrow or in an interest on lawyers' trust account 90953
until the hearing examiner renders a decision or the case is 90954
otherwise concluded. A party successfully rebuts the presumption 90955
by a showing of clear and convincing evidence that a different 90956
allocation is warranted. 90957

(2) A medical assistance recipient who has repaid money, 90958
on or after September 29, 2007, to the department or a county 90959
department pursuant to the department's or county department's 90960
right of recovery under this section, section 5160.38 of the 90961
Revised Code, or former section 5101.58 or 5101.59 of the 90962
Revised Code may request a hearing to rebut the presumption in 90963
division (G) of this section. The request shall be made in 90964
accordance with the procedure the department establishes for 90965
this purpose in rules required by division (O) of this section. 90966
It must be made not later than one hundred eighty days after 90967
September 29, 2015, or ninety days after the payment is made, 90968
whichever is later. A party successfully rebuts the presumption 90969
by a showing of clear and convincing evidence that a different 90970
allocation is warranted. 90971

(3) A medical assistance recipient who has repaid money, 90972
between April 6, 2007 and September 28, 2007, to the department 90973
or a county department pursuant to the department's or county 90974
department's right of recovery under this section, section 90975
5160.38 of the Revised Code, or former section 5101.58 or 90976
5101.59 of the Revised Code may request a hearing to rebut the 90977
presumption in division (G) of this section. The request shall 90978
be made not later than one hundred eighty days after ~~the~~ 90979
~~effective date of this amendment~~ September 30, 2025, in 90980
accordance with the procedure the department establishes for 90981
this purpose in rules required by division (O) of this section. 90982
The presumption is successfully rebutted if the requestor 90983
demonstrates by clear and convincing evidence that a different 90984
allocation is warranted. 90985

(4) With respect to a hearing requested under division (L) 90986
(1), (2), or (3) of this section, all of the following are the 90987
case: 90988

(a) The hearing examiner may consider, but is not bound by 90989
the allocation of, medical expenses specified in a settlement 90990
agreement between the medical assistance recipient and the 90991
relevant third party; 90992

(b) The department or county department may raise 90993
affirmative defenses during the hearing, including the existence 90994
of a prior settlement with the medical assistance recipient, the 90995
doctrine of accord and satisfaction, or the common law principle 90996
of res judicata; 90997

(c) If the parties agree, live testimony shall not be 90998
presented at the hearing; 90999

(d) ~~The hearing may be governed by rules adopted under~~ 91000

~~section 5160.02 of the Revised Code. If such rules are adopted,~~ 91001
~~Chapter 119. of the Revised Code applies to the hearing only to~~ 91002
~~the extent specified in those rules;~~ 91003

~~(e)~~ The hearing examiner's decision is binding on the 91004
department or county department and the medical assistance 91005
recipient unless the decision is reversed or modified on appeal 91006
to the medicaid director as described in division (M) of this 91007
section; 91008

~~(f)~~(e) A request for a hearing may be submitted by any of 91009
the following: 91010

(i) The medical assistance recipient; 91011

(ii) The medical assistance recipient's authorized 91012
representative; 91013

(iii) The executor or administrator of a medical 91014
assistance recipient's estate authorized to make or pursue a 91015
request; 91016

(iv) A court-appointed guardian; 91017

(v) An attorney who has been directly retained by the 91018
medical assistance recipient, or the recipient's parent, legal 91019
guardian, or court-appointed guardian. 91020

(M) (1) A medical assistance recipient who disagrees with a 91021
hearing examiner's decision under division (L) of this section 91022
may file an administrative appeal with the medicaid director in 91023
accordance with the procedure the department establishes for 91024
this purpose in rules required by division (O) of this section. 91025
A hearing is not required during the administrative appeal, but 91026
the director or the director's designee shall review the hearing 91027
examiner's decision and any prior relevant administrative 91028

action. After the review, the director or the director's 91029
designee shall affirm, modify, remand, or reverse the hearing 91030
decision. A decision made under this division is final and 91031
binding on the department or county department and the medical 91032
assistance recipient unless it is reversed or modified on appeal 91033
to a court of common pleas as described in division (N) of this 91034
section. 91035

(2) ~~An administrative appeal may be governed by rules~~ 91036
~~adopted under section 5160.02 of the Revised Code. The medicaid~~ 91037
director may adopt rules governing administrative appeals. If 91038
such rules are adopted, Chapter 119. of the Revised Code applies 91039
to an administrative appeal only to the extent specified in 91040
those rules. 91041

(N) A party to an administrative appeal described in 91042
division (M) of this section may file an appeal with a court of 91043
common pleas in accordance with section 119.12 of the Revised 91044
Code. 91045

(O) The medicaid director shall adopt rules ~~under section~~ 91046
~~5160.02 of the Revised Code as necessary to implement this~~ 91047
~~section, including rules~~ establishing procedures a party may use 91048
to request a hearing under division (L) (1), (2), or (3) of this 91049
section or an administrative appeal under division ~~(M) (1)~~ (M) of 91050
this section. The rules shall be adopted in accordance with 91051
Chapter 119. of the Revised Code. 91052

(P) Divisions (L) to (N) of this section are remedial in 91053
nature and shall be liberally construed by the courts of this 91054
state in accordance with section 1.11 of the Revised Code. Those 91055
divisions specify the sole remedy available to a party who 91056
claims the department or a county department has received or is 91057
to receive more money than entitled to receive under this 91058

section, section 5160.38 of the Revised Code, or former section 5101.58 or 5101.59 of the Revised Code. 91059
91060

Sec. 5160.43. (A) The medicaid director may adopt rules 91061
~~under section 5160.02 of the Revised Code to implement sections~~ 91062
~~5160.35 to 5160.43 of the Revised Code, including rules that~~ 91063
specify what constitutes cooperating with efforts to obtain 91064
support or payments, or medical assistance payments, and when 91065
cooperation may be waived. 91066

(B) The department shall adopt rules ~~under section 5160.02~~ 91067
~~of the Revised Code to that~~ do all of the following: 91068

(1) For purposes of the definition of "information" in 91069
division (A) of section 5160.35 of the Revised Code, any data 91070
other than the data specified in that division that should be 91071
included in the definition. 91072

(2) For purposes of division (C) (1) (a) of section 5160.39 91073
of the Revised Code, the medium, format, and manner in which a 91074
third party must provide information to the department. 91075

(3) For purposes of division (C) (2) of section 5160.39 of 91076
the Revised Code, the method by which a third party must provide 91077
the department with access to information. 91078

(C) Rules authorized by division (A) of this section may 91079
be adopted in accordance with section 111.15 of the Revised 91080
Code. Rules authorized by division (B) of this section shall be 91081
adopted in accordance with Chapter 119. of the Revised Code. 91082

Sec. 5160.48. ~~(A)~~ (A) (1) The medicaid director shall adopt 91083
rules ~~under section 5160.02 of the Revised Code implementing~~ 91084
~~sections 5160.45 to 5160.481 of the Revised Code and governing~~ 91085
the custody, use, disclosure, and preservation of the 91086
information generated or received by the department of medicaid, 91087

county departments of job and family services, other state and 91088
county entities, contractors, grantees, private entities, or 91089
officials participating in the administration of medical 91090
assistance programs. ~~The rules shall be adopted in accordance~~ 91091
~~with Chapter 119. of the Revised Code. The rules may define who~~ 91092
~~is an "authorized representative" for purposes of sections~~ 91093
~~5160.45 and 5160.46 of the Revised Code.~~ The rules shall specify 91094
conditions and procedures for the release of information, which 91095
may include both of the following: 91096

~~(1)~~ (a) Permitting a provider of a service under a medical 91097
assistance program limited access to information that is 91098
essential for the provider to render the service or to bill for 91099
the service rendered; 91100

~~(2)~~ (b) Permitting a contractor, grantee, or other state or 91101
county entity limited access to information that is essential 91102
for the contractor, grantee, or entity to perform administrative 91103
or other duties on behalf of the department or a county 91104
department. 91105

(2) The rules may define who is an "authorized 91106
representative" for purposes of sections 5160.45 and 5160.46 of 91107
the Revised Code. 91108

(3) The rules shall be adopted in accordance with Chapter 91109
119. of the Revised Code. 91110

(B) The department of aging, when investigating a 91111
complaint under section 173.20 of the Revised Code, shall be 91112
granted any limited access permitted in the rules authorized by 91113
division ~~(A)~~ ~~(1)~~ (A) (1) (a) of this section. 91114

A contractor, grantee, or entity given access to 91115
information pursuant to the rules authorized by division ~~(A)~~ ~~(2)~~ 91116

(A) (1) (b) of this section is bound by the director's rules. 91117
Disclosure of the information by the contractor, grantee, or 91118
entity in a manner not authorized by the rules is a violation of 91119
section 5160.45 of the Revised Code. 91120

Sec. 5161.02. The medicaid director may adopt rules in 91121
accordance with Chapter 119. of the Revised Code ~~as necessary~~ 91122
~~for the efficient administration of the children's health~~ 91123
~~insurance program, including rules~~ that establish all of the 91124
following: 91125

(A) The conditions under which the children's health 91126
insurance program will pay for health benefits coverage; 91127

(B) The method of the payment; 91128

(C) The amount of payment, or the method by which the 91129
amount is to be determined, for each service included in the 91130
health benefits coverage. 91131

Sec. 5161.30. The medicaid director may contract with a 91132
government entity or person to perform the director's 91133
administrative duties regarding CHIP part I, part II, part III, 91134
two of the parts, or all three parts, other than the duty to 91135
submit a state child health plan to the United States secretary 91136
of health and human services under section 5161.10 of the 91137
Revised Code, and the duty to submit a waiver request under 91138
section 5161.15 of the Revised Code, ~~and the duty to adopt rules~~ 91139
~~under section 5161.02 of the Revised Code.~~ 91140

Sec. 5162.01. (A) As used in the Revised Code: 91141

(1) "Medicaid" and "medicaid program" mean the program of 91142
medical assistance established by Title XIX of the "Social 91143
Security Act," 42 U.S.C. 1396 et seq., including any medical 91144
assistance provided under the medicaid state plan or a federal 91145

medicaid waiver granted by the United States secretary of health and human services.	91146 91147
(2) "Medicare" and "medicare program" mean the federal health insurance program established by Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.	91148 91149 91150
(B) As used in this chapter:	91151
(1) "Exchange" has the same meaning as in 45 C.F.R. 155.20.	91152 91153
(2) "Expansion eligibility group" has the same meaning as in section 5163.01 of the Revised Code.	91154 91155
(3) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.	91156 91157
(4) "Federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).	91158 91159 91160 91161 91162 91163
(5) "Healthcheck" has the same meaning as in section 5164.01 of the Revised Code.	91164 91165
(6) "Healthy start component" means the component of the medicaid program that covers pregnant women and children and is identified in rules adopted under section 5162.02 of the Revised Code as the healthy start component.	91166 91167 91168 91169
(7) "Home and community-based services" means services provided under a home and community-based services medicaid waiver component.	91170 91171 91172

- (8) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code. 91173
91174
91175
- (9) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code. 91176
91177
- (10) "Individualized education program" has the same meaning as in section 3323.011 of the Revised Code. 91178
91179
- (11) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code. 91180
91181
- (12) "Medicaid MCO plan" has the same meaning as in section 5167.01 of the Revised Code. 91182
91183
- (13) "Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code. 91184
91185
- (14) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code. 91186
91187
- (15) "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code; 91188
91189
- (16) "Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code. 91190
91191
91192
- (17) "Ordering or referring only provider" means a medicaid provider who orders, prescribes, refers, or certifies a service or item reported on a claim for medicaid payment but does not bill for medicaid services. 91193
91194
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91196
- (18) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities 91197
91198
91199

only in a geographical area smaller than that of the state. 91200

(19) "Prescribed drug" has the same meaning as in section 91201
5164.01 of the Revised Code. 91202

(20) "Provider agreement" has the same meaning as in 91203
section 5164.01 of the Revised Code. 91204

(21) "Qualified medicaid school provider" means the board 91205
of education of a city, local, or exempted village school 91206
district, the governing board of an educational service center, 91207
the governing authority of a community school established under 91208
Chapter 3314. of the Revised Code, and Ohio deaf and blind 91209
education services to which both of the following apply: 91210

(a) It holds a valid provider agreement. 91211

(b) It meets all other conditions for participation in the 91212
medicaid school component of the medicaid program established in 91213
rules authorized by section 5162.364 of the Revised Code. 91214

(22) "State agency" means every organized body, office, or 91215
agency, other than the department of medicaid, established by 91216
the laws of the state for the exercise of any function of state 91217
government. 91218

(23) "Vendor offset" means a reduction of a medicaid 91219
payment to a medicaid provider to correct a previous, incorrect 91220
medicaid payment to that provider. 91221

Sec. 5162.021. The medicaid director shall adopt rules 91222
~~under sections 5160.02, 5162.02, 5163.02, 5164.02, 5165.02,~~ 91223
~~5166.02, and 5167.02 of the Revised Code as necessary to~~ 91224
authorize the directors of other state agencies to adopt rules 91225
regarding medicaid components, or aspects of medicaid 91226
components, the other state agencies administer pursuant to 91227

contracts entered into under section 5162.35 of the Revised Code. 91228
91229

Sec. 5162.031. ~~(A)~~The medicaid director may do all both 91230
of the following ~~as necessary for the department of medicaid to~~ 91231
~~fulfill the duties it has,~~ as the single state agency for the 91232
medicaid program, under the "Medicare Prescription Drug, 91233
Improvement, and Modernization Act of 2003" Pub. L. No. 108-173: 91234

~~(1) Adopt rules in accordance with division (B) of this~~ 91235
~~section;~~ 91236

~~(2)~~(A) Assign duties to county departments of job and 91237
family services; 91238

~~(3)~~(B) Make payments to the United States department of 91239
health and human services from appropriations made to the 91240
department of medicaid for this purpose. 91241

~~(B) Rules authorized by division (A) (1) of this section~~ 91242
~~shall be adopted as follows:~~ 91243

~~(1) If the rules concern the department's duties regarding~~ 91244
~~medicaid providers, under sections 5164.02 and 5165.02 of the~~ 91245
~~Revised Code, as appropriate;~~ 91246

~~(2) If the rules concern the department's duties~~ 91247
~~concerning individuals' eligibility for medicaid services, under~~ 91248
~~section 5163.02 of the Revised Code;~~ 91249

~~(3) If the rules concern the department's duties~~ 91250
~~concerning financial and operational matters between the~~ 91251
~~department and county departments of job and family services,~~ 91252
~~under section 5162.02 of the Revised Code.~~ 91253

Sec. 5162.10. The medicaid director may conduct reviews of 91254
the medicaid program. The reviews may include physical 91255

inspections of records and sites where medicaid services are 91256
provided and interviews of medicaid providers and medicaid 91257
recipients. If the director determines pursuant to a review that 91258
a person or government entity has violated a rule governing the 91259
medicaid program, the director may establish a corrective action 91260
plan for the violator and impose fiscal, administrative, or both 91261
types of sanctions on the violator in accordance with ~~rules~~ 91262
~~adopted under section 5162.02 of the Revised Code~~that rule. 91263

Sec. 5162.21. (A) As used in this section and section 91264
5162.211 of the Revised Code: 91265

(1) "Estate" includes both of the following: 91266

(a) All real and personal property and other assets to be 91267
administered under Title XXI of the Revised Code and property 91268
that would be administered under that title if not for section 91269
2113.03 or 2113.031 of the Revised Code; 91270

(b) Any other real and personal property and other assets 91271
in which an individual had any legal title or interest at the 91272
time of death (to the extent of the interest), including assets 91273
conveyed to a survivor, heir, or assign of the individual 91274
through joint tenancy, tenancy in common, survivorship, life 91275
estate, living trust, or other arrangement. 91276

(2) "Institution" means a nursing facility, ICF/IID, or a 91277
medical institution. 91278

(3) "Permanently institutionalized individual" means an 91279
individual to whom all of the following apply: 91280

(a) Is an inpatient in an institution; 91281

(b) Is required, as a condition of the medicaid program 91282
paying for the individual's services in the institution, to 91283

spend for costs of medical or nursing care all of the 91284
individual's income except for an amount for personal needs 91285
specified by the department of medicaid; 91286

(c) Cannot reasonably be expected to be discharged from 91287
the institution and return home as determined by the department 91288
of medicaid. 91289

(4) "Qualified state long-term care insurance partnership 91290
program" means the program established under section 5164.86 of 91291
the Revised Code. 91292

(5) "Time of death" shall not be construed to mean a time 91293
after which a legal title or interest in real or personal 91294
property or other asset may pass by survivorship or other 91295
operation of law due to the death of the decedent or terminate 91296
by reason of the decedent's death. 91297

(B) To the extent permitted by federal law, the department 91298
of medicaid shall institute a medicaid estate recovery program 91299
under which the department shall, except as provided in 91300
divisions (C) and (E) of this section, and subject to division 91301
(D) of this section, do all of the following: 91302

(1) For the costs of medicaid services the medicaid 91303
program correctly paid or will pay on behalf of a permanently 91304
institutionalized individual of any age, seek adjustment or 91305
recovery from the individual's estate or on the sale of property 91306
of the individual or spouse that is subject to a lien imposed 91307
under section 5162.211 of the Revised Code; 91308

(2) For the costs of medicaid services the medicaid 91309
program correctly paid or will pay on behalf of an individual 91310
fifty-five years of age or older who is not a permanently 91311
institutionalized individual, seek adjustment or recovery from 91312

the individual's estate; 91313

(3) Seek adjustment or recovery from the estate of other 91314
individuals as permitted by federal law. 91315

(C) (1) No adjustment or recovery may be made under 91316
division (B) (1) of this section from a permanently 91317
institutionalized individual's estate or on the sale of property 91318
of a permanently institutionalized individual that is subject to 91319
a lien imposed under section 5162.211 of the Revised Code or 91320
under division (B) (2) or (3) of this section from an 91321
individual's estate while either of the following are alive: 91322

(a) The spouse of the permanently institutionalized 91323
individual or individual; 91324

(b) The son or daughter of a permanently institutionalized 91325
individual or individual if the son or daughter is under age 91326
twenty-one or, under the "Social Security Act," section 1614, 42 91327
U.S.C. 1382c, is considered blind or disabled. 91328

(2) No adjustment or recovery may be made under division 91329
(B) (1) of this section from a permanently institutionalized 91330
individual's home that is subject to a lien imposed under 91331
section 5162.211 of the Revised Code while either of the 91332
following lawfully reside in the home: 91333

(a) The permanently institutionalized individual's sibling 91334
who resided in the home for at least one year immediately before 91335
the date of the permanently institutionalized individual's 91336
admission to the institution and on a continuous basis since 91337
that time; 91338

(b) The permanently institutionalized individual's son or 91339
daughter who provided care to the permanently institutionalized 91340
individual that delayed the permanently institutionalized 91341

individual's institutionalization and resided in the home for at least two years immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time.

(D) In the case of a participant of the qualified state long-term care insurance partnership program, adjustment or recovery required by this section may be reduced in accordance with rules authorized by division (G) of this section.

(E) The department shall, in accordance with procedures and criteria established in rules authorized by division (G) of this section, waive seeking an adjustment or recovery otherwise required by this section if the medicaid director determines that adjustment or recovery would work an undue hardship. The department may limit the duration of the waiver to the period during which the undue hardship exists.

(F) For the purpose of determining whether an individual meets the definition of "permanently institutionalized individual" established for this section, a rebuttable presumption exists that the individual cannot reasonably be expected to be discharged from an institution and return home if either of the following is the case:

(1) The individual declares that he or she does not intend to return home.

(2) The individual has been an inpatient in an institution for at least six months.

~~(G) Rules adopted under section 5162.02 of the Revised Code shall~~ The medicaid director shall adopt rules that do both of the following regarding the medicaid estate recovery program:

(1) For the purpose of division (D) of this section and

consistent with the "Social Security Act," section 1917(b)(1) 91371
(C), 42 U.S.C. 1396p(b)(1)(C), provide for reducing an 91372
adjustment or recovery in the case of a participant of the 91373
qualified state long-term care insurance partnership program; 91374

(2) For the purpose of division (E) of this section and 91375
consistent with the standards specified by the United States 91376
secretary of health and human services under the "Social 91377
Security Act," section 1917(b)(3), 42 U.S.C. 1396p(b)(3), 91378
establish procedures and criteria for waiving adjustment or 91379
recovery due to an undue hardship. 91380

Sec. 5162.23. (A) The medicaid director shall adopt rules 91381
~~under section 5162.02 of the Revised Code~~ permitting county 91382
departments of job and family services to take action to recover 91383
benefits incorrectly paid on behalf of medicaid recipients. The 91384
rules shall provide for recovery by the following methods: 91385

(1) Soliciting voluntary payments from recipients or from 91386
persons holding property in which a recipient has a legal or 91387
equitable interest; 91388

(2) Obtaining a lien on property pursuant to division (B) 91389
of this section. 91390

(B) A county department of job and family services may 91391
bring a civil action in a court of common pleas against a 91392
medicaid recipient for the recovery of any medicaid payments 91393
determined by the court to have been paid incorrectly on behalf 91394
of the recipient. All persons holding property in which the 91395
recipient has a legal or equitable interest may be joined as 91396
parties. The court may issue pre-judgment orders, including 91397
injunctive relief or attachment under Chapter 2715. of the 91398
Revised Code, for the preservation of real or personal property 91399

in which the recipient may have a legal or equitable interest. 91400
If the court determines that medicaid payments were made 91401
incorrectly and issues a judgment to that effect, the county 91402
department may obtain a lien upon property of the recipient in 91403
accordance with Chapter 2329. of the Revised Code. 91404

(C) The county department of job and family services shall 91405
retain fifty per cent of the balance remaining after deduction 91406
from the recovery of the amount required to be returned to the 91407
federal government and shall pay the other fifty per cent of the 91408
balance to the department of medicaid. 91409

(D) Recovery of medicaid payments incorrectly made on 91410
behalf of a medicaid recipient may not be accomplished by 91411
reducing the amount of benefits the recipient is entitled to 91412
receive under another government assistance program. 91413

(E) The remedies provided pursuant to this section do not 91414
affect any other remedies county departments of job and family 91415
services may have to recover benefits incorrectly paid on behalf 91416
of medicaid recipients. 91417

Sec. 5162.364. The medicaid director shall adopt rules— 91418
~~under section 5162.02 of the Revised Code as necessary to~~ 91419
~~implement~~ regarding the medicaid school component of the 91420
medicaid program, ~~including rules~~ that establish or specify all 91421
of the following: 91422

(A) Conditions a board of education of a city, local, or 91423
exempted school district, a governing board of an educational 91424
service center, governing authority of a community school 91425
established under Chapter 3314. of the Revised Code, ~~τ~~ and Ohio 91426
deaf and blind education services must meet to participate in 91427
the component; 91428

(B) Services the component covers;	91429
(C) Payment rates for the services the component covers.	91430
The rules shall be adopted in accordance with Chapter 119.	91431
of the Revised Code.	91432
Sec. 5162.41. The department of medicaid may retain or	91433
collect a percentage of the federal financial participation	91434
included in a supplemental medicaid payment to one or more	91435
medicaid providers owned or operated by a state agency or	91436
political subdivision that brings the payment to such provider	91437
or providers to the upper payment limit established by 42 C.F.R.	91438
447.272. If the department retains or collects a percentage of	91439
that federal financial participation, the medicaid director	91440
shall adopt a rule under section 5162.02 of the Revised Code	91441
specifying the percentage the department is to retain or	91442
collect. All amounts the department retains or collects under	91443
this section shall be deposited into the health care/medicaid	91444
support and recoveries fund created under section 5162.52 of the	91445
Revised Code.	91446
Sec. 5162.66. (A) There is hereby created in the state	91447
treasury the residents protection fund. All of the following	91448
shall be deposited into the fund:	91449
(1) The proceeds of all fines, including interest,	91450
collected under sections 5165.60 to 5165.89 of the Revised Code;	91451
(2) The proceeds of all fines, including interest,	91452
collected under section 173.42 of the Revised Code;	91453
(3) The portions of civil money penalties and	91454
corresponding interest that are disbursed on or after July 1,	91455
2017, to the department of medicaid pursuant to 42 C.F.R.	91456
488.845.	91457

(B) (1) Money deposited into the fund pursuant to divisions 91458
(A) (1) and (2) of this section shall be used for all of the 91459
following: 91460

(a) Protection of the health or property of residents of 91461
nursing facilities in which the department of health finds 91462
deficiencies, including payment for the costs of relocation of 91463
residents to other facilities; 91464

(b) Maintenance of operation of a facility pending 91465
correction of deficiencies or closure; 91466

(c) Reimbursement of residents for the loss of money 91467
managed by the facility under section 3721.15 of the Revised 91468
Code; 91469

(d) Provision of funds for costs incurred by a temporary 91470
resident safety assurance manager appointed under section 91471
5165.78 of the Revised Code. 91472

(2) Subject to 42 C.F.R. 488.845(g) (2), money deposited 91473
into the fund pursuant to division (A) (3) of this section shall 91474
be used to improve the quality of medicaid services provided by 91475
medicare-certified home health agencies. 91476

(C) The fund shall be maintained and administered by the 91477
department of medicaid under rules developed in consultation 91478
with the departments of health and aging ~~and adopted under~~ 91479
~~section 5162.02 of the Revised Code.~~ The rules shall be adopted 91480
in accordance with Chapter 119. of the Revised Code. 91481

Sec. 5163.01. As used in this chapter: 91482

"Caretaker relative" has the same meaning as in 42 C.F.R. 91483
435.4 as that regulation is amended effective January 1, 2014. 91484

"Expansion eligibility group" means the medicaid 91485

eligibility group described in section 1902(a)(10)(A)(i)(VIII)	91486
of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(i)	91487
(VIII).	91488
"Federal financial participation" has the same meaning as	91489
in section 5160.01 of the Revised Code.	91490
"Federal poverty line" has the same meaning as in section	91491
5162.01 of the Revised Code.	91492
"Healthy start component" has the same meaning as in	91493
section 5162.01 of the Revised Code.	91494
"Home and community-based services medicaid waiver	91495
component" has the same meaning as in section 5166.01 of the	91496
Revised Code.	91497
"Intermediate care facility for individuals with	91498
intellectual disabilities" and "ICF/IID" have the same meanings	91499
as in section 5124.01 of the Revised Code.	91500
"Mandatory eligibility groups" means the groups of	91501
individuals that must be covered by the medicaid state plan as a	91502
condition of the state receiving federal financial participation	91503
for the medicaid program.	91504
"Medicaid buy-in for workers with disabilities program"	91505
means the component of the medicaid program established under	91506
sections 5163.09 to 5163.098 of the Revised Code.	91507
"Medicaid services" has the same meaning as in section	91508
5164.01 of the Revised Code.	91509
"Medicaid waiver component" has the same meaning as in	91510
section 5166.01 of the Revised Code.	91511
"Nursing facility" and "nursing facility services" have	91512

the same meanings as in section 5165.01 of the Revised Code. 91513

"Optional eligibility groups" means the groups of 91514
individuals who may be covered by the medicaid state plan or a 91515
federal medicaid waiver and for whom the medicaid program 91516
receives federal financial participation. 91517

"Other medicaid-funded long-term care services" has the 91518
meaning specified in rules adopted ~~under section 5163.02 of the~~ 91519
~~Revised Code~~ by the medicaid director. 91520

"Supplemental security income program" means the program 91521
established by Title XVI of the "Social Security Act," 42 U.S.C. 91522
1381 et seq. 91523

Sec. 5163.02. The medicaid director shall adopt rules ~~as~~ 91524
~~necessary to implement this chapter. The rules shall that~~ 91525
establish eligibility requirements for the medicaid program. The 91526
rules may establish requirements for applying for medicaid and 91527
determining and verifying eligibility for medicaid. The rules 91528
shall be adopted in accordance with section 111.15 of the 91529
Revised Code. 91530

~~(~~Notwithstanding any provision of state law, including 91531
statutes, administrative rules, common law, and court rules, 91532
regarding real or personal property or domestic relations, the 91533
standards established under rules adopted under this section 91534
shall be used to determine eligibility for medicaid. 91535

Sec. 5163.063. The medicaid director shall adopt rules 91536
~~under section 5163.02 of the Revised Code as necessary to~~ 91537
provide medicaid coverage for the optional eligibility group 91538
described in section 1902(a)(10)(A)(ii)(XIII) of the "Social 91539
Security Act," 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII). 91540

By requiring the medicaid program to provide coverage to 91541

the optional eligibility group consisting of employed 91542
individuals with disabilities under division (C) of section 91543
5163.06 of the Revised Code, it is the intent of the general 91544
assembly to establish medicaid coverage for employed individuals 91545
with disabilities who are sixty-five years of age or older in a 91546
manner that is consistent with the coverage provided to 91547
individuals participating in the medicaid buy-in for workers 91548
with disabilities program described in sections 5163.09 to 91549
5163.098 of the Revised Code. 91550

Sec. 5163.098. (A) The medicaid director shall adopt rules 91551
~~under section 5163.02 of the Revised Code as necessary to~~ 91552
~~implement the medicaid buy-in for workers with disabilities~~ 91553
~~program. The rules shall that~~ do all of the following regarding 91554
the medicaid buy-in for workers with disabilities program: 91555

(1) Specify assets, asset values, and amounts to be 91556
disregarded in determining asset and income eligibility limits 91557
for the program; 91558

(2) Establish meanings for the terms "earned income," 91559
"health insurance," "resources," "spouse," and "unearned 91560
income"; 91561

(3) Establish additional eligibility requirements for the 91562
program that must be established for the United States secretary 91563
of health and human services to approve the program~~+~~. 91564

(B) The director may adopt rules ~~under section 5163.02 of~~ 91565
~~the Revised Code~~ to specify amounts to be disregarded from an 91566
individual's earned income, unearned income, or both under 91567
division (C) of section 5163.093 of the Revised Code for the 91568
purpose of determining whether the individual is within the 91569
income eligibility limit for the medicaid buy-in for workers 91570

with disabilities program. 91571

Sec. 5163.20. If a medicaid recipient is the beneficiary 91572
of a trust created pursuant to section 5815.28 of the Revised 91573
Code, then, notwithstanding any contrary provision of this 91574
chapter or of a rule adopted under ~~section 5163.02 of the~~ 91575
~~Revised Code~~ it, divisions (C) and (D) of that section shall 91576
apply in determining the assets or resources of the recipient, 91577
the recipient's estate, the settlor, or the settlor's estate and 91578
to claims arising under this chapter against the recipient, the 91579
recipient's estate, the settlor, or the settlor's estate. 91580

Sec. 5163.21. (A) (1) This section applies only to either 91581
of the following: 91582

(a) Initial eligibility determinations for the medicaid 91583
program; 91584

(b) An appeal from an initial eligibility determination 91585
pursuant to section 5160.31 of the Revised Code. 91586

(2) (a) Except as provided in division (A) (2) (b) of this 91587
section, this section shall not be used by a court to determine 91588
the effect of a trust on an individual's initial eligibility for 91589
the medicaid program. 91590

(b) The prohibition in division (A) (2) (a) of this section 91591
does not apply to an appeal described in division (A) (1) (b) of 91592
this section. 91593

(B) As used in this section: 91594

(1) "Trust" means any arrangement in which a grantor 91595
transfers real or personal property to a trust with the 91596
intention that it be held, managed, or administered by at least 91597
one trustee for the benefit of the grantor or beneficiaries. 91598

"Trust" includes any legal instrument or device similar to a trust.	91599 91600
(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:	91601 91602 91603 91604 91605
(a) The property in the trust is held, managed, retained, or administered by a trustee.	91606 91607
(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.	91608 91609 91610
(c) The trustee holds identifiable property for the beneficiary.	91611 91612
(3) "Grantor" is a person who creates a trust, including all of the following:	91613 91614
(a) An individual;	91615
(b) An individual's spouse;	91616
(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;	91617 91618 91619
(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.	91620 91621 91622
(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.	91623 91624
(5) "Trustee" is a person who manages a trust's principal	91625

- and income for the benefit of the beneficiaries. 91626
- (6) "Person" has the same meaning as in section 1.59 of 91627
the Revised Code and includes an individual, corporation, 91628
business trust, estate, trust, partnership, and association. 91629
- (7) "Applicant" is an individual who applies for medicaid 91630
or the individual's spouse. 91631
- (8) "Recipient" is an individual who receives medicaid or 91632
the individual's spouse. 91633
- (9) "Revocable trust" is a trust that can be revoked by 91634
the grantor or the beneficiary, including all of the following, 91635
even if the terms of the trust state that it is irrevocable: 91636
- (a) A trust that provides that the trust can be terminated 91637
only by a court; 91638
- (b) A trust that terminates on the happening of an event, 91639
but only if the event occurs at the direction or control of the 91640
grantor, beneficiary, or trustee. 91641
- (10) "Irrevocable trust" is a trust that cannot be revoked 91642
by the grantor or terminated by a court and that terminates only 91643
on the occurrence of an event outside of the control or 91644
direction of the beneficiary or grantor. 91645
- (11) "Payment" is any disbursal from the principal or 91646
income of the trust, including actual cash, noncash or property 91647
disbursements, or the right to use and occupy real property. 91648
- (12) "Payments to or for the benefit of the applicant or 91649
recipient" is a payment to any person resulting in a direct or 91650
indirect benefit to the applicant or recipient. 91651
- (13) "Testamentary trust" is a trust that is established 91652

by a will and does not take effect until after the death of the 91653
person who created the trust. 91654

(C) (1) If an applicant or recipient is a beneficiary of a 91655
trust, the applicant or recipient shall submit a complete copy 91656
of the trust instrument to the county department of job and 91657
family services and the department of medicaid. A copy shall be 91658
considered complete if it contains all pages of the trust 91659
instrument and all schedules, attachments, and accounting 91660
statements referenced in or associated with the trust. The copy 91661
is confidential and is not subject to disclosure under section 91662
149.43 of the Revised Code. 91663

(2) On receipt of a copy of a trust instrument or 91664
otherwise determining that an applicant or recipient is a 91665
beneficiary of a trust, the county department of job and family 91666
services shall determine what type of trust it is and shall 91667
treat the trust in accordance with the appropriate provisions of 91668
this section and rules adopted ~~under section 5163.02 of the~~ 91669
~~Revised Code~~ by the medicaid director governing trusts. The 91670
county department of job and family services may determine that 91671
any of the following is the case regarding the trust or portion 91672
of the trust: 91673

(a) It is a resource available to the applicant or 91674
recipient; 91675

(b) It contains income available to the applicant or 91676
recipient; 91677

(c) Divisions (C) (2) (a) and (b) of this section are both 91678
applicable; 91679

(d) Neither division (C) (2) (a) nor (b) of this section is 91680
applicable. 91681

(3) Except as provided in division (F) of this section, a trust or portion of a trust that is a resource available to the applicant or recipient or contains income available to the applicant or recipient shall be counted for purposes of determining medicaid eligibility.

(D) (1) A trust or legal instrument or device similar to a trust shall be considered a medicaid qualifying trust if all of the following apply:

(a) The trust was established on or prior to August 10, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient.

(d) The applicant or recipient is or may become the beneficiary of all or part of the trust.

(e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.

(2) If a trust meets the requirement of division (D) (1) of this section, the amount of the trust that is considered by the county department of job and family services to be a resource available to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.

(3) Amounts that are actually distributed from a medicaid 91710
qualifying trust to a beneficiary for any purpose shall be 91711
treated in accordance with rules adopted ~~under section 5163.02~~ 91712
~~of the Revised Code~~ by the medicaid director governing income. 91713

(4) Availability of a medicaid qualifying trust shall be 91714
considered without regard to any of the following: 91715

(a) Whether or not the trust is irrevocable or was 91716
established for purposes other than to enable a grantor to 91717
qualify for medicaid; 91718

(b) Whether or not the trustee actually exercises 91719
discretion. 91720

(5) If any real or personal property is transferred to a 91721
medicaid qualifying trust that is not distributable to the 91722
applicant or recipient, the transfer shall be considered an 91723
improper disposition of assets and shall be subject to section 91724
5163.30 of the Revised Code ~~and rules to implement that section~~ 91725
~~adopted under section 5163.02 of the Revised Code.~~ 91726

(6) The baseline date for the look-back period for 91727
disposition of assets involving a medicaid qualifying trust 91728
shall be the date on which the applicant or recipient is both 91729
institutionalized and first applies for medicaid. 91730

(E) (1) A trust or legal instrument or device similar to a 91731
trust shall be considered a self-settled trust if all of the 91732
following apply: 91733

(a) The trust was established on or after August 11, 1993. 91734

(b) The trust was not established by a will. 91735

(c) The trust was established by an applicant or 91736
recipient, spouse of an applicant or recipient, or a person, 91737

including a court or administrative body, with legal authority 91738
to act in place of or on behalf of an applicant, recipient, or 91739
spouse, or acting at the direction or on request of an 91740
applicant, recipient, or spouse. 91741

(2) A trust that meets the requirements of division (E) (1) 91742
of this section and is a revocable trust shall be treated by the 91743
county department of job and family services as follows: 91744

(a) The corpus of the trust shall be considered a resource 91745
available to the applicant or recipient. 91746

(b) Payments from the trust to or for the benefit of the 91747
applicant or recipient shall be considered unearned income of 91748
the applicant or recipient. 91749

(c) Any other payments from the trust shall be considered 91750
an improper disposition of assets and shall be subject to 91751
section 5163.30 of the Revised Code ~~and rules to implement that~~ 91752
~~section adopted under section 5163.02 of the Revised Code.~~ 91753

(3) A trust that meets the requirements of division (E) (1) 91754
of this section and is an irrevocable trust shall be treated by 91755
the county department of job and family services as follows: 91756

(a) If there are any circumstances under which payment 91757
from the trust could be made to or for the benefit of the 91758
applicant or recipient, including a payment that can be made 91759
only in the future, the portion from which payments could be 91760
made shall be considered a resource available to the applicant 91761
or recipient. The county department of job and family services 91762
shall not take into account when payments can be made. 91763

(b) Any payment that is actually made to or for the 91764
benefit of the applicant or recipient from either the corpus or 91765
income shall be considered unearned income. 91766

(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper disposition of assets and shall be subject to section 5163.30 of the Revised Code and rules to implement that section adopted under section 5163.02 of the Revised Code.

(d) The date of the disposition shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

(e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of assets after the foreclosure date shall be considered a separate disposition.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted ~~under section 5163.02 of the Revised Code by the medicaid director~~ governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;	91796
(b) Whether the trustees have exercised or may exercise discretion under the trust;	91797 91798
(c) Any restrictions on when or whether distributions may be made from the trust;	91799 91800
(d) Any restrictions on the use of distributions from the trust.	91801 91802
(6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.	91803 91804 91805 91806
(F) The principal or income from any of the following shall not be a resource available to the applicant or recipient:	91807 91808
(1) (a) A special needs trust that meets all of the following requirements:	91809 91810
(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals.	91811 91812 91813
(ii) The applicant or recipient is disabled as defined in rules adopted under section 5163.02 of the Revised Code <u>by the medicaid director</u> .	91814 91815 91816
(iii) The trust is established for the benefit of the applicant or recipient by any of the following: the applicant or recipient, if established on or after December 13, 2016; a parent, grandparent, or legal guardian of the applicant or recipient; or a court.	91817 91818 91819 91820 91821
(iv) The trust requires that on the death of the applicant	91822

or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the applicant or recipient.

(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient continues to be disabled as defined in rules adopted ~~under section 5163.02 of the Revised Code~~ by the medicaid director. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper disposition of assets.

(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted under section 5163.02 of the Revised Code governing in-kind income.

(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. An asset held prior to the transfer to the trust shall be considered as a resource available to the applicant or recipient, income available to the applicant or recipient, or both a resource and income available to the individual.

(2)(a) A qualifying income trust that meets all of the following requirements:

(i) The trust is composed only of pension, social security, and other income to the applicant or recipient, including accumulated interest in the trust.

(ii) The income is received by the individual and the right to receive the income is not assigned or transferred to the trust.

(iii) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the applicant or recipient.

(b) No resources shall be used to establish or augment the trust.

(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust shall not be considered a qualifying income trust by the county department of job and family services.

(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medicaid. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or recipient's eligibility for medicaid. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient.

(e) All income placed in a qualifying income trust shall be combined with any income available to the individual that is not placed in the trust to arrive at a base income figure to be

used for spend down calculations. 91882

(f) The base income figure shall be used for post- 91883
eligibility deductions, including personal needs allowance, 91884
monthly income allowance, family allowance, and medical expenses 91885
not subject to third party payment. Any income remaining shall 91886
be used toward payment of patient liability. Payments made from 91887
a qualifying income trust shall not be combined with the base 91888
income figure for post-eligibility calculations. 91889

(g) The base income figure shall be used when determining 91890
the spend down budget for the applicant or recipient. Any income 91891
remaining after allowable deductions are permitted as provided 91892
under rules adopted under section 5163.02 of the Revised Code 91893
shall be considered the applicant's or recipient's spend down 91894
liability. 91895

(3) (a) A pooled trust that meets all of the following 91896
requirements: 91897

(i) The trust contains the assets of the applicant or 91898
recipient of any age who is disabled as defined in rules adopted 91899
~~under section 5163.02 of the Revised Code~~ by the medicaid 91900
director. 91901

(ii) The trust is established and managed by a nonprofit 91902
organization. 91903

(iii) A separate account is maintained for each 91904
beneficiary of the trust but, for purposes of investment and 91905
management of funds, the trust pools the funds in these 91906
accounts. 91907

(iv) Accounts in the trust are established by the 91908
applicant or recipient, the applicant's or recipient's parent, 91909
grandparent, or legal guardian, or a court solely for the 91910

benefit of individuals who are disabled. 91911

(v) The trust requires that, to the extent that any 91912
amounts remaining in the beneficiary's account on the death of 91913
the beneficiary are not retained by the trust, the trust pay to 91914
the state the amounts remaining in the trust up to an amount 91915
equal to the total amount of medicaid payments made on behalf of 91916
the beneficiary. 91917

(b) Cash distributions to the applicant or recipient shall 91918
be counted as unearned income. All other distributions from the 91919
trust shall be treated as provided in rules adopted ~~under~~ 91920
~~section 5163.02 of the Revised Code~~ by the medicaid director 91921
governing in-kind income. 91922

(c) Transfers of assets to a pooled trust shall not be 91923
treated as an improper disposition of assets. An asset held 91924
prior to the transfer to the trust shall be considered as a 91925
resource available to the applicant or recipient, income 91926
available to the applicant or recipient, or both a resource and 91927
income available to the applicant or recipient. 91928

(4) A supplemental services trust that meets the 91929
requirements of section 5815.28 of the Revised Code and to which 91930
all of the following apply: 91931

(a) A person may establish a supplemental services trust 91932
pursuant to section 5815.28 of the Revised Code only for another 91933
person who is eligible to receive services through one of the 91934
following agencies: 91935

(i) The department of developmental disabilities; 91936

(ii) A county board of developmental disabilities; 91937

(iii) The department of mental health and addiction 91938

services; 91939

(iv) A board of alcohol, drug addiction, and mental health services. 91940
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(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following: 91942
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(i) Provide documentation from one of the agencies listed in division (F) (4) (a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust; 91945
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(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (F) (4) (a) of this section at the time of the creation of the trust. 91950
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(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2006 is two hundred twenty-two thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars. 91955
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(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 5815.28 of the Revised Code. 91960
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(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted under section 5163.02 of the Revised Code. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments 91963
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to the beneficiary. 91968

(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (F)(4) of this section and section 5815.28 of the Revised Code, the county department of job and family services shall not consider it an exempt trust. 91969
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(G)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the applicant or recipient if all of the following apply: 91975
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(a) The trust is created by a person other than the applicant or recipient. 91979
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(b) The trust names the applicant or recipient as a beneficiary. 91981
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(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust. 91983
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(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be a resource available to the applicant or recipient only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes. 91986
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(3) A trust that meets the requirements of division (G)(1) of this section shall be considered a resource available to the applicant or recipient even if the trust contains any of the following types of provisions: 91993
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(a) A provision that prohibits the trustee from making payments that would supplant or replace medicaid or other public assistance;	91997 91998 91999
(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medicaid or other public assistance;	92000 92001 92002 92003
(c) A provision that attempts to prevent the trust or its corpus or principal from being a resource available to the applicant or recipient.	92004 92005 92006
(4) A trust that meets the requirements of division (G) (1) of this section shall not be counted as a resource available to the applicant or recipient if at least one of the following circumstances applies:	92007 92008 92009 92010
(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as a resource available to the applicant or recipient. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.	92011 92012 92013 92014 92015 92016 92017
(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as a resource available to the applicant or recipient. Terms of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the	92018 92019 92020 92021 92022 92023 92024 92025

trust for a particular purpose. 92026

(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments, the trust shall not be counted as a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted under section 5163.02 of the Revised Code governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments. 92027
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(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as a resource available to the applicant or recipient, the trust shall not be counted as such. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust. 92035
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(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource available to the applicant or recipient. 92041
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(f) If a trust is specifically exempt from being counted as a resource available to the applicant or recipient by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as such. 92048
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(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel 92052
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payments from the trust, the trust shall not be counted as a 92055
resource available to the applicant or recipient. 92056

(h) If an applicant or recipient presents a final judgment 92057
from a court demonstrating that in a civil action against the 92058
trustee the applicant or recipient was only able to compel 92059
limited or periodic payments, the trust shall not be counted as 92060
a resource available to the applicant or recipient and payments 92061
shall be treated in accordance with rules adopted ~~under section~~ 92062
~~5163.02 of the Revised Code~~ by the medicaid director governing 92063
income. 92064

(i) If an applicant or recipient provides written 92065
documentation showing that the cost of a civil action brought to 92066
compel payments from the trust would be cost prohibitive, the 92067
trust shall not be counted as a resource available to the 92068
applicant or recipient. 92069

(5) Any actual payments to the applicant or recipient from 92070
a trust that meet the requirements of division (G) (1) of this 92071
section, including trusts that are not counted as a resource 92072
available to the applicant or recipient, shall be treated as 92073
provided in rules adopted ~~under section 5163.02 of the Revised~~ 92074
~~Code~~ by the medicaid director governing income. Payments to any 92075
person other than the applicant or recipient shall not be 92076
considered income to the applicant or recipient. Payments from 92077
the trust to a person other than the applicant or recipient 92078
shall not be considered an improper disposition of assets. 92079

Sec. 5163.30. (A) As used in this section: 92080

(1) "Assets" include all of an individual's income and 92081
resources and those of the individual's spouse, including any 92082
income or resources the individual or spouse is entitled to but 92083

does not receive because of action by any of the following: 92084

(a) The individual or spouse; 92085

(b) A person or government entity, including a court or 92086
administrative agency, with legal authority to act in place of 92087
or on behalf of the individual or spouse; 92088

(c) A person or government entity, including a court or 92089
administrative agency, acting at the direction or on the request 92090
of the individual or spouse. 92091

(2) "Home and community-based services" means home and 92092
community-based services furnished under a medicaid waiver 92093
granted by the United States secretary of health and human 92094
services under the "Social Security Act," section 1915(c) or 92095
(d), 42 U.S.C. 1396n(c) or (d). 92096

(3) "Institutionalized individual" means a resident of a 92097
nursing facility, an inpatient in a medical institution for whom 92098
a payment is made based on a level of care provided in a nursing 92099
facility, or an individual described in the "Social Security 92100
Act," section 1902(a)(10)(A)(ii)(VI), 42 U.S.C. 1396a(a)(10)(A) 92101
(ii)(VI). 92102

(4) "Look-back date" means the date that is a number of 92103
months specified in rules adopted ~~under section 5163.02 of the~~ 92104
~~Revised Code~~ by the medicaid director immediately before either 92105
of the following: 92106

(a) The date an individual becomes an institutionalized 92107
individual if the individual is eligible for medicaid on that 92108
date; 92109

(b) The date an individual applies for medicaid while an 92110
institutionalized individual. 92111

(5) "Nursing facility equivalent services" means services 92112
that are covered by the medicaid program, equivalent to nursing 92113
facility services, provided by an institution that provides the 92114
same level of care as a nursing facility, and provided to an 92115
inpatient of the institution who is a medicaid recipient 92116
eligible for medicaid-covered nursing facility equivalent 92117
services. 92118

(6) "Undue hardship" means being deprived of either of the 92119
following: 92120

(a) Medical care such that an individual's health or life 92121
is endangered; 92122

(b) Food, clothing, shelter, or other necessities of life. 92123

(B) Except as provided in division (C) of this section and 92124
rules adopted ~~under section 5163.02 of the Revised Code~~ by the 92125
medicaid director, an institutionalized individual is ineligible 92126
for nursing facility services, nursing facility equivalent 92127
services, and home and community-based services if the 92128
individual or individual's spouse disposes of assets for less 92129
than fair market value on or after the look-back date. The 92130
institutionalized individual's ineligibility shall begin on a 92131
date determined in accordance with rules adopted ~~under section~~ 92132
~~5163.02 of the Revised Code~~ by the medicaid director and shall 92133
continue for a number of months determined in accordance with 92134
such rules. 92135

(C) (1) An institutionalized individual may be granted a 92136
waiver of all or a portion of the period of ineligibility to 92137
which the individual would otherwise be subjected under division 92138
(B) of this section if the ineligibility would cause an undue 92139
hardship for the individual. 92140

(2) An institutionalized individual may be granted a waiver of all or a portion of the period of ineligibility if the administrator of the nursing facility in which the individual resides has notified the individual of a proposed transfer or discharge under section 3721.16 of the Revised Code due to failure to pay for the care the nursing facility has provided to the individual, the individual or the individual's sponsor requests a hearing on the proposed transfer or discharge in accordance with section 3721.161 of the Revised Code, and the transfer or discharge is upheld by a final determination that is not subject to further appeal.

(3) An institutionalized individual may be granted a waiver of all of the period of ineligibility if all of the assets that were disposed of for less than fair market value are returned to the individual or individual's spouse or if the individual or individual's spouse receives cash or other personal or real property that equals the difference between what the individual or individual's spouse received for the assets and the fair market value of the assets. Except as provided in division (C) (1) or (2) of this section, no waiver of any part of the period of ineligibility shall be granted if the amount the individual or individual's spouse receives is less than the difference between what the individual or individual's spouse received for the assets and the fair market value of the assets.

(4) Waivers shall be granted in accordance with rules adopted ~~under section 5163.02 of the Revised Code~~ by the medicaid director.

(D) To secure compliance with this section, the medicaid director may require an individual, as a condition of initial or

continued eligibility for medicaid, to provide documentation of 92171
the individual's assets up to five years before the date the 92172
individual becomes an institutionalized individual if the 92173
individual is eligible for medicaid on that date or the date the 92174
individual applies for medicaid while an institutionalized 92175
individual. Documentation may include tax returns, records from 92176
financial institutions, and real property records. 92177

Sec. 5163.31. (A) Except as provided by division (A) of 92178
this section and for the purpose of determining whether an aged, 92179
blind, or disabled individual is eligible for nursing facility 92180
services, ICF/IID services, or other medicaid-funded long-term 92181
care services, the medicaid director may consider an aged, 92182
blind, or disabled individual's real property to not be the 92183
individual's homestead or principal place of residence once the 92184
individual has resided in a nursing facility, ICF/IID, or other 92185
medical institution for at least thirteen months. 92186

(B) Division (A) of this section does not apply to an 92187
individual if any of the following reside in the individual's 92188
real property that, because of this division, continues to be 92189
considered the individual's homestead or principal place of 92190
residence: 92191

(1) The individual's spouse; 92192

(2) The individual's child if any of the following apply: 92193

(a) The child is under twenty-one years of age. 92194

(b) The child is considered blind or disabled under the 92195
"Social Security Act," section 1614, 42 U.S.C. 1382c. 92196

(c) The child is financially dependent on the individual 92197
for housing as determined in accordance with rules adopted ~~under~~ 92198
~~section 5163.02 of the Revised Code~~ by the medicaid director. 92199

(3) The individual's sibling if the sibling has a verified equity interest in the real property and resided in the real property for at least one year immediately before the date the individual was admitted to the nursing facility, ICF/IID, or other medical institution.

Sec. 5164.02. (A) The medicaid director shall adopt rules ~~as necessary to implement this chapter. The rules shall be adopted~~ in accordance with Chapter 119. of the Revised Code-

~~(B) The rules shall~~ that establish all of the following:

(1) The amount, duration, and scope of the medicaid services covered by the medicaid program;

(2) The medicaid payment rate for each medicaid service or, in lieu of the rate, the method by which the rate is to be determined for each medicaid service;

(3) Procedures for enforcing the rules adopted under this section that provide due process protections, including procedures for corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules.

~~(C)~~ (B) The rules may be different for different medicaid services.

~~(D)~~ (C) The medicaid director is not required to adopt a rule establishing the medicaid payment rate for a medicaid service if the director adopts a rule establishing the method by which the rate is to be determined for the medicaid service and makes the rate available on the internet web site maintained by the department of medicaid.

Sec. 5164.061. (A) As used in this section:

(1) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code, but does not include a dentist, optometrist, or veterinarian.

(2) "Prior authorization requirement" means any practice in which coverage of a health care service, device, or drug is dependent upon a recipient or health care practitioner obtaining approval from the medicaid program prior to the service, device, or drug being performed, received, or prescribed, as applicable.

(B)(1) The medicaid program shall cover evaluation and management services provided by a chiropractor if the chiropractor is licensed to practice chiropractic under Chapter 4734. of the Revised Code.

~~(2) The medicaid director may adopt rules under section 5164.02 of the Revised Code to cover other services provided by a chiropractor under the medicaid program.~~

~~(3) With respect to the coverage described in this section, all of the following apply:~~

(a) A chiropractor may provide covered services in any location, including a hospital or nursing facility.

(b) The medicaid program shall not impose a prior authorization requirement on covered services.

(c) The medicaid program shall not make coverage contingent upon the medicaid recipient first receiving a referral, prescription, or treatment from a prescriber.

(C) If a service described in this section could be provided by either a chiropractor licensed under Chapter 4734. of the Revised Code or a licensed health professional other than a chiropractor, the medicaid program shall pay the chiropractor

the same amount for the service that it pays the licensed health professional. 92256
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Sec. 5164.071. (A) As used in this section, "doula" has 92258
the same meaning as in section 4723.89 of the Revised Code. 92259

(B) The medicaid program shall cover doula services that 92260
are provided by a doula if the doula has a valid provider 92261
agreement and is certified under section 4723.89 of the Revised 92262
Code. Medicaid payments for doula services shall be determined 92263
on the basis of each pregnancy, regardless of whether multiple 92264
births occur as a result of that pregnancy. 92265

(C) Any provider outcome measurements or incentives the 92266
department of medicaid implements for the medicaid coverage of 92267
doula services shall be consistent with this state's medicare- 92268
medicaid plan quality withhold provider or managed care plan 92269
methodology and benchmarks. 92270

(D) The medicaid director shall adopt rules ~~under section~~ 92271
~~5164.02 of the Revised Code to implement this section~~ regarding 92272
the medicaid program's coverage of doula services. 92273

Sec. 5164.072. (A) As used in this section, "licensed 92274
health professional" means the following: 92275

(1) A physician authorized under Chapter 4731. of the 92276
Revised Code to practice medicine and surgery or osteopathic 92277
medicine and surgery; 92278

(2) An advanced practice registered nurse who holds a 92279
current, valid license issued under Chapter 4723. of the Revised 92280
Code that authorizes the practice of nursing as an advanced 92281
practice registered nurse and is designated as a clinical 92282
specialist, certified nurse-midwife, or certified nurse 92283
practitioner; 92284

(3) A physician assistant licensed under Chapter 4730. of the Revised Code. 92285
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(B) The medicaid program shall cover pasteurized human donor milk and human milk fortifiers, in both hospital and home settings, for an infant whose gestationally corrected age is less than twelve months when all of the following apply: 92287
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(1) A licensed health professional signs an order stating that human donor milk or human milk fortifiers are medically necessary because the infant meets any of the following criteria: 92291
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(a) The infant has a birth weight less than eighteen hundred grams or body weight below healthy levels. 92295
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(b) The infant has a gestational age at birth of thirty-four weeks or less. 92297
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(c) The infant has any congenital or acquired condition for which the health professional determines that the use of pasteurized human donor milk or human milk fortifiers will support the treatment of the condition and recovery of the infant. 92299
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(2) The infant is medically or physically unable to receive maternal breast milk or participate in breast-feeding, or the infant's mother is medically or physically unable to produce breast milk in sufficient quantities or of adequate caloric density, despite lactation support. 92304
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(C) The medicaid director may adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement this section~~ regarding the medicaid program's coverage of pasteurized human donor milk and human milk fortifiers for certain infants whose gestationally corrected age is less than twelve months. 92309
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Sec. 5164.092. (A) Except as provided in division (B) of 92314
this section, the medicaid program shall cover remote ultrasound 92315
procedures and remote fetal nonstress tests, utilizing 92316
established current procedural terminology codes (CPT codes) for 92317
those procedures for when the patient is in a residence or other 92318
off-site location from the patient's medicaid provider. 92319

(B) The coverage under division (A) of this section 92320
applies only under the following circumstances: 92321

(1) The medicaid provider responsible for the procedure 92322
uses digital technology that meets both of the following 92323
criteria: 92324

(a) The technology is used only to collect medical and 92325
other data from a patient and electronically transmit that data 92326
securely to a health care provider in a different location for 92327
that provider's examination of the data; 92328

(b) The technology has been approved by the United States 92329
food and drug administration for remote data acquisition, if 92330
required under federal law. 92331

(2) For remote fetal nonstress tests, the CPT code 92332
includes a place of service modifier for at home monitoring 92333
using remote monitoring solutions that are cleared by the United 92334
States food and drug administration for monitoring fetal heart 92335
rate, maternal heart rate, and uterine activity. 92336

(C) ~~The department medicaid director shall adopt rules as~~ 92337
~~necessary to implement this section regarding the medicaid~~ 92338
program's coverage of remote ultrasound procedures and remote 92339
fetal nonstress tests. 92340

Sec. 5164.16. The medicaid program may cover one or more 92341
state plan home and community-based services that the department 92342

of medicaid selects for coverage. A medicaid recipient of any 92343
age may receive a state plan home and community-based service if 92344
the recipient has countable income not exceeding two hundred 92345
twenty-five per cent of the federal poverty line, and has a 92346
medical need for the service, ~~and meets all other eligibility~~ 92347
~~requirements for the service specified in rules adopted under~~ 92348
~~section 5164.02 of the Revised Code. The rules may not require a~~ 92349
~~medicaid recipient to undergo a level of care determination to~~ 92350
~~be eligible for a state plan home and community-based service.~~ 92351

Sec. 5164.291. The department of medicaid shall establish 92352
a credentialing program that includes a credentialing committee 92353
to review the competence, professional conduct, and quality of 92354
care provided by medicaid providers. 92355

Any activities performed by the credentialing committee 92356
shall be considered activities of a peer review committee of a 92357
health care entity and shall be subject to sections 2305.25 to 92358
2305.253 of the Revised Code. 92359

The medicaid director may adopt rules ~~under section~~ 92360
~~5164.02 of the Revised Code as necessary to implement this~~ 92361
~~section~~ establish a credentialing program. Any rules adopted 92362
shall be consistent with the requirements that apply to medicare 92363
advantage organizations under 42 C.F.R. 422.204. 92364

Sec. 5164.31. (A) For the purpose of raising funds 92365
necessary to pay the expenses of implementing the provider 92366
screening requirements of subpart E of 42 C.F.R. Part 455 and 92367
except as provided in division (B) of this section, the 92368
department of medicaid shall collect an application fee from a 92369
medicaid provider before doing any of the following: 92370

(1) Entering into a provider agreement with a medicaid 92371

provider that seeks initial enrollment as a provider; 92372

(2) Entering into a provider agreement with a former 92373
medicaid provider that seeks re-enrollment as a provider; 92374

(3) Revalidating a medicaid provider's continued 92375
enrollment as a provider. 92376

(B) The department is not to collect an application fee 92377
from a medicaid provider that is exempt from paying the fee 92378
under 42 C.F.R. 455.460(a). 92379

(C) The application fees shall be deposited into the 92380
health care/medicaid support and recoveries fund created under 92381
section 5162.52 of the Revised Code. Application fees are 92382
nonrefundable when collected in accordance with 42 C.F.R. 92383
455.460(a). 92384

(D) The medicaid director shall adopt rules ~~under section~~ 92385
~~5164.02 of the Revised Code as necessary to implement this~~ 92386
~~section, including a rule~~ establishing the amount of the 92387
application fee to be collected under this section. The amount 92388
of the application fee shall not be set at an amount that is 92389
more than necessary to pay for the expenses of implementing the 92390
provider screening requirements. 92391

Sec. 5164.32. (A) Each medicaid provider agreement shall 92392
expire not later than five years from its effective date. If a 92393
provider agreement entered into before ~~the effective date of~~ 92394
~~this amendment~~September 29, 2013, does not have a time limit, 92395
the department of medicaid shall convert the agreement to a 92396
provider agreement with a time limit. 92397

(B) The medicaid director shall adopt rules ~~under section~~ 92398
~~5164.02 of the Revised Code as necessary to implement this~~ 92399
~~section. The rules shall be~~ that are consistent with subpart E 92400

of 42 C.F.R. Part 455 ~~and include~~ to establish a process for 92401
revalidating medicaid providers' continued enrollments as 92402
providers. All of the following apply to the revalidation 92403
process: 92404

(1) The department shall refuse to revalidate a provider's 92405
provider agreement when the provider fails to file a complete 92406
application for revalidation within the time and in the manner 92407
required under the revalidation process. 92408

(2) If a provider files a complete application for 92409
revalidation within the time and in the manner required under 92410
the revalidation process, but the provider agreement expires 92411
before the department acts on the application or before the 92412
effective date of the department's decision on the application, 92413
the provider, subject to division (B)(3) of this section, may 92414
continue operating under the terms of the expired provider 92415
agreement until the effective date of the department's decision. 92416

(3) If a provider continues operating under the terms of 92417
an expired provider agreement pursuant to division (B)(2) of 92418
this section and the department denies the provider's 92419
application for revalidation, medicaid payments shall not be 92420
made for services or items the provider provides during the 92421
period beginning on the date the provider agreement expired and 92422
ending on the effective date of a subsequent provider agreement, 92423
if any, the department enters into with the provider. 92424

Sec. 5164.33. (A) The medicaid director may do the 92425
following for any reason permitted or required by federal law 92426
and when the director determines that the action is in the best 92427
interests of medicaid recipients or the state: 92428

(1) Deny, refuse to revalidate, suspend, or terminate a 92429

provider agreement;	92430
(2) Exclude an individual, provider of services or goods, or other entity from participation in the medicaid program.	92431 92432
(B) No individual, provider, or entity excluded from participation in the medicaid program under this section shall do any of the following:	92433 92434 92435
(1) Own, or provide services to, any other medicaid provider or risk contractor;	92436 92437
(2) Arrange for, render, or order services for medicaid recipients during the period of exclusion;	92438 92439
(3) During the period of exclusion, receive direct payments under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any other medicaid provider or risk contractor.	92440 92441 92442 92443 92444
(C) An individual, provider, or entity excluded from participation in the medicaid program under this section may request a reconsideration of the exclusion. The director shall adopt rules under section 5164.02 of the Revised Code governing the process for requesting a reconsideration.	92445 92446 92447 92448 92449
(D) Nothing in this section limits the applicability of section 5164.38 of the Revised Code to a medicaid provider.	92450 92451
Sec. 5164.34. (A) As used in this section:	92452
(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	92453 92454
(2) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section	92455 92456

109.572 of the Revised Code.	92457
(3) "Owner" means a person who has an ownership interest in a medicaid provider in an amount designated in rules authorized by this section.	92458 92459 92460
(4) "Person subject to the criminal records check requirement" means the following:	92461 92462
(a) A medicaid provider who is notified under division (E) (1) of this section that the provider is subject to a criminal records check;	92463 92464 92465
(b) An owner or prospective owner, officer or prospective officer, or board member or prospective board member of a medicaid provider if, pursuant to division (E) (1) (a) of this section, the owner or prospective owner, officer or prospective officer, or board member or prospective board member is specified in information given to the provider under division (E) (1) of this section;	92466 92467 92468 92469 92470 92471 92472
(c) An employee or prospective employee of a medicaid provider if both of the following apply:	92473 92474
(i) The employee or prospective employee is specified, pursuant to division (E) (1) (b) of this section, in information given to the provider under division (E) (1) of this section.	92475 92476 92477
(ii) The provider is not prohibited by division (D) (3) (b) of this section from employing the employee or prospective employee.	92478 92479 92480
(5) "Responsible entity" means the following:	92481
(a) With respect to a criminal records check required under this section for a medicaid provider, the department of medicaid or the department's designee;	92482 92483 92484

(b) With respect to a criminal records check required 92485
under this section for an owner or prospective owner, officer or 92486
prospective officer, board member or prospective board member, 92487
or employee or prospective employee of a medicaid provider, the 92488
provider. 92489

(B) This section does not apply to any of the following: 92490

(1) An individual who is subject to a criminal records 92491
check under section 3712.09, 3721.121, 5123.081, or 5123.169 of 92492
the Revised Code; 92493

(2) An individual who is subject to a database review or 92494
criminal records check under section 173.38, 173.381, 3740.11, 92495
or 5164.342 of the Revised Code; 92496

(3) An individual who is an applicant or independent 92497
provider, both as defined in section 5164.341 of the Revised 92498
Code. 92499

(C) The department of medicaid may do any of the 92500
following: 92501

(1) Require that any medicaid provider submit to a 92502
criminal records check as a condition of obtaining or 92503
maintaining a provider agreement; 92504

(2) Require that any medicaid provider require an owner or 92505
prospective owner, officer or prospective officer, or board 92506
member or prospective board member of the provider submit to a 92507
criminal records check as a condition of being an owner, 92508
officer, or board member of the provider; 92509

(3) Require that any medicaid provider do the following: 92510

(a) If so required by rules authorized by this section, 92511
determine pursuant to a database review conducted under division 92512

(F) (1) (a) of this section whether any employee or prospective employee of the provider is included in a database; 92513
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(b) Unless the provider is prohibited by division (D) (3) 92515
(b) of this section from employing the employee or prospective employee, require the employee or prospective employee to submit to a criminal records check as a condition of being an employee of the provider. 92516
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(D) (1) The department or the department's designee shall deny or terminate a medicaid provider's provider agreement if the provider is a person subject to the criminal records check requirement and either of the following applies: 92520
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(a) The provider fails to obtain the criminal records check after being given the information specified in division (G) (1) of this section. 92524
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(b) Except as provided in rules authorized by this section, the provider is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea. 92527
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(2) No medicaid provider shall permit a person to be an owner, officer, or board member of the provider if the person is a person subject to the criminal records check requirement and either of the following applies: 92532
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(a) The person fails to obtain the criminal records check after being given the information specified in division (G) (1) of this section. 92536
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(b) Except as provided in rules authorized by this section, the person is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying 92539
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offense, regardless of the date of the conviction or the date of entry of the guilty plea. 92542
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(3) Except as provided in division (I) of this section, no medicaid provider shall employ a person if any of the following apply: 92544
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(a) The person has been excluded from being a medicaid provider, a medicare provider, or provider for any other federal health care program. 92547
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(b) If the person is subject to a database review conducted under division (F) (1) (a) of this section, the person is found by the database review to be included in a database and the rules authorized by this section regarding the database review prohibit the provider from employing a person included in the database. 92550
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(c) If the person is a person subject to the criminal records check requirement, either of the following applies: 92556
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(i) The person fails to obtain the criminal records check after being given the information specified in division (G) (1) of this section. 92558
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(ii) Except as provided in rules authorized by this section, the person is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea. 92561
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(E) (1) The department or the department's designee shall inform each medicaid provider whether the provider is subject to a criminal records check. For providers with valid provider agreements, the information shall be given at times designated in rules authorized by this section. For providers applying to 92566
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be medicaid providers, the information shall be given at the 92571
time of initial application. When the information is given, the 92572
department or the department's designee shall specify the 92573
following: 92574

(a) Which of the provider's owners or prospective owners, 92575
officers or prospective officers, or board members or 92576
prospective board members are subject to a criminal records 92577
check; 92578

(b) Which of the provider's employees or prospective 92579
employees are subject to division (C) (3) of this section. 92580

(2) At times designated in rules authorized by this 92581
section, a medicaid provider that is a person subject to the 92582
criminal records check requirement shall do the following: 92583

(a) Inform each person specified under division (E) (1) (a) 92584
of this section that the person is required to submit to a 92585
criminal records check as a condition of being an owner, 92586
officer, or board member of the provider; 92587

(b) Inform each person specified under division (E) (1) (b) 92588
of this section that the person is subject to division (C) (3) of 92589
this section. 92590

(F) (1) If a medicaid provider is a person subject to the 92591
criminal records check requirement, the department or the 92592
department's designee shall require the conduct of a criminal 92593
records check by the superintendent of the bureau of criminal 92594
identification and investigation. A medicaid provider shall 92595
require the conduct of a criminal records check by the 92596
superintendent with respect to each of the persons specified 92597
under division (E) (1) (a) of this section. With respect to each 92598
employee and prospective employee specified under division (E) 92599

(1) (b) of this section, a medicaid provider shall do the following: 92600
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(a) If rules authorized by this section require the provider to conduct a database review to determine whether the employee or prospective employee is included in a database, conduct the database review in accordance with the rules; 92602
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(b) Unless the provider is prohibited by division (D) (3) (b) of this section from employing the employee or prospective employee, require the conduct of a criminal records check of the employee or prospective employee by the superintendent. 92606
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(2) If a person subject to the criminal records check requirement does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the person from the federal bureau of investigation in a criminal records check, the responsible entity shall require the person to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the person. Even if the person presents proof of having been a resident of this state for the five-year period, the responsible entity may require that the person request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the person. 92610
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(G) Criminal records checks required by this section shall be obtained as follows: 92626
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(1) The responsible entity shall provide each person 92628

subject to the criminal records check requirement information 92629
about accessing and completing the form prescribed pursuant to 92630
division (C) (1) of section 109.572 of the Revised Code and the 92631
standard impression sheet prescribed pursuant to division (C) (2) 92632
of that section. 92633

(2) The person subject to the criminal records check 92634
requirement shall submit the required form and one complete set 92635
of the person's fingerprint impressions directly to the 92636
superintendent for purposes of conducting the criminal records 92637
check using the applicable methods prescribed by division (C) of 92638
section 109.572 of the Revised Code. The person shall pay all 92639
fees associated with obtaining the criminal records check. 92640

(3) The superintendent shall conduct the criminal records 92641
check in accordance with section 109.572 of the Revised Code. 92642
The person subject to the criminal records check requirement 92643
shall instruct the superintendent to submit the report of the 92644
criminal records check directly to the responsible entity. If 92645
the department or the department's designee is not the 92646
responsible entity, the department or designee may require the 92647
responsible entity to submit the report to the department or 92648
designee. 92649

(H) (1) A medicaid provider may employ conditionally a 92650
person for whom a criminal records check is required by this 92651
section prior to obtaining the results of the criminal records 92652
check if both of the following apply: 92653

(a) The provider is not prohibited by division (D) (3) (b) 92654
of this section from employing the person. 92655

(b) The person submits a request for the criminal records 92656
check not later than five business days after the person begins 92657

conditional employment. 92658

(2) Except as provided in division (I) of this section, a 92659
medicaid provider that employs a person conditionally under 92660
division (H)(1) of this section shall terminate the person's 92661
employment if either of the following apply: 92662

(a) The results of the criminal records check request are 92663
not obtained within the period ending sixty days after the date 92664
the request is made. 92665

(b) Regardless of when the results of the criminal records 92666
check are obtained, the results indicate that the person has 92667
been convicted of or has pleaded guilty to a disqualifying 92668
offense, unless circumstances specified in rules authorized by 92669
this section exist that permit the provider to employ the person 92670
and the provider chooses to employ the person. 92671

(I) As used in this division, "behavioral health services" 92672
means alcohol and drug addiction services, mental health 92673
services, or both. 92674

A medicaid provider of behavioral health services may 92675
choose to employ a person who the provider would be prohibited 92676
by division (D)(3) of this section from employing or would be 92677
required by division (H)(2) of this section to terminate the 92678
person's employment if both of the following apply: 92679

(1) The person holds a valid health professional license 92680
issued under the Revised Code granting the person authority to 92681
provide behavioral health services, holds a valid peer recovery 92682
supporter certificate issued pursuant to rules adopted by the 92683
department of mental health and addiction services, or is in the 92684
process of obtaining such a license or certificate. 92685

(2) The provider does not submit any medicaid claims for 92686

any services the person provides. 92687

(J) The report of a criminal records check conducted 92688
pursuant to this section is not a public record for the purposes 92689
of section 149.43 of the Revised Code and shall not be made 92690
available to any person other than the following: 92691

(1) The person who is the subject of the criminal records 92692
check or the person's representative; 92693

(2) The medicaid director and the staff of the department 92694
who are involved in the administration of the medicaid program; 92695

(3) The department's designee; 92696

(4) The medicaid provider who required the person who is 92697
the subject of the criminal records check to submit to the 92698
criminal records check; 92699

(5) An individual receiving or deciding whether to 92700
receive, from the subject of the criminal records check, home 92701
and community-based services available under the medicaid state 92702
plan; 92703

(6) A court, hearing officer, or other necessary 92704
individual involved in a case or administrative hearing dealing 92705
with any of the following: 92706

(a) The denial, suspension, or termination of a provider 92707
agreement; 92708

(b) A person's denial of employment, termination of 92709
employment, or employment or unemployment benefits; 92710

(c) A civil or criminal action regarding the medicaid 92711
program. 92712

With respect to an administrative hearing dealing with the 92713

denial, suspension, or termination of a provider agreement, the 92714
report of a criminal records check may be introduced as evidence 92715
at the hearing and if admitted, becomes part of the hearing 92716
record. Any such report shall be admitted only under seal and 92717
shall maintain its status as not a public record. 92718

(K) The medicaid director may adopt rules ~~under section~~ 92719
~~5164.02 of the Revised Code to implement this section. If the~~ 92720
~~director adopts such rules, the rules shall to~~ designate the 92721
times at which a criminal records check must be conducted under 92722
this section. ~~The~~ Additionally, the rules may do any of the 92723
following: 92724

(1) Designate the categories of persons who are subject to 92725
a criminal records check under this section; 92726

(2) Specify circumstances under which the department or 92727
the department's designee may continue a provider agreement or 92728
issue a provider agreement when the medicaid provider is found 92729
by a criminal records check to have been convicted of or pleaded 92730
guilty to a disqualifying offense; 92731

(3) Specify circumstances under which a medicaid provider 92732
may permit a person to be an employee, owner, officer, or board 92733
member of the provider when the person is found by a criminal 92734
records check conducted pursuant to this section to have been 92735
convicted of or have pleaded guilty to a disqualifying offense; 92736

(4) Specify all of the following: 92737

(a) The circumstances under which a database review must 92738
be conducted under division (F)(1)(a) of this section to 92739
determine whether an employee or prospective employee of a 92740
medicaid provider is included in a database; 92741

(b) The procedures for conducting the database review; 92742

(c) The databases that are to be checked;	92743
(d) The circumstances under which, except as provided in division (I) of this section, a medicaid provider is prohibited from employing a person who is found by the database review to be included in a database.	92744 92745 92746 92747
Sec. 5164.341. (A) As used in this section:	92748
"Anniversary date" means the effective date of the provider agreement relating to the independent provider.	92749 92750
"Applicant" means a person who has applied for a provider agreement to provide home and community-based services as an independent provider under a home and community-based medicaid waiver component administered by the department of medicaid.	92751 92752 92753 92754
"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	92755 92756
"Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.	92757 92758 92759
"Independent provider" means a person who has a provider agreement to provide home and community-based services as an independent provider in a home and community-based services medicaid waiver component administered by the department of medicaid. "Independent provider" does not include a person who is employed by an individual enrolled in a participant-directed waiver administered by the department of medicaid.	92760 92761 92762 92763 92764 92765 92766
(B) The department of medicaid or the department's designee shall deny an applicant's application for a provider agreement and shall terminate an independent provider's provider agreement if either of the following applies:	92767 92768 92769 92770

(1) After the applicant or independent provider is given the information and notification required by divisions (D) (2) (a) and (b) of this section, the applicant or independent provider fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C) (1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C) (2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the department or the department's designee.

(2) Except as provided in rules authorized by this section, the applicant or independent provider is found by either of the following to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea:

(a) A criminal records check required by this section;

(b) In the case of an independent provider, a notice provided by the bureau of criminal identification and investigation under division (D) of section 109.5721 of the Revised Code.

(C) (1) The department or the department's designee shall inform each applicant, at the time of initial application for a provider agreement, that the applicant is required to provide a set of the applicant's fingerprint impressions and that a criminal records check is required to be conducted as a condition of the department's approving the application.

(2) Unless the department elects to receive notices about

independent providers from the bureau of criminal identification 92800
and investigation pursuant to division (D) of section 109.5721 92801
of the Revised Code, the department or the department's designee 92802
shall inform each independent provider on or before the time of 92803
the anniversary date of the provider agreement that the 92804
independent provider is required to provide a set of the 92805
independent provider's fingerprint impressions and that a 92806
criminal records check is required to be conducted. 92807

(D) (1) The department or the department's designee shall 92808
require an applicant to complete a criminal records check prior 92809
to entering into a provider agreement with the applicant. The 92810
department or the department's designee shall require an 92811
independent provider to complete a criminal records check at 92812
least annually unless the department elects to receive notices 92813
about independent providers from the bureau of criminal 92814
identification and investigation pursuant to division (D) of 92815
section 109.5721 of the Revised Code. If an applicant or 92816
independent provider for whom a criminal records check is 92817
required by this section does not present proof of having been a 92818
resident of this state for the five-year period immediately 92819
prior to the date the criminal records check is requested or 92820
provide evidence that within that five-year period the 92821
superintendent of the bureau of criminal identification and 92822
investigation has requested information about the applicant or 92823
independent provider from the federal bureau of investigation in 92824
a criminal records check, the department or the department's 92825
designee shall request that the applicant or independent 92826
provider obtain through the superintendent a criminal records 92827
request from the federal bureau of investigation as part of the 92828
criminal records check of the applicant or independent provider. 92829
Even if an applicant or independent provider for whom a criminal 92830

records check request is required by this section presents proof 92831
of having been a resident of this state for the five-year 92832
period, the department or the department's designee may request 92833
that the applicant or independent provider obtain information 92834
through the superintendent from the federal bureau of 92835
investigation in the criminal records check. 92836

(2) The department or the department's designee shall 92837
provide the following to each applicant and independent provider 92838
for whom a criminal records check is required by this section: 92839

(a) Information about accessing, completing, and 92840
forwarding to the superintendent of the bureau of criminal 92841
identification and investigation the form prescribed pursuant to 92842
division (C)(1) of section 109.572 of the Revised Code and the 92843
standard impression sheet prescribed pursuant to division (C)(2) 92844
of that section; 92845

(b) Written notification that the applicant or independent 92846
provider is to instruct the superintendent to submit the 92847
completed report of the criminal records check directly to the 92848
department or the department's designee. 92849

(3) Each applicant and independent provider for whom a 92850
criminal records check is required by this section shall pay to 92851
the bureau of criminal identification and investigation the fee 92852
prescribed pursuant to division (C)(3) of section 109.572 of the 92853
Revised Code for the criminal records check conducted of the 92854
applicant or independent provider. 92855

(E) Neither the report of any criminal records check 92856
conducted by the bureau of criminal identification and 92857
investigation in accordance with section 109.572 of the Revised 92858
Code and pursuant to a request made under this section nor a 92859

notice provided by the bureau under division (D) of section 92860
109.5721 of the Revised Code is a public record for the purposes 92861
of section 149.43 of the Revised Code. Such a report or notice 92862
shall not be made available to any person other than the 92863
following: 92864

(1) The person who is the subject of the criminal records 92865
check or the person's representative; 92866

(2) The medicaid director and the staff of the department 92867
who are involved in the administration of the medicaid program; 92868

(3) The department's designee; 92869

(4) An individual receiving or deciding whether to receive 92870
home and community-based services from the person who is the 92871
subject of the criminal records check or notice from the bureau; 92872

(5) A court, hearing officer, or other necessary 92873
individual involved in a case or administrative hearing dealing 92874
with either of the following: 92875

(a) A denial, suspension, or termination of a provider 92876
agreement, including when related to the criminal records check 92877
or notice from the bureau; 92878

(b) A civil or criminal action regarding the medicaid 92879
program. 92880

With respect to an administrative hearing dealing with the 92881
denial, suspension, or termination of a provider agreement, the 92882
report of a criminal records check may be introduced as evidence 92883
at the hearing and if admitted, becomes part of the hearing 92884
record. Any such report shall be admitted only under seal and 92885
shall maintain its status as not a public record. 92886

(F) The medicaid director shall adopt rules ~~under section~~ 92887

~~5164.02 of the Revised Code to implement this section. The rules shall that~~ specify circumstances under which the department or the department's designee may either approve an applicant's application or allow an independent provider to maintain an existing provider agreement even though the applicant or independent provider is found by either of the following to have been convicted of or have pleaded guilty to a disqualifying offense:

(1) A criminal records check required by this section;

(2) In the case of an independent provider, a notice provided by the bureau of criminal identification and investigation under division (D) of section 109.5721 of the Revised Code.

Sec. 5164.342. (A) As used in this section:

"Applicant" means a person who is under final consideration for employment with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.

"Community-based long-term care provider" means a provider as defined in section 173.39 of the Revised Code.

"Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code.

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

"Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code.

"Employee" means a person employed by a waiver agency in a

full-time, part-time, or temporary position that involves 92916
providing home and community-based services. 92917

"Waiver agency" means a person or government entity that 92918
provides home and community-based services under a home and 92919
community-based services medicaid waiver component administered 92920
by the department of medicaid, other than such a person or 92921
government entity that is certified under the medicare program. 92922
"Waiver agency" does not mean an independent provider as defined 92923
in section 5164.341 of the Revised Code. 92924

(B) This section does not apply to any individual who is 92925
subject to a database review or criminal records check under 92926
section 3740.11 of the Revised Code. If a waiver agency also is 92927
a community-based long-term care provider or community-based 92928
long-term care subcontractor, the waiver agency may provide for 92929
any of its applicants and employees who are not subject to 92930
database reviews and criminal records checks under section 92931
173.38 of the Revised Code to undergo database reviews and 92932
criminal records checks in accordance with that section rather 92933
than this section. 92934

(C) No waiver agency shall employ an applicant or continue 92935
to employ an employee in a position that involves providing home 92936
and community-based services if any of the following apply: 92937

(1) A review of the databases listed in division (E) of 92938
this section reveals any of the following: 92939

(a) That the applicant or employee is included in one or 92940
more of the databases listed in divisions (E) (1) to (5) of this 92941
section; 92942

(b) That there is in the state nurse aide registry 92943
established under section 3721.32 of the Revised Code a 92944

statement detailing findings by the director of health that the 92945
applicant or employee abused, neglected, or exploited a long- 92946
term care facility or residential care facility resident or 92947
misappropriated property of such a resident; 92948

(c) That the applicant or employee is included in one or 92949
more of the databases, if any, specified in rules authorized by 92950
this section and the rules prohibit the waiver agency from 92951
employing an applicant or continuing to employ an employee 92952
included in such a database in a position that involves 92953
providing home and community-based services. 92954

(2) After the applicant or employee is given the 92955
information and notification required by divisions (F) (2) (a) and 92956
(b) of this section, the applicant or employee fails to do 92957
either of the following: 92958

(a) Access, complete, or forward to the superintendent of 92959
the bureau of criminal identification and investigation the form 92960
prescribed to division (C) (1) of section 109.572 of the Revised 92961
Code or the standard impression sheet prescribed pursuant to 92962
division (C) (2) of that section; 92963

(b) Instruct the superintendent to submit the completed 92964
report of the criminal records check required by this section 92965
directly to the chief administrator of the waiver agency. 92966

(3) Except as provided in rules authorized by this 92967
section, the applicant or employee is found by a criminal 92968
records check required by this section to have been convicted of 92969
or have pleaded guilty to a disqualifying offense, regardless of 92970
the date of the conviction or date of entry of the guilty plea. 92971

(D) At the time of each applicant's initial application 92972
for employment in a position that involves providing home and 92973

community-based services, the chief administrator of a waiver agency shall inform the applicant of both of the following: 92974
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(1) That a review of the databases listed in division (E) of this section will be conducted to determine whether the waiver agency is prohibited by division (C) (1) of this section from employing the applicant in the position; 92976
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(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check. 92980
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(E) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall conduct a database review of the applicant in accordance with rules authorized by this section. If rules authorized by this section so require, the chief administrator of a waiver agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. A database review shall determine whether the applicant or employee is included in any of the following: 92985
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(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management; 92997
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(2) The list of excluded individuals and entities 93002

maintained by the office of inspector general in the United States department of health and human services pursuant to the "Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 and 1320c-5;

(3) The registry of developmental disabilities employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division ~~(A)(11)~~ (A)(10) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules authorized by this section.

(F)(1) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall require the applicant to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules authorized by this section so require, the chief administrator of a waiver agency shall require an employee to request that the superintendent conduct a criminal records check of the employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. However, a criminal records check is not required for an applicant or employee if the waiver agency is prohibited by division (C)(1) of this section from

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employing the applicant or continuing to employ the employee in 93032
a position that involves providing home and community-based 93033
services. If an applicant or employee for whom a criminal 93034
records check request is required by this section does not 93035
present proof of having been a resident of this state for the 93036
five-year period immediately prior to the date the criminal 93037
records check is requested or provide evidence that within that 93038
five-year period the superintendent has requested information 93039
about the applicant or employee from the federal bureau of 93040
investigation in a criminal records check, the chief 93041
administrator shall require the applicant or employee to request 93042
that the superintendent obtain information from the federal 93043
bureau of investigation as part of the criminal records check. 93044
Even if an applicant or employee for whom a criminal records 93045
check request is required by this section presents proof of 93046
having been a resident of this state for the five-year period, 93047
the chief administrator may require the applicant or employee to 93048
request that the superintendent include information from the 93049
federal bureau of investigation in the criminal records check. 93050

(2) The chief administrator shall provide the following to 93051
each applicant and employee for whom a criminal records check is 93052
required by this section: 93053

(a) Information about accessing, completing, and 93054
forwarding to the superintendent of the bureau of criminal 93055
identification and investigation the form prescribed pursuant to 93056
division (C)(1) of section 109.572 of the Revised Code and the 93057
standard impression sheet prescribed pursuant to division (C)(2) 93058
of that section; 93059

(b) Written notification that the applicant or employee is 93060
to instruct the superintendent to submit the completed report of 93061

the criminal records check directly to the chief administrator. 93062

(3) A waiver agency shall pay to the bureau of criminal 93063
identification and investigation the fee prescribed pursuant to 93064
division (C) (3) of section 109.572 of the Revised Code for any 93065
criminal records check required by this section. However, a 93066
waiver agency may require an applicant to pay to the bureau the 93067
fee for a criminal records check of the applicant. If the waiver 93068
agency pays the fee for an applicant, it may charge the 93069
applicant a fee not exceeding the amount the waiver agency pays 93070
to the bureau under this section if the waiver agency notifies 93071
the applicant at the time of initial application for employment 93072
of the amount of the fee and that, unless the fee is paid, the 93073
applicant will not be considered for employment. 93074

(G) (1) A waiver agency may employ conditionally an 93075
applicant for whom a criminal records check is required by this 93076
section prior to obtaining the results of the criminal records 93077
check if both of the following apply: 93078

(a) The waiver agency is not prohibited by division (C) (1) 93079
of this section from employing the applicant in a position that 93080
involves providing home and community-based services. 93081

(b) The chief administrator of the waiver agency requires 93082
the applicant to request a criminal records check regarding the 93083
applicant in accordance with division (F) (1) of this section not 93084
later than five business days after the applicant begins 93085
conditional employment. 93086

(2) A waiver agency that employs an applicant 93087
conditionally under division (G) (1) of this section shall 93088
terminate the applicant's employment if the results of the 93089
criminal records check, other than the results of any request 93090

for information from the federal bureau of investigation, are 93091
not obtained within the period ending sixty days after the date 93092
the request for the criminal records check is made. Regardless 93093
of when the results of the criminal records check are obtained, 93094
if the results indicate that the applicant has been convicted of 93095
or has pleaded guilty to a disqualifying offense, the waiver 93096
agency shall terminate the applicant's employment unless 93097
circumstances specified in rules authorized by this section 93098
exist that permit the waiver agency to employ the applicant and 93099
the waiver agency chooses to employ the applicant. 93100

(H) The report of any criminal records check conducted 93101
pursuant to a request made under this section is not a public 93102
record for the purposes of section 149.43 of the Revised Code 93103
and shall not be made available to any person other than the 93104
following: 93105

(1) The applicant or employee who is the subject of the 93106
criminal records check or the representative of the applicant or 93107
employee; 93108

(2) The chief administrator of the waiver agency that 93109
requires the applicant or employee to request the criminal 93110
records check or the administrator's representative; 93111

(3) The medicaid director and the staff of the department 93112
who are involved in the administration of the medicaid program; 93113

(4) The director of aging or the director's designee if 93114
the waiver agency also is a community-based long-term care 93115
provider or community-based long-term care subcontractor; 93116

(5) An individual receiving or deciding whether to receive 93117
home and community-based services from the subject of the 93118
criminal records check; 93119

(6) A court, hearing officer, or other necessary individual involved in a case or administrative hearing dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program;

(d) A denial, suspension, or termination of a provider agreement.

With respect to an administrative hearing dealing with a denial, suspension, or termination of a provider agreement, the report of a criminal records check may be introduced as evidence at the hearing and if admitted, becomes part of the hearing record. Any such report shall be admitted only under seal and shall maintain its status as not a public record.

~~(I) (1) The medicaid director shall adopt rules under section 5164.02 of the Revised Code to implement this section.~~

~~(1) The rules may adopt rules that do the following:~~

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (E) (7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The ~~rules~~ director shall adopt rules that specify all 93147
of the following: 93148

(a) The procedures for conducting a database review under 93149
this section; 93150

(b) If the rules require employees to undergo database 93151
reviews and criminal records checks under this section, the 93152
times at which the database reviews and criminal records checks 93153
are to be conducted; 93154

(c) If the rules specify other databases to be checked as 93155
part of a database review, the circumstances under which a 93156
waiver agency is prohibited from employing an applicant or 93157
continuing to employ an employee who is found by the database 93158
review to be included in one or more of those databases; 93159

(d) The circumstances under which a waiver agency may 93160
employ an applicant or employee who is found by a criminal 93161
records check required by this section to have been convicted of 93162
or have pleaded guilty to a disqualifying offense. 93163

(J) The amendments made by H.B. 487 of the 129th general 93164
assembly to this section do not preclude the department of 93165
medicaid from taking action against a person for failure to 93166
comply with former division (H) of this section as that division 93167
existed on the day preceding January 1, 2013. 93168

Sec. 5164.36. (A) As used in this section: 93169

(1) "Credible allegation of fraud" has the same meaning as 93170
in 42 C.F.R. 455.2, except that for purposes of this section any 93171
reference in that regulation to the "state" or the "state 93172
medicaid agency" means the department of medicaid. 93173

(2) "Disqualifying indictment" means an indictment of a 93174

medicaid provider or its officer, authorized agent, associate, 93175
manager, employee, or, if the provider is a noninstitutional 93176
provider, its owner, if either of the following applies: 93177

(a) The indictment charges the person with committing an 93178
act to which both of the following apply: 93179

(i) The act would be a felony or misdemeanor under the 93180
laws of this state or the jurisdiction within which the act 93181
occurred. 93182

(ii) The act relates to or results from furnishing or 93183
billing for medicaid services under the medicaid program or 93184
relates to or results from performing management or 93185
administrative services relating to furnishing medicaid services 93186
under the medicaid program. 93187

(b) The indictment charges the person with committing an 93188
act that would constitute a disqualifying offense. 93189

(3) "Disqualifying offense" means any of the offenses 93190
listed or described in divisions (A) (3) (a) to (e) of section 93191
109.572 of the Revised Code. 93192

(4) "Noninstitutional medicaid provider" means any person 93193
or entity with a provider agreement other than a hospital, 93194
nursing facility, or ICF/IID. 93195

(5) "Owner" means any person having at least five per cent 93196
ownership in a noninstitutional medicaid provider. 93197

(B) (1) Except as provided in division (C) of this section 93198
and in rules authorized by this section, the department of 93199
medicaid shall suspend the provider agreement held by a medicaid 93200
provider on determining either of the following: 93201

(a) There is a credible allegation of fraud against any of 93202

the following for which an investigation is pending under the 93203
medicaid program: 93204

(i) The medicaid provider; 93205

(ii) The medicaid provider's owner, officer, authorized 93206
agent, associate, manager, or employee. 93207

(b) A disqualifying indictment has been issued against any 93208
of the following: 93209

(i) The medicaid provider; 93210

(ii) The medicaid provider's officer, authorized agent, 93211
associate, manager, or employee; 93212

(iii) If the medicaid provider is a noninstitutional 93213
provider, its owner. 93214

(2) Subject to division (C) of this section, the 93215
department shall also suspend all medicaid payments to a 93216
medicaid provider for services rendered, regardless of the date 93217
that the services are rendered, when the department suspends the 93218
provider's provider agreement under this section. 93219

(3) The suspension of a provider agreement shall continue 93220
in effect until the latest of the following occurs: 93221

(a) If the suspension is the result of a credible 93222
allegation of fraud, the department or a prosecuting authority 93223
determines that there is insufficient evidence of fraud by the 93224
medicaid provider; 93225

(b) Regardless of whether the suspension is the result of 93226
a credible allegation of fraud or a disqualifying indictment, 93227
the proceedings in any related criminal case are completed 93228
through dismissal of the indictment or through sentencing after 93229

conviction or entry of a guilty plea or through finding of not guilty or, if the department commences a process to terminate the suspended provider agreement, the termination process is concluded;

(c) The medicaid provider pays in full all fines and debts due and owing to the department or makes arrangements satisfactory to the department to fulfill those obligations;

(d) A civil action related to a credible allegation of fraud or disqualifying indictment is not pending against the medicaid provider.

(4) (a) When a provider agreement is suspended under this section, none of the following shall take, during the period of the suspension, any of the actions specified in division (B) (4) (b) of this section:

(i) The medicaid provider;

(ii) If the suspension is the result of an action taken by an officer, authorized agent, associate, manager, or employee of the medicaid provider, that person;

(iii) If the medicaid provider is a noninstitutional provider and the suspension is the result of an action taken by the owner of the provider, the owner.

(b) The following are the actions that persons specified in division (B) (4) (a) of this section cannot take during the suspension of a provider agreement:

(i) Own any other medicaid provider or risk contractor;

(ii) Arrange, render, or order services on behalf of any other medicaid provider or risk contractor;

(iii) Arrange or order services for medicaid recipients or
render services to medicaid recipients; 93257
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(iv) Receive direct payments under the medicaid program or
indirect payments of medicaid funds in the form of salary, 93259
shared fees, contracts, kickbacks, or rebates from or through 93260
any other medicaid provider or risk contractor. 93261
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(C) The department shall not suspend a provider agreement 93263
or medicaid payments under division (B) of this section if 93264
either of the following is the case: 93265

(1) The medicaid provider or, if the provider is a 93266
noninstitutional provider, the owner can demonstrate through the 93267
submission of written evidence that the provider or owner did 93268
not directly or indirectly sanction the action of its authorized 93269
agent, associate, manager, or employee that resulted in the 93270
credible allegation of fraud or disqualifying indictment. 93271

(2) The medicaid provider or, if the provider is a 93272
noninstitutional provider, the owner can demonstrate that good 93273
cause exists not to suspend the provider agreement or payments. 93274

With respect to the evidence described in division (C) (1) 93275
of this section, the department shall grant, prior to 93276
suspension, the provider or owner an opportunity to submit the 93277
written evidence to the department. 93278

With respect to a demonstration of good cause described in 93279
division (C) (2) of this section, the department shall specify in 93280
rules ~~adopted under section 5164.02 of the Revised Code~~ what 93281
constitutes good cause and the information, documents, or other 93282
evidence that must be submitted to the department as part of the 93283
demonstration. 93284

(D) After suspending a provider agreement under division 93285

(B) of this section, the department shall send notice of the suspension to the affected medicaid provider or, if the provider is a noninstitutional provider, the owner in accordance with the following time frames:

(1) Not later than five days after the suspension, unless a law enforcement agency makes a written request to temporarily delay the notice;

(2) If a law enforcement agency makes a written request to temporarily delay the notice, not later than thirty days after the suspension occurs subject to the conditions specified in division (E) of this section.

(E) A written request for a temporary delay described in division (D) (2) of this section may be renewed in writing by a law enforcement agency not more than two times except that under no circumstances shall the notice be issued more than ninety days after the suspension occurs.

(F) The notice required by division (D) of this section shall do all of the following:

(1) State that payments are being suspended in accordance with this section and 42 C.F.R. 455.23;

(2) Set forth the general allegations related to the nature of the conduct leading to the suspension, except that it is not necessary to disclose any specific information concerning an ongoing investigation;

(3) State that the suspension continues to be in effect until the latest of the circumstances specified in division (B) (3) of this section occur;

(4) Specify, if applicable, the type or types of medicaid

claims or business units of the medicaid provider that are 93314
affected by the suspension; 93315

(5) Inform the medicaid provider or owner of the 93316
opportunity to submit to the department, not later than thirty 93317
days after receiving the notice, a request for reconsideration 93318
of the suspension in accordance with division (G) of this 93319
section. 93320

(G) (1) Pursuant to the procedure specified in division (G) 93321
(2) of this section, a medicaid provider subject to a suspension 93322
under this section or, if the provider is a noninstitutional 93323
provider, the owner may request a reconsideration of the 93324
suspension. The request shall be made not later than thirty days 93325
after receipt of a notice required by division (D) of this 93326
section. The reconsideration is not subject to an adjudication 93327
hearing pursuant to Chapter 119. of the Revised Code. 93328

(2) In requesting a reconsideration, the medicaid provider 93329
or owner shall submit written information and documents to the 93330
department. The information and documents may pertain to either 93331
of the following issues: 93332

(a) Whether the determination to suspend the provider 93333
agreement was based on a mistake of fact, other than the 93334
validity of an indictment in a related criminal case. 93335

(b) If there has been an indictment in a related criminal 93336
case, whether the indictment is a disqualifying indictment. 93337

(H) The department shall review the information and 93338
documents submitted in a request made under division (G) of this 93339
section for reconsideration of a suspension. After the review, 93340
the suspension may be affirmed, reversed, or modified, in whole 93341
or in part. The department shall notify the affected provider or 93342

owner of the results of the review. 93343

~~(I) Rules adopted under section 5164.02 of the Revised Code~~ 93344
The department may adopt rules that specify circumstances 93345
under which the department would not suspend a provider 93346
agreement pursuant to this section. 93347

Sec. 5164.46. (A) As used in this section, "electronic 93348
claims submission process" means any of the following: 93349

(1) Electronic interchange of data; 93350

(2) Direct entry of data through an internet-based 93351
mechanism implemented by the department of medicaid; 93352

(3) Any other process for the electronic submission of 93353
claims that is specified in rules adopted ~~under section 5162.02~~ 93354
~~of the Revised Code~~ by the medicaid director. 93355

(B) Not later than January 1, 2013, and except as provided 93356
in division (C) of this section, each medicaid provider shall do 93357
both of the following: 93358

(1) Use only an electronic claims submission process to 93359
submit to the department of medicaid claims for medicaid payment 93360
for medicaid services provided to medicaid recipients; 93361

(2) Arrange to receive medicaid payment from the 93362
department by means of electronic funds transfer. 93363

(C) Division (B) of this section does not apply to any of 93364
the following: 93365

(1) A nursing facility; 93366

(2) An ICF/IID; 93367

(3) A medicaid managed care organization; 93368

(4) Any other medicaid provider or type of medicaid provider designated in rules adopted under section 5162.02 of the Revised Code. 93369
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(D) The department shall not process a medicaid claim submitted on or after January 1, 2013, unless the claim is submitted through an electronic claims submission process in accordance with this section. 93372
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Sec. 5164.74. The medicaid director shall adopt rules ~~under section 5164.02 of the Revised Code~~ governing the calculation and payment of, and the allocation of payments for, graduate medical education costs associated with medicaid services rendered to medicaid recipients. Subject to section 5164.741 of the Revised Code, the rules shall provide for payment of graduate medical education costs associated with medicaid services rendered to medicaid recipients, including recipients enrolled in a medicaid managed care organization, that the department of medicaid determines are allowable and reasonable. 93376
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Sec. 5164.741. (A) Except as provided in division (B) of this section, the department of medicaid may deny medicaid payment to a hospital for direct graduate medical education costs associated with the delivery of medicaid services to any medicaid recipient if the hospital refuses without good cause to contract with a medicaid managed care organization that serves the area in which the hospital is located. 93387
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(B) A hospital is not subject to division (A) of this section if all of the following are the case: 93394
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(1) The hospital is located in a county in which participants in the care management system are required before 93396
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January 1, 2006, to be enrolled in a medicaid managed care organization that is a health insuring corporation. 93398
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(2) The hospital has entered into a contract before 93400
January 1, 2006, with at least one health insuring corporation 93401
serving the participants specified in division (B) (1) of this 93402
section. 93403

(3) The hospital remains under contract with at least one 93404
health insuring corporation serving participants in the care 93405
management system who are required to be enrolled in a health 93406
insuring corporation. 93407

(C) The medicaid director shall specify in ~~the rules~~ 93408
~~adopted under section 5164.02 of the Revised Code~~ what 93409
constitutes good cause for a hospital to refuse to contract with 93410
a medicaid managed care organization. 93411

Sec. 5164.755. The medicaid director, ~~in rules adopted~~ 93412
~~under section 5164.02 of the Revised Code,~~ may establish and 93413
implement a supplemental drug rebate program under which drug 93414
manufacturers may be required to provide the department of 93415
medicaid a supplemental rebate as a condition of having the drug 93416
manufacturers' drug products covered by the medicaid program 93417
without prior approval. The department may receive a 93418
supplemental rebate negotiated under the program for a drug 93419
dispensed to a medicaid recipient pursuant to a prescription or 93420
a drug purchased by a medicaid provider for administration to a 93421
medicaid recipient in the provider's primary place of business. 93422

If the director establishes a supplemental drug rebate 93423
program, the director shall consult with drug manufacturers 93424
regarding the establishment and implementation of the program. 93425

Sec. 5164.758. The medicaid director shall adopt rules 93426

~~under section 5164.02 of the Revised Code~~ to implement a 93427
coordinated services program for medicaid recipients who are 93428
found to have obtained prescribed drugs under the medicaid 93429
program at a frequency or in an amount that is not medically 93430
necessary. The program shall be implemented in a manner that is 93431
consistent with the "Social Security Act," section 1915(a)(2), 93432
42 U.S.C. 1396n(a)(2), and 42 C.F.R. 431.54(e). 93433

Sec. 5164.76. (A) ~~In rules adopted under section 5164.02~~ 93434
~~of the Revised Code, the~~ The medicaid director shall adopt rules 93435
to modify the manner or establish a new manner in which the 93436
following are paid under medicaid: 93437

(1) Community mental health service providers or 93438
facilities for providing community mental health services 93439
covered by the medicaid program pursuant to section 5164.15 of 93440
the Revised Code; 93441

(2) Providers of alcohol and drug addiction services for 93442
providing alcohol and drug addiction services covered by the 93443
medicaid program. 93444

(B) The director's authority to modify the manner, or to 93445
establish a new manner, for medicaid to pay for the services 93446
specified in division (A) of this section is not limited by any 93447
rules adopted under section former division (A) of section 93448
5119.22 or former section 5164.02 of the Revised Code that are 93449
in effect on June 26, 2003, and govern the way medicaid pays for 93450
those services. This is the case regardless of what state agency 93451
adopted the rules. 93452

Sec. 5164.89. The department of medicaid may require 93453
county departments of job and family services to provide case 93454
management of nonemergency transportation services provided 93455

under the medicaid program. County departments shall provide the 93456
case management if required by the department ~~in accordance with~~ 93457
~~rules adopted under section 5164.02 of the Revised Code.~~ 93458

The department shall determine, for the purposes of 93459
claiming federal financial participation, whether it will claim 93460
expenditures for nonemergency transportation services as 93461
administrative or program expenditures. 93462

Sec. 5164.93. (A) The department of medicaid may establish 93463
a program under which it provides incentive payments, as 93464
authorized by the "Social Security Act," section 1903(a)(3)(F) 93465
and (t), 42 U.S.C. 1396b(a)(3)(F) and (t), to encourage the 93466
adoption and use of electronic health record technology by 93467
medicaid providers who are identified under that federal law as 93468
eligible professionals. 93469

(B) After the department has made a determination 93470
regarding the amount of a medicaid provider's electronic health 93471
record incentive payment or the denial of an incentive payment, 93472
the department shall notify the provider. The provider may 93473
request that the department reconsider its determination. 93474

A request for reconsideration shall be submitted in 93475
writing to the department not later than fifteen days after the 93476
provider receives notification of the determination. The request 93477
shall be accompanied by written materials setting forth the 93478
basis for, and supporting, the reconsideration request. 93479

On receipt of a timely request, the department shall 93480
reconsider the determination. On the basis of the written 93481
materials accompanying the request, the department may uphold, 93482
reverse, or modify its original determination. The department 93483
shall mail to the provider by certified mail a written notice of 93484

the reconsideration decision. 93485

In accordance with Chapter 2505. of the Revised Code, the 93486
medicaid provider may appeal the reconsideration decision by 93487
filing a notice of appeal with the court of common pleas of 93488
Franklin county. The notice shall identify the decision being 93489
appealed and the specific grounds for the appeal. The notice of 93490
appeal shall be filed not later than fifteen days after the 93491
department mails its notice of the reconsideration decision. A 93492
copy of the notice of appeal shall be filed with the department 93493
not later than three days after the notice is filed with the 93494
court. 93495

(C) The medicaid director may adopt rules ~~under section~~ 93496
~~5162.02 of the Revised Code as necessary to implement this~~ 93497
~~section~~ to establish a provider incentive program to encourage 93498
the adoption and use of electronic health record technology. The 93499
rules, if any, shall be adopted in accordance with Chapter 119. 93500
of the Revised Code. 93501

Sec. 5164.95. (A) As used in this section, "telehealth 93502
service" means a health care service delivered to a patient 93503
through the use of interactive audio, video, or other 93504
telecommunications or electronic technology from a site other 93505
than the site where the patient is located. 93506

(B) The department of medicaid shall establish standards 93507
for medicaid payments for health care services the department 93508
determines are appropriate to be covered by the medicaid program 93509
when provided as telehealth services. The standards shall be 93510
established in rules adopted ~~under section 5164.02 of the~~ 93511
~~Revised Code~~ by the medicaid director. 93512

In accordance with section 5162.021 of the Revised Code, 93513

the medicaid director shall adopt rules authorizing the 93514
directors of other state agencies to adopt rules regarding the 93515
medicaid coverage of telehealth services under programs 93516
administered by the other state agencies. Any such rules adopted 93517
by the medicaid director or the directors of other state 93518
agencies are not subject to the requirements of division (F) of 93519
section 121.95 of the Revised Code. 93520

(C) (1) To the extent permitted under rules adopted ~~under~~ 93521
~~section 5164.02 of the Revised Code~~ by the medicaid director and 93522
applicable federal law, the following practitioners are eligible 93523
to provide telehealth services covered pursuant to this section: 93524

(a) A physician licensed under Chapter 4731. of the 93525
Revised Code to practice medicine and surgery, osteopathic 93526
medicine and surgery, or podiatric medicine and surgery; 93527

(b) A psychologist, independent school psychologist, or 93528
school psychologist licensed under Chapter 4732. of the Revised 93529
Code; 93530

(c) A physician assistant licensed under Chapter 4730. of 93531
the Revised Code; 93532

(d) A clinical nurse specialist, certified nurse-midwife, 93533
or certified nurse practitioner licensed under Chapter 4723. of 93534
the Revised Code; 93535

(e) An independent social worker, independent marriage and 93536
family therapist, or professional clinical counselor licensed 93537
under Chapter 4757. of the Revised Code; 93538

(f) An independent chemical dependency counselor licensed 93539
under Chapter 4758. of the Revised Code; 93540

(g) A supervised practitioner or supervised trainee; 93541

(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;	93542 93543
(i) An audiology aide or speech-language pathology aide, as defined in section 4753.072 of the Revised Code, or an individual holding a conditional license under section 4753.071 of the Revised Code;	93544 93545 93546 93547
(j) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;	93548 93549
(k) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code.	93550 93551 93552
(l) A dietitian licensed under Chapter 4759. of the Revised Code;	93553 93554
(m) A chiropractor licensed under Chapter 4734. of the Revised Code;	93555 93556
(n) A pharmacist licensed under Chapter 4729. of the Revised Code;	93557 93558
(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;	93559 93560
(p) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry;	93561 93562
(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;	93563 93564
(r) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code;	93565 93566
(s) A practitioner who provides services through a medicaid school program;	93567 93568

- (t) Subject to section 5119.368 of the Revised Code, a practitioner authorized to provide services and supports certified under section 5119.36 of the Revised Code through a community mental health services provider or community addiction services provider; 93569
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- (u) A certified mental health assistant licensed under Chapter 4772. of the Revised Code; 93574
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- ~~(v) Any other practitioner the medicaid director considers eligible to provide telehealth services.~~ 93576
93577
- (2) In accordance with division (B) of this section and to the extent permitted under rules adopted ~~under section 5164.02 of the Revised Code~~ by the medicaid director and applicable federal law, the following provider types are eligible to submit claims for medicaid payments for providing telehealth services: 93578
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- (a) Any practitioner described in division (C)(1) of this section, except for those described in divisions (C)(1)(g), (i), and (k) of this section; 93583
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- (b) A professional medical group; 93586
- (c) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code; 93587
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- (d) A rural health clinic; 93590
- (e) An ambulatory health care clinic; 93591
- (f) An outpatient hospital; 93592
- (g) A medicaid school program; 93593
- (h) Subject to section 5119.368 of the Revised Code, a community mental health services provider or community addiction 93594
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services provider that offers services and supports certified 93596
under section 5119.36 of the Revised Code;— 93597

~~(i) Any other provider type the medicaid director 93598
considers eligible to submit the claims for payment. 93599~~

(D) (1) When providing telehealth services under this 93600
section, a practitioner shall comply with all requirements under 93601
state and federal law regarding the protection of patient 93602
information. A practitioner shall ensure that any username or 93603
password information and any electronic communications between 93604
the practitioner and a patient are securely transmitted and 93605
stored. 93606

(2) When providing telehealth services under this section, 93607
every practitioner site shall have access to the medical records 93608
of the patient at the time telehealth services are provided. 93609

Sec. 5164.96. (A) As used in this section, "ground 93610
emergency medical transportation service provider" means a 93611
public emergency medical service organization as defined in 93612
section 4765.01 of the Revised Code. 93613

(B) (1) The medicaid director shall submit a medicaid state 93614
plan amendment to the United States centers for medicare and 93615
medicaid services seeking authorization to establish and 93616
administer a supplemental payment program to provide 93617
supplemental medicaid payments to eligible ground emergency 93618
medical transportation service providers. If approved, the 93619
medicaid director shall establish and administer the program. 93620

(2) To be eligible to receive payments under the 93621
supplemental payment program, a ground emergency medical 93622
transportation service provider must hold a valid medicaid 93623
provider agreement and provide emergency medical transportation 93624

services to medicaid recipients. 93625

(C) The medicaid director shall adopt rules in accordance 93626
with Chapter 119. of the Revised Code to ~~implement this~~ 93627
~~section~~establish and administer a supplemental payment program 93628
for eligible ground emergency medical transportation service 93629
providers. 93630

Sec. 5165.01. As used in this chapter: 93631

(A) "Affiliated operator" means an operator affiliated 93632
with either of the following: 93633

(1) The exiting operator for whom the affiliated operator 93634
is to assume liability for the entire amount of the exiting 93635
operator's debt under the medicaid program or the portion of the 93636
debt that represents the franchise permit fee the exiting 93637
operator owes; 93638

(2) The entering operator involved in the change of 93639
operator with the exiting operator specified in division (A) (1) 93640
of this section. 93641

(B) "Allowable costs" are a nursing facility's costs that 93642
the department of medicaid determines are reasonable. Fines paid 93643
under sections 5165.60 to 5165.89 and section 5165.99 of the 93644
Revised Code are not allowable costs. 93645

(C) "Ancillary and support costs" means all reasonable 93646
costs incurred by a nursing facility other than direct care 93647
costs, tax costs, or capital costs. "Ancillary and support 93648
costs" includes, but is not limited to, costs of activities, 93649
social services, pharmacy consultants, habilitation supervisors, 93650
qualified intellectual disability professionals, program 93651
directors, medical and habilitation records, program supplies, 93652
incontinence supplies, food, enterals, dietary supplies and 93653

personnel, laundry, housekeeping, security, administration, 93654
medical equipment, utilities, liability insurance, bookkeeping, 93655
purchasing department, human resources, communications, travel, 93656
dues, license fees, subscriptions, home office costs not 93657
otherwise allocated, legal services, accounting services, minor 93658
equipment, maintenance and repairs, help-wanted advertising, 93659
informational advertising, start-up costs, organizational 93660
expenses, other interest, property insurance, employee training 93661
and staff development, employee benefits, payroll taxes, and 93662
workers' compensation premiums or costs for self-insurance 93663
claims and related costs as specified in rules adopted ~~under~~ 93664
~~section 5165.02 of the Revised Code~~ by the medicaid director, for 93665
personnel listed in this division. "Ancillary and support costs" 93666
also means the cost of equipment, including vehicles, acquired 93667
by operating lease executed before December 1, 1992, if the 93668
costs are reported as administrative and general costs on the 93669
nursing facility's cost report for the cost reporting period 93670
ending December 31, 1992. 93671

(D) "Applicable calendar year" means the calendar year 93672
immediately preceding the first of the state fiscal years for 93673
which a rebasing is conducted. 93674

(E) For purposes of calculating a critical access nursing 93675
facility's occupancy rate and utilization rate under this 93676
chapter, "as of the last day of the calendar year" refers to the 93677
occupancy and utilization rates during the calendar year 93678
identified in the cost report filed under section 5165.10 of the 93679
Revised Code. 93680

(F) (1) "Capital costs" means the actual expense incurred 93681
by a nursing facility for all of the following: 93682

(a) Depreciation and interest on any capital assets that 93683

cost five hundred dollars or more per item, including the	93684
following:	93685
(i) Buildings;	93686
(ii) Building improvements;	93687
(iii) Except as provided in division (D) of this section, equipment;	93688 93689
(iv) Transportation equipment.	93690
(b) Amortization and interest on land improvements and leasehold improvements;	93691 93692
(c) Amortization of financing costs;	93693
(d) Lease and rent of land, buildings, and equipment.	93694
(2) The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.	93695 93696 93697
(G) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	93698 93699 93700
(H) "Case-mix score" means a measure determined under section 5165.192 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a nursing facility resident.	93701 93702 93703 93704
(I) "Change of operator" includes circumstances in which an entering operator becomes the operator of a nursing facility in the place of the exiting operator.	93705 93706 93707
(1) Actions that constitute a change of operator include the following:	93708 93709

- (a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship; 93710
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- (b) A change in operational control of the nursing facility, regardless of whether ownership of any or all of the real property or personal property associated with the nursing facility is also transferred; 93713
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- (c) A lease of the nursing facility to the entering operator or termination of the exiting operator's lease; 93717
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- (d) If the exiting operator is a partnership, dissolution of the partnership, a merger of the partnership into another person that is the survivor of the merger, or a consolidation of the partnership and at least one other person to form a new person; 93719
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- (e) If the exiting operator is a limited liability company, dissolution of the limited liability company, a merger of the limited liability company into another person that is the survivor of the merger, or a consolidation of the limited liability company and at least one other person to form a new person. 93724
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- (f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another person that is the survivor of the merger, or a consolidation of the corporation and at least one other person to form a new person; 93730
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- (g) A contract for a person to assume operational control of a nursing facility; 93734
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- (h) A change of fifty per cent or more in the ownership of the licensed operator that results in a change of operational control; 93736
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(i) Any pledge, assignment, or hypothecation of or lien or other encumbrance on any of the legal or beneficial equity interests in the operator or a person with operational control.	93739 93740 93741
(2) The following do not constitute a change of operator:	93742
(a) Actions necessary to create an employee stock ownership plan under section 401(a) of the "Internal Revenue Code," 26 U.S.C. 401(a);	93743 93744 93745
(b) A change of ownership of real property or personal property associated with a nursing facility;	93746 93747
(c) If the operator is a corporation that has securities publicly traded in a marketplace, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator;	93748 93749 93750 93751 93752
(d) An initial public offering for which the securities and exchange commission has declared the registration statement effective, and the newly created public company remains the operator.	93753 93754 93755 93756
(J) "Cost center" means the following:	93757
(1) Ancillary and support costs;	93758
(2) Capital costs;	93759
(3) Direct care costs;	93760
(4) Tax costs.	93761
(K) "Custom wheelchair" means a wheelchair to which both of the following apply:	93762 93763
(1) It has been measured, fitted, or adapted in consideration of either of the following:	93764 93765

- (a) The body size or disability of the individual who is to use the wheelchair; 93766
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- (b) The individual's period of need for, or intended use of, the wheelchair. 93768
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- (2) It has customized features, modifications, or components, such as adaptive seating and positioning systems, that the supplier who assembled the wheelchair, or the manufacturer from which the wheelchair was ordered, added or made in accordance with the instructions of the physician of the individual who is to use the wheelchair. 93770
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- (L) (1) "Date of licensure" means the following: 93776
- (a) In the case of a nursing facility that was required by law to be licensed as a nursing home under Chapter 3721. of the Revised Code when it originally began to be operated as a nursing home, the date the nursing facility was originally so licensed; 93777
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- (b) In the case of a nursing facility that was not required by law to be licensed as a nursing home when it originally began to be operated as a nursing home, the date it first began to be operated as a nursing home, regardless of the date the nursing facility was first licensed as a nursing home. 93782
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- (2) If, after a nursing facility's original date of licensure, more nursing home beds are added to the nursing facility, the nursing facility has a different date of licensure for the additional beds. This does not apply, however, to additional beds when both of the following apply: 93787
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- (a) The additional beds are located in a part of the nursing facility that was constructed at the same time as the continuing beds already located in that part of the nursing 93792
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facility; 93795

(b) The part of the nursing facility in which the 93796
additional beds are located was constructed as part of the 93797
nursing facility at a time when the nursing facility was not 93798
required by law to be licensed as a nursing home. 93799

(3) The definition of "date of licensure" in this section 93800
applies in determinations of nursing facilities' medicaid 93801
payment rates but does not apply in determinations of nursing 93802
facilities' franchise permit fees. 93803

(M) "Desk-reviewed" means that a nursing facility's costs 93804
as reported on a cost report submitted under section 5165.10 of 93805
the Revised Code have been subjected to a desk review under 93806
section 5165.108 of the Revised Code and preliminarily 93807
determined to be allowable costs. 93808

(N) "Direct care costs" means all of the following costs 93809
incurred by a nursing facility: 93810

(1) Costs for registered nurses, licensed practical 93811
nurses, and nurse aides employed by the nursing facility; 93812

(2) Costs for direct care staff, administrative nursing 93813
staff, medical directors, respiratory therapists, and except as 93814
provided in division (N)(8) of this section, other persons 93815
holding degrees qualifying them to provide therapy; 93816

(3) Costs of purchased nursing services; 93817

(4) Costs of quality assurance; 93818

(5) Costs of training and staff development, employee 93819
benefits, payroll taxes, and workers' compensation premiums or 93820
costs for self-insurance claims and related costs as specified 93821
in rules adopted ~~under section 5165.02 of the Revised Code~~ by the 93822

<u>medicaid director</u> , for personnel listed in divisions (N) (1),	93823
(2), (4), and (8) of this section;	93824
(6) Costs of consulting and management fees related to	93825
direct care;	93826
(7) Allocated direct care home office costs;	93827
(8) Costs of habilitation staff (other than habilitation	93828
supervisors), medical supplies, emergency oxygen, over-the-	93829
counter pharmacy products, physical therapists, physical therapy	93830
assistants, occupational therapists, occupational therapy	93831
assistants, speech therapists, audiologists, habilitation	93832
supplies, and universal precautions supplies;	93833
(9) Costs of wheelchairs other than the following:	93834
(a) Custom wheelchairs;	93835
(b) Repairs to and replacements of custom wheelchairs and	93836
parts that are made in accordance with the instructions of the	93837
physician of the individual who uses the custom wheelchair.	93838
(10) Costs of other direct-care resources that are	93839
specified as direct care costs in rules adopted under section	93840
5165.02 of the Revised Code.	93841
(O) "Dual eligible individual" has the same meaning as in	93842
section 5160.01 of the Revised Code.	93843
(P) "Effective date of a change of operator" means the day	93844
the entering operator becomes the operator of the nursing	93845
facility.	93846
(Q) "Effective date of a facility closure" means the last	93847
day that the last of the residents of the nursing facility	93848
resides in the nursing facility.	93849

(R) "Effective date of an involuntary termination" means 93850
the date the department of medicaid terminates the operator's 93851
provider agreement for the nursing facility. 93852

(S) "Effective date of a voluntary withdrawal of 93853
participation" means the day the nursing facility ceases to 93854
accept new medicaid residents other than the individuals who 93855
reside in the nursing facility on the day before the effective 93856
date of the voluntary withdrawal of participation. 93857

(T) "Entering operator" means the person or government 93858
entity that will become the operator of a nursing facility when 93859
a change of operator occurs or following an involuntary 93860
termination. 93861

(U) "Exiting operator" means any of the following: 93862

(1) An operator that will cease to be the operator of a 93863
nursing facility on the effective date of a change of operator; 93864

(2) An operator that will cease to be the operator of a 93865
nursing facility on the effective date of a facility closure; 93866

(3) An operator of a nursing facility that is undergoing 93867
or has undergone a voluntary withdrawal of participation; 93868

(4) An operator of a nursing facility that is undergoing 93869
or has undergone an involuntary termination. 93870

(V) (1) Subject to divisions (V) (2) and (3) of this 93871
section, "facility closure" means either of the following: 93872

(a) Discontinuance of the use of the building, or part of 93873
the building, that houses the facility as a nursing facility 93874
that results in the relocation of all of the nursing facility's 93875
residents; 93876

(b) Conversion of the building, or part of the building, 93877
that houses a nursing facility to a different use with any 93878
necessary license or other approval needed for that use being 93879
obtained and one or more of the nursing facility's residents 93880
remaining in the building, or part of the building, to receive 93881
services under the new use. 93882

(2) A facility closure occurs regardless of any of the 93883
following: 93884

(a) The operator completely or partially replacing the 93885
nursing facility by constructing a new nursing facility or 93886
transferring the nursing facility's license to another nursing 93887
facility; 93888

(b) The nursing facility's residents relocating to another 93889
of the operator's nursing facilities; 93890

(c) Any action the department of health takes regarding 93891
the nursing facility's medicaid certification that may result in 93892
the transfer of part of the nursing facility's survey findings 93893
to another of the operator's nursing facilities; 93894

(d) Any action the department of health takes regarding 93895
the nursing facility's license under Chapter 3721. of the 93896
Revised Code. 93897

(3) A facility closure does not occur if all of the 93898
nursing facility's residents are relocated due to an emergency 93899
evacuation and one or more of the residents return to a 93900
medicaid-certified bed in the nursing facility not later than 93901
thirty days after the evacuation occurs. 93902

(W) "Franchise permit fee" means the fee imposed by 93903
sections 5168.40 to 5168.56 of the Revised Code. 93904

(X) "Inpatient days" means both of the following:	93905
(1) All days during which a resident, regardless of payment source, occupies a licensed bed in a nursing facility;	93906 93907
(2) Fifty per cent of the days for which payment is made under section 5165.34 of the Revised Code.	93908 93909
(Y) "Involuntary termination" means the department of medicaid's termination of the operator's provider agreement for the nursing facility when the termination is not taken at the operator's request.	93910 93911 93912 93913
(Z) "Low case-mix resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid payment rate for direct care costs, is placed in either of the two lowest case-mix groups, excluding any case-mix group that is a default group used for residents with incomplete assessment data.	93914 93915 93916 93917 93918 93919
(AA) "Maintenance and repair expenses" means a nursing facility's expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the costs of ordinary repairs such as painting and wallpapering.	93920 93921 93922 93923 93924 93925 93926
(BB) "Medicaid-certified capacity" means the number of a nursing facility's beds that are certified for participation in medicaid as nursing facility beds.	93927 93928 93929
(CC) "Medicaid days" means both of the following:	93930
(1) All days during which a resident who is a medicaid recipient eligible for nursing facility services occupies a bed	93931 93932

in a nursing facility that is included in the nursing facility's
medicaid-certified capacity; 93933
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(2) Fifty per cent of the days for which payment is made
under section 5165.34 of the Revised Code. 93935
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(DD) (1) "New nursing facility" means a nursing facility 93937
for which the provider obtains an initial provider agreement 93938
following medicaid certification of the nursing facility by the 93939
director of health, including such a nursing facility that 93940
replaces one or more nursing facilities for which a provider 93941
previously held a provider agreement. 93942

(2) "New nursing facility" does not mean a nursing 93943
facility for which the entering operator seeks a provider 93944
agreement pursuant to section 5165.511 or 5165.512 or (pursuant 93945
to section 5165.515) section 5165.07 of the Revised Code. 93946

(EE) "Nursing facility" has the same meaning as in the 93947
"Social Security Act," section 1919(a), 42 U.S.C. 1396r(a). 93948

(FF) "Nursing facility services" has the same meaning as 93949
in the "Social Security Act," section 1905(f), 42 U.S.C. 93950
1396d(f). 93951

(GG) "Nursing home" has the same meaning as in section 93952
3721.01 of the Revised Code. 93953

(HH) "Occupancy rate" means the percentage of licensed 93954
beds that, regardless of payer source, are either of the 93955
following: 93956

(1) Reserved for use under section 5165.34 of the Revised 93957
Code; 93958

(2) Actually being used. 93959

(II) "Operational control" means having the ability to direct the overall operations and cash flow of a nursing facility. "Operational control" may be exercised by one person or multiple persons acting together or by a government entity, and may exist by means of any of the following:

(1) The person, persons, or government entity directly operating the nursing facility;

(2) The person, persons, or government entity directly or indirectly owning fifty per cent or more of the operator;

(3) An agreement or other arrangement granting the person, persons, or government entity operational control.

(JJ) "Operator" means a person or government entity responsible for the operational control of a nursing facility and that holds both of the following:

(1) The license to operate the nursing facility issued under section 3721.02 of the Revised Code, if a license is required by section 3721.05 of the Revised Code;

(2) The medicaid provider agreement issued under section 5165.07 of the Revised Code, if applicable.

(KK) (1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing facility:

(a) The land on which the nursing facility is located;

(b) The structure in which the nursing facility is located;

(c) Any mortgage, contract for deed, or other obligation

secured in whole or in part by the land or structure on or in 93987
which the nursing facility is located; 93988

(d) Any lease or sublease of the land or structure on or 93989
in which the nursing facility is located. 93990

(2) "Owner" does not mean a holder of a debenture or bond 93991
related to the nursing facility and purchased at public issue or 93992
a regulated lender that has made a loan related to the nursing 93993
facility unless the holder or lender operates the nursing 93994
facility directly or through a subsidiary. 93995

(LL) "Per diem" means a nursing facility's actual, 93996
allowable costs in a given cost center in a cost reporting 93997
period, divided by the nursing facility's inpatient days for 93998
that cost reporting period. 93999

(MM) "Person" has the same meaning as in section 1.59 of 94000
the Revised Code. 94001

(NN) "Private room" means a nursing facility bedroom that 94002
meets all of the following criteria: 94003

(1) It has four permanent, floor-to-ceiling walls and a 94004
full door. 94005

(2) It contains one licensed or certified bed that is 94006
occupied by one individual. 94007

(3) It has access to a hallway without traversing another 94008
bedroom. 94009

(4) It has access to a toilet and sink shared by not more 94010
than one other resident without traversing another bedroom. 94011

(5) It meets all applicable licensure or other standards 94012
pertaining to furniture, fixtures, and temperature control. 94013

(OO) "Provider" means an operator with a provider agreement.	94014 94015
(PP) "Provider agreement" means a provider agreement, as defined in section 5164.01 of the Revised Code, that is between the department of medicaid and the operator of a nursing facility for the provision of nursing facility services under the medicaid program.	94016 94017 94018 94019 94020
(QQ) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the nursing facility.	94021 94022 94023 94024
(RR) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.	94025 94026 94027 94028 94029 94030 94031
(SS) "Rebasing" means a redetermination of each of the following using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous rebasing:	94032 94033 94034 94035
(1) Each peer group's rate for ancillary and support costs as determined pursuant to division (C) of section 5165.16 of the Revised Code;	94036 94037 94038
(2) Each peer group's rate for capital costs as determined pursuant to division (C) of section 5165.17 of the Revised Code;	94039 94040
(3) Each peer group's cost per case-mix unit as determined pursuant to division (C) of section 5165.19 of the Revised Code;	94041 94042

(4) Each nursing facility's rate for tax costs as 94043
determined pursuant to section 5165.21 of the Revised Code. 94044

(TT) "Related party" means an individual or organization 94045
that, to a significant extent, has common ownership with, is 94046
associated or affiliated with, has control of, or is controlled 94047
by, the provider. 94048

(1) An individual who is a relative of an owner is a 94049
related party. 94050

(2) Common ownership exists when an individual or 94051
individuals possess significant ownership or equity in both the 94052
provider and the other organization. Significant ownership or 94053
equity exists when an individual or individuals possess five per 94054
cent ownership or equity in both the provider and a supplier. 94055
Significant ownership or equity is presumed to exist when an 94056
individual or individuals possess ten per cent ownership or 94057
equity in both the provider and another organization from which 94058
the provider purchases or leases real property. 94059

(3) Control exists when an individual or organization has 94060
the power, directly or indirectly, to significantly influence or 94061
direct the actions or policies of an organization. 94062

(4) An individual or organization that supplies goods or 94063
services to a provider shall not be considered a related party 94064
if all of the following conditions are met: 94065

(a) The supplier is a separate bona fide organization. 94066

(b) A substantial part of the supplier's business activity 94067
of the type carried on with the provider is transacted with 94068
others than the provider and there is an open, competitive 94069
market for the types of goods or services the supplier 94070
furnishes. 94071

(c) The types of goods or services are commonly obtained 94072
by other nursing facilities from outside organizations and are 94073
not a basic element of patient care ordinarily furnished 94074
directly to patients by nursing facilities. 94075

(d) The charge to the provider is in line with the charge 94076
for the goods or services in the open market and no more than 94077
the charge made under comparable circumstances to others by the 94078
supplier. 94079

(UU) "Relative of owner" means an individual who is 94080
related to an owner of a nursing facility by one of the 94081
following relationships: 94082

- (1) Spouse; 94083
- (2) Natural parent, child, or sibling; 94084
- (3) Adopted parent, child, or sibling; 94085
- (4) Stepparent, stepchild, stepbrother, or stepsister; 94086
- (5) Father-in-law, mother-in-law, son-in-law, daughter-in- 94087
law, brother-in-law, or sister-in-law; 94088
- (6) Grandparent or grandchild; 94089
- (7) Foster caregiver, foster child, foster brother, or 94090
foster sister. 94091

(VV) "Residents' rights advocate" has the same meaning as 94092
in section 3721.10 of the Revised Code. 94093

(WW) "Skilled nursing facility" has the same meaning as in 94094
the "Social Security Act," section 1819(a), 42 U.S.C. 1395i- 94095
3(a). 94096

(XX) "State fiscal year" means the fiscal year of this 94097
state, as specified in section 9.34 of the Revised Code. 94098

(YY) "Sponsor" has the same meaning as in section 3721.10 of the Revised Code.	94099 94100
(ZZ) "Surrender" has the same meaning as in section 5168.40 of the Revised Code.	94101 94102
(AAA) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.	94103 94104 94105
(BBB) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq.	94106 94107
(CCC) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.	94108 94109
(DDD) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.	94110 94111 94112 94113
Sec. 5165.04. (A) As used in this section, "representative" means a person acting on behalf of an applicant for or recipient of medicaid. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant or recipient.	94114 94115 94116 94117 94118
(B) The department of medicaid may require each applicant for or recipient of medicaid who applies or intends to apply for admission to a nursing facility or resides in a nursing facility to undergo an assessment to determine whether the applicant or recipient needs the level of care provided by a nursing facility. The assessment may be performed concurrently with a long-term care consultation provided under section 173.42 of the Revised Code.	94119 94120 94121 94122 94123 94124 94125 94126

To the maximum extent possible, the assessment shall be 94127
based on information from the resident assessment instrument 94128
specified in rules authorized by section 5165.191 of the Revised 94129
Code. The assessment shall also be based on criteria and 94130
procedures established in rules authorized by division (F) of 94131
this section and information provided by the person being 94132
assessed or the person's representative. 94133

The department of medicaid, or if the assessment is 94134
performed by an agency under contract with the department 94135
pursuant to division (G) of this section, the agency, shall, not 94136
later than the time the level of care determination based on the 94137
assessment is required to be provided under division (C) of this 94138
section, give written notice of its conclusions and the basis 94139
for them to the person assessed and, if the department or agency 94140
under contract with the department has been informed that the 94141
person has a representative, to the representative. 94142

(C) The department or agency under contract with the 94143
department, whichever performs the assessment, shall provide a 94144
level of care determination based on the assessment as follows: 94145

(1) In the case of a person applying or intending to apply 94146
for admission to a nursing facility while hospitalized, not 94147
later than one of the following: 94148

(a) One working day after the person or the person's 94149
representative submits the application or notifies the 94150
department of the person's intention to apply and submits all 94151
information required for providing the level of care 94152
determination, as specified in rules authorized by division (F) 94153
(2) of this section; 94154

(b) A later date requested by the person or the person's 94155

representative. 94156

(2) In the case of a person applying or intending to apply 94157
for admission to a nursing facility who is not hospitalized, not 94158
later than one of the following: 94159

(a) Five calendar days after the person or the person's 94160
representative submits the application or notifies the 94161
department of the person's intention to apply and submits all 94162
information required for providing the level of care 94163
determination, as specified in rules authorized by division (F) 94164
(2) of this section; 94165

(b) A later date requested by the person or the person's 94166
representative. 94167

(3) In the case of a person who resides in a nursing 94168
facility, not later than one of the following: 94169

(a) Five calendar days after the person or the person's 94170
representative submits an application for medicaid and submits 94171
all information required for providing the level of care 94172
determination, as specified in rules authorized by division (F) 94173
(2) of this section; 94174

(b) A later date requested by the person or the person's 94175
representative. 94176

(4) In the case of an emergency, as specified in rules 94177
authorized by division (F) (4) of this section, within the number 94178
of days specified in the rules. 94179

(D) A person assessed under this section or the person's 94180
representative may appeal the conclusions reached by the 94181
department or agency under contract with the department on the 94182
basis of the assessment. The appeal shall be made pursuant to 94183

section 5160.31 of the Revised Code. The department or agency 94184
under contract with the department shall provide to the person 94185
or the person's representative and the nursing facility written 94186
notice of the person's right to request a state hearing. The 94187
notice shall include an explanation of the procedure for 94188
requesting a state hearing. If a state hearing is requested, the 94189
state shall be represented in the hearing by the department or 94190
the agency under contract with the department, whichever 94191
performed the assessment. 94192

(E) A nursing facility that admits or retains a person 94193
determined pursuant to an assessment required under this section 94194
not to need the level of care provided by the nursing facility 94195
shall not be paid under the medicaid program for the person's 94196
care. 94197

(F) The medicaid director shall adopt rules ~~under section~~ 94198
~~5165.02 of the Revised Code to implement and administer this~~ 94199
~~section. The rules shall include establishing all of the~~ 94200
following: 94201

(1) Criteria and procedures to be used in determining 94202
whether admission to a nursing facility or continued stay in a 94203
nursing facility is appropriate for the person being assessed; 94204

(2) Information the person being assessed or the person's 94205
representative must provide to the department or agency under 94206
contract with the department for purposes of the assessment and 94207
providing a level of care determination based on the assessment; 94208

(3) Circumstances under which a person is not required to 94209
be assessed; 94210

(4) Circumstances that constitute an emergency for 94211
purposes of division (C) (4) of this section and the number of 94212

days within which a level of care determination must be provided 94213
in the case of an emergency. 94214

(G) Pursuant to section 5162.35 of the Revised Code, the 94215
department of medicaid may enter into contracts in the form of 94216
interagency agreements with one or more other state agencies to 94217
perform the assessments required under this section. The 94218
interagency agreements shall specify the responsibilities of 94219
each agency in the performance of the assessments. 94220

Sec. 5165.082. (A) Except as provided in division (B) of 94221
this section, the operator of a nursing facility that elects to 94222
have the nursing facility participate in the medicaid program 94223
shall qualify all of the nursing facility's medicaid-certified 94224
beds in the medicare program. The medicaid director may adopt 94225
rules ~~under section 5165.02 of the Revised Code~~ to establish the 94226
time frame in which a nursing facility must comply with this 94227
requirement. 94228

(B) The department of veterans services is not required to 94229
qualify all of the medicaid-certified beds in a nursing facility 94230
the department maintains and operates under section 5907.01 of 94231
the Revised Code in the medicare program. 94232

Sec. 5165.10. (A) Except as provided in division (C) of 94233
this section, each nursing facility provider shall file with the 94234
department of medicaid an annual cost report for each of the 94235
provider's nursing facilities that participate in the medicaid 94236
program. The cost report for a year shall cover the calendar 94237
year or the portion of the calendar year during which the 94238
nursing facility participated in the medicaid program. Except as 94239
provided in division (D) of this section, the cost report is due 94240
not later than ninety days after the end of the calendar year, 94241
or portion of the calendar year, that the cost report covers. 94242

(B) If a nursing facility undergoes a change of provider 94243
that the department determines, ~~in accordance with rules adopted~~ 94244
~~under section 5165.02 of the Revised Code,~~ is not an arm's 94245
length transaction, the new provider shall file the nursing 94246
facility's cost report in accordance with division (A) of this 94247
section and the cost report shall cover the portion of the 94248
calendar year during which the new provider operated the nursing 94249
facility and the portion of the calendar year during which the 94250
previous provider operated the nursing facility. 94251

(C) The provider of a new nursing facility is not required 94252
to file a cost report in accordance with division (A) of this 94253
section for the first calendar year that the provider has a 94254
provider agreement for the nursing facility if the initial 94255
provider agreement goes into effect after the first day of 94256
October of that calendar year. The provider shall file a cost 94257
report for the nursing facility in accordance with division (A) 94258
of this section for the immediately following calendar year. 94259

(D) The department may grant to a provider a fourteen-day 94260
extension to file a cost report under this section if the 94261
provider provides the department a written request for the 94262
extension and the department determines that there is good cause 94263
for the extension. 94264

Sec. 5165.105. The department of medicaid shall develop an 94265
addendum to the cost report form that a nursing facility 94266
provider may use to set forth costs that the provider believes 94267
the department may dispute. The department may consider such 94268
costs in determining a nursing facility's medicaid payment rate. 94269
If the department does not consider such costs in determining a 94270
nursing facility's medicaid payment rate, the provider may seek 94271
reconsideration of the determination in accordance with section 94272

5165.38 of the Revised Code. If the department subsequently 94273
includes such costs in a nursing facility's medicaid payment 94274
rate, the department shall pay the provider interest at a 94275
reasonable rate ~~established in rules adopted under section~~ 94276
~~5165.02 of the Revised Code~~ for the period that the rate 94277
excluded the costs. 94278

Sec. 5165.109. (A) The department of medicaid may conduct 94279
an audit, ~~as defined in rules adopted under section 5165.02 of~~ 94280
~~the Revised Code,~~ of any cost report filed under section 5165.10 94281
or 5165.522 of the Revised Code. The decision whether to conduct 94282
an audit and the scope of the audit, which may be a desk or 94283
field audit, may be determined based on prior performance of the 94284
provider, a risk analysis, or other evidence that gives the 94285
department reason to believe that the provider has reported 94286
costs improperly. A desk or field audit may be performed 94287
annually, but is required whenever a provider does not pass the 94288
risk analysis tolerance factors. 94289

(B) Audits shall be conducted by auditors under contract 94290
with the department, auditors working for firms under contract 94291
with the department, or auditors employed by the department. 94292

The department may establish a contract for the auditing 94293
of nursing facilities by outside firms. Each contract entered 94294
into by bidding shall be effective for one to two years. 94295

(C) The department shall notify a provider of the findings 94296
of an audit of a cost report by issuing an audit report. The 94297
audit report shall include notice of any fine imposed under 94298
section 5165.1010 of the Revised Code. The department shall 94299
issue the audit report not later than three years after the 94300
earlier of the following: 94301

- (1) The date the cost report is filed; 94302
- (2) The date a desk or field audit of the cost report or a cost report for a subsequent cost reporting period is completed. 94303
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- (D) The department shall prepare a written summary of any audit disallowance that is made after the effective date of the rate that is based on the cost. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5165.41 of the Revised Code. 94305
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- (E) (1) If an audit is conducted by an auditor under contract with the department, the audit shall be conducted in accordance with procedures agreed upon between the department and the auditor. 94313
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- (2) If an audit is conducted by the department, the department shall develop an audit plan or approach before the audit begins. The scope of the audit may change during the course of the audit based on observations and findings during the audit. 94317
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- (3) All of the following apply to each field audit conducted by an auditor under contract with the department: 94322
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- (a) During the period of the auditor's contract, firm's contract, or auditor's employment with the department, the auditor or firm does not have and is not committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of nursing facilities in this state. 94324
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- (b) The auditor does not audit any provider that has been a client of the auditor or the auditor's firm. 94329
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(c) The auditor is otherwise independent as determined by 94331
the standards of independence included in the government 94332
auditing standards produced by the United States government 94333
accountability office. 94334

Sec. 5165.153. (A) The total per medicaid day payment rate 94335
determined under section 5165.15 of the Revised Code shall not 94336
be paid for nursing facility services provided by a nursing 94337
facility, or discrete unit of a nursing facility, designated by 94338
the department of medicaid as an outlier nursing facility or 94339
unit. Instead, the provider of a designated outlier nursing 94340
facility or unit shall be paid each state fiscal year a total 94341
per medicaid day payment rate that the department shall 94342
prospectively determine in accordance with a methodology 94343
established in rules authorized by this section. 94344

(B) The department may designate a nursing facility, or 94345
discrete unit of a nursing facility, as an outlier nursing 94346
facility or unit if the nursing facility or unit serves 94347
residents who have either of the following: 94348

(1) Diagnoses or special care needs that require direct 94349
care resources that are not measured adequately by the resident 94350
assessment instrument specified in rules authorized by section 94351
5165.191 of the Revised Code; 94352

(2) Diagnoses or special care needs specified in rules 94353
authorized by this section as otherwise qualifying for 94354
consideration under this section. 94355

(C) Notwithstanding any other provision of this chapter 94356
(except section 5165.156 of the Revised Code), the costs 94357
incurred by a designated outlier nursing facility or unit shall 94358
not be considered in establishing medicaid payment rates for 94359

other nursing facilities or units. 94360

~~(D) (D) (1) (a) The medicaid director shall adopt rules under 94361
section 5165.02 of the Revised Code as necessary to implement 94362
this section. 94363~~

~~(1) (a) The rules shall that do both of the following: 94364~~

(i) Specify the criteria and procedures the department 94365
will apply when designating a nursing facility, or discrete unit 94366
of a nursing facility, as an outlier nursing facility or unit; 94367

(ii) Establish a methodology for prospectively determining 94368
the total per medicaid day payment rate that will be paid each 94369
state fiscal year for nursing facility services provided by a 94370
designated outlier nursing facility or unit. 94371

(b) The rules authorized by division (D) (1) (a) (i) of this 94372
section regarding the criteria for designating outlier nursing 94373
facilities and units shall do both of the following: 94374

(i) Provide for consideration of whether all of the 94375
allowable costs of a nursing facility, or discrete unit of a 94376
nursing facility, would be paid by a rate determined under 94377
section 5165.15 of the Revised Code; 94378

(ii) Specify the minimum number of nursing facility beds 94379
that a nursing facility, or discrete unit of a nursing facility, 94380
must have to be designated an outlier nursing facility or unit, 94381
which may vary based on the diagnoses or special care needs of 94382
the residents served by the nursing facility or unit. 94383

(c) The rules authorized by division (D) (1) (a) (i) of this 94384
section regarding the criteria for designating outlier nursing 94385
facilities and units shall not limit the designation to nursing 94386
facilities, or discrete units of nursing facilities, located in 94387

large cities. 94388

(d) The rules authorized by division (D) (1) (a) (ii) of this section regarding the methodology for prospectively determining the rates of designated outlier nursing facilities and units shall provide for the methodology to consider the historical costs of providing nursing facility services to the residents of designated outlier nursing facilities and units. 94389
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(2) (a) The rules may do both of the following: 94395

(i) Include for designation as an outlier nursing facility or unit, a nursing facility, or discrete unit of a nursing facility, that serves medically fragile pediatric residents; residents who are dependent on ventilators; residents who have severe traumatic brain injury, end-stage Alzheimer's disease, or end-stage acquired immunodeficiency syndrome; or residents with other diagnoses or special care needs specified in the rules; 94396
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(ii) Require that a designated outlier nursing facility receive authorization from the department before admitting or retaining a resident. 94403
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(b) If the director adopts rules authorized by division (D) (2) (a) (ii) of this section regarding the authorization of a designated outlier nursing facility or unit to admit or retain a resident, the rules shall specify the criteria and procedures the department will apply when granting that authorization. 94406
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Sec. 5165.154. (A) To the extent, if any, provided for in rules authorized by this section, the total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be paid for nursing facility services that a nursing facility not designated as an outlier nursing facility or unit provides to a resident who meets the criteria for 94411
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admission to a designated outlier nursing facility or unit, as 94417
specified in rules authorized by section 5165.153 of the Revised 94418
Code. Instead, the provider of a nursing facility providing 94419
nursing facility services to such a resident shall be paid each 94420
state fiscal year a total per medicaid day payment rate that the 94421
department of medicaid shall prospectively determine in 94422
accordance with a methodology established in rules authorized by 94423
this section. 94424

(B) The medicaid director may adopt rules ~~under section~~ 94425
~~5165.02 of the Revised Code to implement this section. The rules~~ 94426
~~may that~~ require that a nursing facility receive authorization 94427
from the department before admitting or retaining a resident who 94428
meets the criteria for admission to a designated outlier nursing 94429
facility or unit. If the director adopts such rules, the rules 94430
shall specify the criteria and procedures the department will 94431
apply when granting the authorization. 94432

Sec. 5165.156. The medicaid director may establish a 94433
centers of excellence component of the medicaid program. The 94434
purpose of the centers of excellence component is to increase 94435
the efficiency and quality of nursing facility services provided 94436
to medicaid recipients with complex nursing facility service 94437
needs. The director may adopt rules ~~under section 5165.02 of the~~ 94438
~~Revised Code governing the component, including rules that~~ 94439
~~establish~~ establishes a method of determining the medicaid 94440
payment rates for nursing facilities providing nursing facility 94441
services to medicaid recipients participating in the component. 94442
The rules may specify the extent to which, if any, of the 94443
provisions of sections 5165.153 and 5165.154 of the Revised Code 94444
are to apply to the centers of excellence component. If such 94445
rules are adopted, the nursing facilities that provide nursing 94446
facility services to medicaid recipients participating in the 94447

centers of excellence component shall be paid for those services 94448
in accordance with the method established in the rules instead 94449
of the total per medicaid day payment rate determined under 94450
section 5165.15 of the Revised Code. 94451

Sec. 5165.17. (A) The department of medicaid shall 94452
determine each nursing facility's per medicaid day payment rate 94453
for capital costs. A nursing facility's rate shall be the rate 94454
determined under division (C) of this section for the nursing 94455
facility's peer group. 94456

(B) For the purpose of determining nursing facilities' 94457
rates for capital costs, the department shall establish six peer 94458
groups. 94459

(1) Each nursing facility located in any of the following 94460
counties shall be placed in peer group one or two: Brown, 94461
Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing 94462
facility located in any of those counties that has fewer than 94463
one hundred beds shall be placed in peer group one. Each nursing 94464
facility located in any of those counties that has one hundred 94465
or more beds shall be placed in peer group two. 94466

(2) Each nursing facility located in any of the following 94467
counties shall be placed in peer group three or four: Allen, 94468
Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, 94469
Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, 94470
Knox, Lake, Licking, Lorain, Lucas, Madison, Mahoning, Marion, 94471
Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, 94472
Preble, Ross, Sandusky, Seneca, Stark, Summit, Trumbull, Union, 94473
and Wood. Each nursing facility located in any of those counties 94474
that has fewer than one hundred beds shall be placed in peer 94475
group three. Each nursing facility located in any of those 94476
counties that has one hundred or more beds shall be placed in 94477

peer group four. 94478

(3) Each nursing facility located in any of the following 94479
counties shall be placed in peer group five or six: Adams, 94480
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 94481
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 94482
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 94483
Jefferson, Lawrence, Logan, Meigs, Mercer, Monroe, Morgan, 94484
Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 94485
Scioto, Shelby, Tuscarawas, Van Wert, Vinton, Washington, Wayne, 94486
Williams, and Wyandot. Each nursing facility located in any of 94487
those counties that has fewer than one hundred beds shall be 94488
placed in peer group five. Each nursing facility located in any 94489
of those counties that has one hundred or more beds shall be 94490
placed in peer group six. 94491

(C) (1) The department shall determine the rate for capital 94492
costs for each peer group established under division (B) of this 94493
section. The rate for capital costs determined under this 94494
division for a peer group shall be used for subsequent years 94495
until the department conducts a rebasing. A peer group's rate 94496
for capital costs shall be the rate for capital costs for the 94497
nursing facility in the peer group that is at the twenty-fifth 94498
percentile of the rate for capital costs for the applicable 94499
calendar year. 94500

(2) To identify the nursing facility in a peer group that 94501
is at the twenty-fifth percentile of the rate for capital costs 94502
for the applicable calendar year, the department shall do both 94503
of the following: 94504

(a) Use the greater of each nursing facility's actual 94505
inpatient days for the applicable calendar year or the inpatient 94506
days the nursing facility would have had for the applicable 94507

calendar year if its occupancy rate had been one hundred per cent; 94508
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(b) Exclude both of the following: 94510

(i) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year; 94511
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(ii) Nursing facilities whose capital costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem capital cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year. 94514
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(3) The department shall not redetermine a peer group's rate for capital costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for capital costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination. 94519
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(D) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted ~~under section 5165.02 of the Revised Code~~ by the medicaid director, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be 94526
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included in capital costs unless that part of the payment under 94537
this chapter is used to reimburse the government agency. 94538

(E) The capital cost basis of nursing facility assets 94539
shall be determined in the following manner: 94540

(1) Except as provided in division (E) (3) of this section, 94541
for purposes of calculating the rates to be paid for facilities 94542
with dates of licensure on or before June 30, 1993, the capital 94543
cost basis of each asset shall be equal to the desk-reviewed, 94544
actual, allowable, capital cost basis that is listed on the 94545
facility's cost report for the calendar year preceding the state 94546
fiscal year during which the rate will be paid. 94547

(2) For facilities with dates of licensure after June 30, 94548
1993, the capital cost basis shall be determined in accordance 94549
with the principles of the medicare program, except as otherwise 94550
provided in this chapter. 94551

(3) Except as provided in division (E) (4) of this section, 94552
if a provider transfers an interest in a facility to another 94553
provider after June 30, 1993, there shall be no increase in the 94554
capital cost basis of the asset if the providers are related 94555
parties or the provider to which the interest is transferred 94556
authorizes the provider that transferred the interest to 94557
continue to operate the facility under a lease, management 94558
agreement, or other arrangement. If the previous sentence does 94559
not prohibit the adjustment of the capital cost basis under this 94560
division, the basis of the asset shall be adjusted by one-half 94561
of the change in the consumer price index for all items for all 94562
urban consumers, as published by the United States bureau of 94563
labor statistics, during the time that the transferor held the 94564
asset. 94565

(4) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (E) (3) of this section if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) Except as provided in division (E) (4) (c) (ii) of this section, the provider making the transfer retains no ownership interest in the facility;

(c) The department determines that the transfer is an arm's length transaction pursuant to rules adopted ~~under section 5165.02 of the Revised Code~~ by the medicaid director. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a

catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (E) (4) of this section or actual, allowable capital costs was determined most recently under division (F) (9) of this section.

(F) As used in this division:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to division (A) of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (A) of this section, for a lease

of a facility that was in existence but not operated under a 94623
lease on May 27, 1992, actual, allowable capital costs shall 94624
include the lesser of the annual lease expense or the annual 94625
depreciation expense and imputed interest expense that would be 94626
calculated at the inception of the lease using the lessor's 94627
entire historical capital asset cost basis, adjusted by one-half 94628
of the change in the consumer price index for all items for all 94629
urban consumers, as published by the United States bureau of 94630
labor statistics, during the time the lessor held each asset 94631
until the beginning of the lease. 94632

(3) Subject to division (A) of this section, for a lease 94633
of a facility with a date of licensure on or after May 27, 1992, 94634
that is initially operated under a lease, actual, allowable 94635
capital costs shall include the annual lease expense if there 94636
was a substantial commitment of money for construction of the 94637
facility after December 22, 1992, and before July 1, 1993. If 94638
there was not a substantial commitment of money after December 94639
22, 1992, and before July 1, 1993, actual, allowable capital 94640
costs shall include the lesser of the annual lease expense or 94641
the sum of the following: 94642

(a) The annual depreciation expense that would be 94643
calculated at the inception of the lease using the lessor's 94644
entire historical capital asset cost basis; 94645

(b) The greater of the lessor's actual annual amortization 94646
of financing costs and interest expense at the inception of the 94647
lease or the imputed interest expense calculated at the 94648
inception of the lease using seventy per cent of the lessor's 94649
historical capital asset cost basis. 94650

(4) Subject to division (A) of this section, for a lease 94651
of a facility with a date of licensure on or after May 27, 1992, 94652

that was not initially operated under a lease and has been in 94653
existence for ten years, actual, allowable capital costs shall 94654
include the lesser of the annual lease expense or the annual 94655
depreciation expense and imputed interest expense that would be 94656
calculated at the inception of the lease using the entire 94657
historical capital asset cost basis of one-half of the change in 94658
the consumer price index for all items for all urban consumers, 94659
as published by the United States bureau of labor statistics, 94660
during the time the lessor held each asset until the beginning 94661
of the lease. 94662

(5) Subject to division (A) of this section, for a new 94663
lease of a facility that was operated under a lease on May 27, 94664
1992, actual, allowable capital costs shall include the lesser 94665
of the annual new lease expense or the annual old lease payment. 94666
If the old lease was in effect for ten years or longer, the old 94667
lease payment from the beginning of the old lease shall be 94668
adjusted by one-half of the change in the consumer price index 94669
for all items for all urban consumers, as published by the 94670
United States bureau of labor statistics, from the beginning of 94671
the old lease to the beginning of the new lease. 94672

(6) Subject to division (A) of this section, for a new 94673
lease of a facility that was not in existence or that was in 94674
existence but not operated under a lease on May 27, 1992, 94675
actual, allowable capital costs shall include the lesser of 94676
annual new lease expense or the annual amount calculated for the 94677
old lease under division (F) (2), (3), (4), or (6) of this 94678
section, as applicable. If the old lease was in effect for ten 94679
years or longer, the lessor's historical capital asset cost 94680
basis shall be, for purposes of calculating the annual amount 94681
under division (F) (2), (3), (4), or (6) of this section, 94682
adjusted by one-half of the change in the consumer price index 94683

for all items for all urban consumers, as published by the 94684
United States bureau of labor statistics, from the beginning of 94685
the old lease to the beginning of the new lease. 94686

In the case of a lease under division (F)(3) of this 94687
section of a facility for which a substantial commitment of 94688
money was made after December 22, 1992, and before July 1, 1993, 94689
the old lease payment shall be adjusted for the purpose of 94690
determining the annual amount. 94691

(7) For any revision of a lease described in division (F) 94692
(1), (2), (3), (4), (5), or (6) of this section, or for any 94693
subsequent lease of a facility operated under such a lease, 94694
other than execution of a new lease, the portion of actual, 94695
allowable capital costs attributable to the lease shall be the 94696
same as before the revision or subsequent lease. 94697

(8) Except as provided in division (F)(9) of this section, 94698
if a provider leases an interest in a facility to another 94699
provider who is a related party or previously operated the 94700
facility, the related party's or previous operator's actual, 94701
allowable capital costs shall include the lesser of the annual 94702
lease expense or the reasonable cost to the lessor. 94703

(9) If a provider leases an interest in a facility to 94704
another provider who is a related party, regardless of the date 94705
of the lease, the related party's actual, allowable capital 94706
costs shall include the annual lease expense, subject to the 94707
limitations specified in divisions (F)(1) to (7) of this 94708
section, if all of the following conditions are met: 94709

(a) The related party is a relative of owner; 94710

(b) If the lessor retains an ownership interest, it is, 94711
except as provided in division (F)(9)(c)(ii) of this section, in 94712

only the real property and any improvements on the real property; 94713
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(c) The department determines that the lease is an arm's length transaction pursuant to rules adopted ~~under section 5165.02 of the Revised Code~~ by the medicaid director. The rules shall provide that a lease is an arm's length transaction if all of the following apply: 94715
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(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (F) (9) (b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor. 94720
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(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs. 94726
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(iii) The lease satisfies any other criteria specified in the rules. 94732
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(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (E) (4) of this section or actual, allowable capital costs were determined most recently under division (F) (9) of this section. 94734
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(10) This division does not apply to leases of specific items of equipment. 94742
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Sec. 5165.191. Each calendar quarter, each nursing facility provider shall compile complete assessment data for each resident of each of the provider's nursing facilities, regardless of payment source, who is in the nursing facility, or on hospital or therapeutic leave from the nursing facility, on the last day of the quarter. A resident assessment instrument specified in rules authorized by this section shall be used to compile the resident assessment data. Each provider shall submit the resident assessment data to the department of health and, if required by the rules, the department of medicaid. The resident assessment data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled. If the resident assessment data is to be submitted to the department of medicaid, it shall be submitted to the department through the medium or media specified in the rules. 94744
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~~Rules adopted under section 5165.02 of the Revised Code—~~ 94759
The medicaid director shall adopt rules that do all of the 94760
following: 94761

(A) In a manner consistent with the "Social Security Act," section 1919(e) (5), 42 U.S.C. 1396r(e) (5), specify a resident assessment instrument to be used by nursing facility providers under this section; 94762
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(B) Specify whether nursing facility providers must submit the resident assessment data to the department of medicaid; 94766
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(C) Specify any resident assessment data that is excluded from the case mix calculation made under section 5165.192 of the Revised Code; 94768
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94770

(D) If the rules specify that nursing facility providers must submit the resident assessment data to the department, specify the medium or media through which the data is to be submitted.

Sec. 5165.192. (A) (1) Except as provided in division (B) of this section and in accordance with the process specified in rules authorized by this section, the department of medicaid shall do all of the following:

(a) Every quarter, determine the following two case-mix scores for each nursing facility:

(i) A quarterly case-mix score that includes each resident who is a medicaid recipient and is not a low case-mix resident;

(ii) A quarterly case-mix score that includes each resident regardless of payment source.

(b) Every six months, determine a semiannual average case-mix score for each nursing facility by using the quarterly case-mix scores determined for the nursing facility pursuant to division (A) (1) (a) (i) of this section;

(c) After the end of each calendar year, determine an annual average case-mix score for each nursing facility by using the quarterly case-mix scores determined for the nursing facility pursuant to division (A) (1) (a) (ii) of this section.

(2) When determining case-mix scores under division (A) (1) of this section, the department shall use all of the following:

(a) Data from a resident assessment instrument specified in rules authorized by section 5165.191 of the Revised Code;

(b) Except as provided in rules authorized by this section, the case-mix values established by the United States

department of health and human services; 94799

(c) Except as modified in rules authorized by this 94800
section, the grouper methodology used on October 1, 2019, for 94801
the patient driven payment model nursing index, by the United 94802
States department of health and human services for prospective 94803
payment of skilled nursing facilities under the medicare 94804
program. 94805

(B) (1) Subject to division (B) (2) of this section, the 94806
department, for one or more months of a calendar quarter, may 94807
assign to a nursing facility a case-mix score that is five per 94808
cent less than the nursing facility's case-mix score for the 94809
immediately preceding calendar quarter if any of the following 94810
apply: 94811

(a) The provider does not timely submit complete and 94812
accurate resident assessment data necessary to determine the 94813
nursing facility's case-mix score for the calendar quarter; 94814

(b) The nursing facility was subject to an exception 94815
review under section 5165.193 of the Revised Code for the 94816
immediately preceding calendar quarter; 94817

(c) The nursing facility was assigned a case-mix score for 94818
the immediately preceding calendar quarter. 94819

(2) Before assigning a case-mix score to a nursing 94820
facility due to the submission of incorrect resident assessment 94821
data, the department shall permit the provider to correct the 94822
data. The department may assign the case-mix score if the 94823
provider fails to submit the corrected resident assessment data 94824
not later than the earlier of the forty-fifth day after the end 94825
of the calendar quarter to which the data pertains or the 94826
deadline for submission of such corrections established by 94827

regulations adopted by the United States department of health 94828
and human services under Title XVIII and Title XIX. 94829

(3) If, for more than six months in a calendar year, a 94830
provider is paid a rate determined for a nursing facility using 94831
a case-mix score assigned to the nursing facility under division 94832
(B) (1) of this section, the department may assign the nursing 94833
facility a cost per case-mix unit that is five per cent less 94834
than the nursing facility's actual or assigned cost per case-mix 94835
unit for the immediately preceding calendar year. The department 94836
may use the assigned cost per case-mix unit, instead of 94837
determining the nursing facility's actual cost per case-mix unit 94838
in accordance with section 5165.19 of the Revised Code, to 94839
establish the nursing facility's rate for direct care costs for 94840
the fiscal year immediately following the calendar year for 94841
which the cost per case-mix unit is assigned. 94842

(4) The department shall take action under division (B) 94843
(1), (2), or (3) of this section only in accordance with rules 94844
authorized by this section. The department shall not take an 94845
action that affects rates for prior payment periods except in 94846
accordance with sections 5165.41 and 5165.42 of the Revised 94847
Code. 94848

~~(C) (C) (1) The medicaid director shall adopt rules under~~ 94849
~~section 5165.02 of the Revised Code as necessary to implement~~ 94850
~~this section.~~ 94851

~~(1) The rules shall that~~ do all of the following: 94852

(a) Specify the process for determining the semiannual and 94853
annual average case-mix scores for nursing facilities; 94854

(b) Modify the grouper methodology specified in division 94855
(A) (2) (c) of this section as follows: 94856

(i) Incorporate the grouper methodology for the patient 94857
driven payment model nursing index used by the United States 94858
department of health and human services on October 1, 2019, for 94859
prospective payment of skilled nursing facilities under the 94860
medicare program; 94861

(ii) Make other changes the department determines are 94862
necessary. 94863

(c) Establish procedures under which resident assessment 94864
data shall be reviewed for accuracy and providers shall be 94865
notified of any data that requires correction; 94866

(d) Establish procedures for providers to correct resident 94867
assessment data and specify a reasonable period of time by which 94868
providers shall submit the corrections. The procedures may limit 94869
the content of corrections in the manner required by regulations 94870
adopted by the United States department of health and human 94871
services under Title XVIII and Title XIX. 94872

(e) Specify when and how the department will assign case- 94873
mix scores or costs per case-mix unit to a nursing facility 94874
under division (B) of this section if information necessary to 94875
calculate the nursing facility's case-mix score is not provided 94876
or corrected in accordance with the procedures established by 94877
the rules. 94878

(2) Notwithstanding any other provision of this chapter, 94879
the rules may provide for the exclusion of case-mix scores 94880
assigned to a nursing facility under division (B) of this 94881
section from the determination of the nursing facility's 94882
semiannual or annual average case-mix score and the cost per 94883
case-mix unit for the nursing facility's peer group. 94884

Sec. 5165.193. (A) The department of medicaid may, 94885

pursuant to rules authorized by this section, conduct an 94886
exception review of resident assessment data submitted by a 94887
nursing facility provider under section 5165.191 of the Revised 94888
Code. The department may conduct an exception review based on 94889
the findings of a medicaid certification survey conducted by the 94890
department of health, a risk analysis, or prior performance of 94891
the provider. 94892

Exception reviews shall be conducted by appropriate health 94893
professionals under contract with or employed by the department. 94894
The professionals may review resident assessment forms and 94895
supporting documentation, conduct interviews, and observe 94896
residents to identify any patterns or trends of inaccurate 94897
resident assessments and resulting inaccurate case-mix scores. 94898

(B) If an exception review is conducted before the 94899
effective date of a nursing facility's rate for direct care 94900
costs that is based on the resident assessment data being 94901
reviewed and the review results in findings that exceed 94902
tolerance levels specified in the rules authorized by this 94903
section, the department, in accordance with those rules, may use 94904
the findings to redetermine individual resident case-mix scores, 94905
the nursing facility's case-mix score for the quarter, and the 94906
nursing facility's annual average case-mix score. The department 94907
may use the nursing facility's redetermined quarterly and annual 94908
average case-mix scores to determine the nursing facility's rate 94909
for direct care costs for the appropriate calendar quarter or 94910
quarters. 94911

(C) The department shall prepare a written summary of any 94912
exception review finding that is made after the effective date 94913
of a nursing facility's rate for direct care costs that is based 94914
on the resident assessment data that was reviewed. Where the 94915

provider is pursuing judicial or administrative remedies in good 94916
faith regarding the finding, the department shall not withhold 94917
from the provider's current payments any amounts the department 94918
claims to be due from the provider pursuant to section 5165.41 94919
of the Revised Code. 94920

(D) (1) The medicaid director shall adopt rules ~~under~~ 94921
~~section 5165.02 of the Revised Code as necessary to implement~~ 94922
~~this section. The rules shall to~~ establish an exception review 94923
program that does all of the following: 94924

(a) Requires each exception review to comply with Title 94925
XVIII and Title XIX; 94926

(b) Requires a written summary for each exception review 94927
that states whether resident assessment forms have been 94928
completed accurately; 94929

(c) Prohibits each health professional who conducts an 94930
exception review from doing either of the following: 94931

(i) During the period of the professional's contract or 94932
employment with the department, having or being committed to 94933
acquire any direct or indirect financial interest in the 94934
ownership, financing, or operation of nursing facilities in this 94935
state; 94936

(ii) Reviewing any provider that has been a client of the 94937
professional. 94938

(2) For the purposes of division (D) (1) (c) (i) of this 94939
section, employment of a member of a health professional's 94940
family by a nursing facility that the professional does not 94941
review does not constitute a direct or indirect financial 94942
interest in the ownership, financing, or operation of the 94943
nursing facility. 94944

Sec. 5165.38. The medicaid director shall adopt rules 94945
~~under section 5165.02 of the Revised Code~~ that establish a 94946
process under which a nursing facility provider, or a group or 94947
association of nursing facility providers, may seek 94948
reconsideration of medicaid payment rates established under this 94949
chapter, including a rate for direct care costs recalculated 94950
before the effective date of the rate as a result of an 94951
exception review of resident assessment data conducted under 94952
section 5165.193 of the Revised Code. The only issue that a 94953
provider, group, or association may raise in the rate 94954
reconsideration shall be whether the rate was calculated in 94955
accordance with this chapter and the rules adopted under ~~section~~ 94956
~~5165.02 of the Revised Code~~it. The provider, group, or 94957
association may submit written arguments or other materials that 94958
support its position. The provider, group, or association and 94959
department of medicaid shall take actions regarding the rate 94960
reconsideration within time frames specified in rules authorized 94961
by this section. 94962

If the department determines, as a result of the rate 94963
reconsideration, that the rate determined for one or more 94964
nursing facilities is less than the rate to which the nursing 94965
facility is entitled, the department shall increase the rate. If 94966
the department has paid the incorrect rate for a period of time, 94967
the department shall pay the provider the difference between the 94968
amount the provider was paid for that period for the nursing 94969
facility and the amount the provider should have been paid for 94970
the nursing facility. 94971

Sec. 5165.48. The provider of a nursing facility is not 94972
required to submit a claim to the department of medicaid 94973
regarding the medicare cost-sharing expenses of a resident of 94974
the nursing facility who, under federal law, is eligible to have 94975

the medicaid program pay for a part of the cost-sharing expenses 94976
if the provider determines that, ~~under rules adopted under~~ 94977
~~section 5165.02 of the Revised Code,~~ the nursing facility would 94978
not receive a medicaid payment for any part of the medicare 94979
cost-sharing expenses. In such a situation, a claim for the 94980
medicare cost-sharing expenses shall be considered to have been 94981
adjudicated at no payment. 94982

Sec. 5165.516. The medicaid director may adopt rules ~~under~~ 94983
~~section 5165.02 of the Revised Code~~ governing adjustments to the 94984
medicaid payment rate for a nursing facility that undergoes a 94985
change of operator. No rate adjustment resulting from a change 94986
of operator shall be effective before the effective date of the 94987
entering operator's provider agreement. This is the case 94988
regardless of whether the provider agreement is entered into 94989
under section 5165.511, section 5165.512, or, pursuant to 94990
section 5165.515, section 5165.07 of the Revised Code. 94991

Sec. 5165.53. The medicaid director shall adopt rules 94992
~~under section 5165.02 of the Revised Code to implement sections~~ 94993
~~5165.50 to 5165.53 of the Revised Code, including rules~~ 94994
applicable to an exiting operator that provides written 94995
notification under section 5165.50 of the Revised Code of a 94996
voluntary withdrawal of participation. Rules adopted under this 94997
section shall comply with the "Social Security Act," section 94998
1919(c)(2)(F), 42 U.S.C. 1396r(c)(2)(F), regarding restrictions 94999
on transfers or discharges of nursing facility residents in the 95000
case of a voluntary withdrawal of participation. The rules may 95001
prescribe a medicaid payment methodology and other procedures 95002
that are applicable after the effective date of a voluntary 95003
withdrawal of participation that differ from the payment 95004
methodology and other procedures that would otherwise apply. The 95005
rules shall specify all of the following: 95006

(A) The method by which written notices to the department 95007
required by sections 5165.50 to 5165.53 of the Revised Code are 95008
to be provided; 95009

(B) The forms and documents that are to be provided to the 95010
department of medicaid under sections 5165.511 and 5165.512 of 95011
the Revised Code, which shall include, in the case of such forms 95012
and documents provided by entering operators, all the fully 95013
executed leases, management agreements, merger agreements and 95014
supporting documents, and fully executed sales contracts and any 95015
other supporting documents culminating in the change of 95016
operator; 95017

(C) The method by which the forms and documents identified 95018
in division (B) of this section are to be provided to the 95019
department. 95020

Sec. 5165.61. The medicaid director may adopt rules ~~under~~ 95021
~~section 5165.02 of the Revised Code~~ that are consistent with 95022
regulations, guidelines, and procedures issued by the United 95023
States secretary of health and human services under the "Social 95024
Security Act," sections 1819 and 1919, 42 U.S.C. 1395i-3 and 95025
1396r, and necessary for administration and enforcement of 95026
sections 5165.60 to 5165.89 of the Revised Code. If the 95027
secretary does not issue appropriate regulations for enforcement 95028
of those sections of the "Social Security Act" on or before 95029
December 13, 1990, the medicaid director may adopt, ~~under~~ 95030
~~section 5165.02 of the Revised Code,~~ rules that are consistent 95031
with those sections and with sections 5165.60 to 5165.89 of the 95032
Revised Code. 95033

Sec. 5165.62. The department of medicaid is hereby 95034
authorized to enforce sections 5165.60 to 5165.89 of the Revised 95035
Code. The department may enforce the sections directly or 95036

through contracting agencies. The department and agencies shall 95037
enforce the sections in accordance with the requirements of the 95038
"Social Security Act," sections 1819 and 1919, 42 U.S.C. 1395i-3 95039
and 1396r, that apply to nursing facilities, and with 95040
regulations, guidelines, and procedures adopted by the United 95041
States secretary of health and human services for the 95042
enforcement of those sections of the "Social Security Act"; ~~and~~ 95043
~~with the rules authorized by section 5165.61 of the Revised~~ 95044
~~Code Act.~~" The department and agencies shall enforce sections 95045
5165.60 to 5165.89 of the Revised Code for purposes of the 95046
medicare program only to the extent prescribed by the 95047
regulations, guidelines, and procedures issued by the secretary 95048
under the "Social Security Act," section 1819, 42 U.S.C. 1395i- 95049
3. 95050

Sec. 5165.64. (A) The department of health shall conduct a 95051
survey, titled a standard survey, of every nursing facility in 95052
this state on a statewide average of not more than once every 95053
twelve months. Each nursing facility shall undergo a standard 95054
survey at least once every fifteen months as a condition of 95055
meeting certification requirements. The department may extend a 95056
standard survey; such a survey is titled an extended survey. 95057

(B) The department may conduct surveys in addition to 95058
standard surveys when it considers them necessary. 95059

(C) The department shall conduct surveys in accordance 95060
with the regulations, guidelines, and procedures issued by the 95061
United States secretary of health and human services under Title 95062
XVIII and Title XIX, and sections 5165.65 to 5165.68 of the 95063
Revised Code, ~~and rules adopted under section 3721.022 of the~~ 95064
~~Revised Code.~~ 95065

Sec. 5165.771. (A) As used in this section: 95066

(1) "Special focus facility program" means the program 95067
conducted by the United States secretary of health and human 95068
services pursuant to the "Social Security Act," section 1919(f) 95069
(10), 42 U.S.C. 1396r(f) (10). 95070

(2) "Standard health surveys" mean the comprehensive on- 95071
site inspections conducted by the department of health on behalf 95072
of the United States centers for medicare and medicaid services 95073
every six months to evaluate the safety and quality of care 95074
provided by a nursing facility as required under the special 95075
focus facility program. 95076

(B) The department of medicaid shall issue an order 95077
terminating a nursing facility's participation in the medicaid 95078
program if either of the following apply: 95079

(1) The nursing facility fails to graduate from the 95080
special focus facility program after two standard health surveys 95081
while in the program. 95082

(2) The nursing facility is terminated from participation 95083
in the medicare or medicaid program by the United States centers 95084
for medicare and medicaid services or voluntarily chooses not to 95085
continue participation in either of those programs. 95086

(C) Except as provided in division (C) (1) or (2) of this 95087
section, a nursing facility may appeal, under Chapter 119. of 95088
the Revised Code, a termination order issued by the department 95089
under division (B) of this section. 95090

(1) A nursing facility shall not appeal to the department 95091
of medicaid any standard health survey findings that form the 95092
basis, in whole or in part, for an order issued pursuant to 95093
division (B) of this section terminating a nursing facility's 95094
participation in the medicaid program. Any challenges to 95095

standard health survey findings shall be made to the department 95096
of health. 95097

(2) A nursing facility shall not appeal to the department 95098
of medicaid a determination by the United States centers for 95099
medicare and medicaid services to terminate a nursing facility's 95100
participation in the medicare or medicaid program. Any challenge 95101
to such a determination shall be made to the centers for 95102
medicare and medicaid services. 95103

(3) The medicaid director shall adopt rules ~~under section~~ 95104
~~5165.02 of the Revised Code as necessary~~ to provide for an 95105
appeal under this division. Notwithstanding the timeframes 95106
listed in section 119.07 of the Revised Code, the rules may 95107
provide for an expedited appeal under this division. 95108

(D) A nursing facility shall take all steps necessary to 95109
improve its quality of care to avoid having its participation in 95110
the medicaid program terminated pursuant to division (B) of this 95111
section. Technical assistance and quality improvement 95112
initiatives to help a nursing facility avoid having its 95113
participation in the medicaid program terminated pursuant to 95114
division (B) of this section are available through the nursing 95115
home quality initiative established under section 173.60 of the 95116
Revised Code or initiatives offered through a quality 95117
improvement organization under contract with the United States 95118
secretary of health and human services to carry out in this 95119
state the functions described in section 1154 of the "Social 95120
Security Act," 42 U.S.C. 1320c-3. 95121

Sec. 5165.78. (A) If the department of medicaid determines 95122
that a nursing facility is experiencing or is likely to 95123
experience a serious financial loss or failure that jeopardizes 95124
or is likely to jeopardize the health, safety, and welfare of 95125

its residents, the department, subject to the provider's 95126
consent, may appoint a temporary resident safety assurance 95127
manager in the nursing facility to take actions the department 95128
determines are appropriate to ensure the health, safety, and 95129
welfare of the residents. 95130

(B) A temporary resident safety assurance manager 95131
appointed under this section is vested with the authority 95132
necessary to take actions the department of medicaid determines 95133
are appropriate to ensure the health, safety, and welfare of the 95134
residents. 95135

(C) A temporary resident safety assurance manager 95136
appointed under this section may use any of the following funds 95137
to pay for costs the manager incurs on behalf of the nursing 95138
facility: 95139

(1) Medicaid payments made in accordance with the provider 95140
agreement for the nursing facility; 95141

(2) Funds from the residents protection fund that the 95142
department provides the manager under section 5162.66 of the 95143
Revised Code; 95144

(3) Other funds the department determines are appropriate 95145
if such use of the funds is consistent with the appropriations 95146
that authorize the use of the funds and all other state and 95147
federal laws governing the use of the funds. 95148

(D) The provider is liable to the department for the 95149
amount of any payments the department makes to the temporary 95150
resident safety assurance manager, other than payments specified 95151
in division (C)(1) of this section. The department may recover 95152
the amount the provider owes the department by doing any of the 95153
following: 95154

(1) Offsetting medicaid payments made to the provider in accordance with the provider agreement;	95155 95156
(2) Placing a lien on any of the provider's real and personal property;	95157 95158
(3) Initiating other collection actions.	95159
(E) No action the department takes under this section is subject to appeal under Chapter 119. of the Revised Code.	95160 95161
(F) In rules authorized by section 5165.61 of the Revised Code, the <u>The</u> medicaid director may establish all of the following <u>in rules adopted in accordance with Chapter 119. of the Revised Code:</u>	95162 95163 95164 95165
(1) Qualifications persons must meet to be appointed temporary resident safety assurance managers under this section;	95166 95167
(2) Procedures for maintaining a list of qualified temporary resident safety assurance managers;	95168 95169
(3) Procedures consistent with federal law for paying for the services of temporary resident safety assurance managers;	95170 95171
(4) Accounting and reporting requirements for temporary resident safety assurance managers;	95172 95173
(5) Other procedures and requirements the director determines are necessary to implement this section.	95174 95175
Sec. 5165.81. (A) A temporary manager of a nursing facility appointed by the department of medicaid or a contracting agency under sections 5165.60 to 5165.89 of the Revised Code shall meet all of the following qualifications:	95176 95177 95178 95179
(1) Be licensed as a nursing home administrator under Chapter 4751. of the Revised Code;	95180 95181

(2) Have demonstrated competence as a nursing home administrator; 95182
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(3) Have had no disciplinary action taken against the temporary manager by any licensing board or professional society in this state. 95184
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(B) The salary of a temporary manager or special master appointed under sections 5165.60 to 5165.89 of the Revised Code shall be paid by the facility and set by the department of medicaid or contracting agency, in the case of a temporary manager, or by the court, in the case of a special master, at a rate not to exceed the maximum allowable compensation for an administrator under the medicaid program. The extent to which this compensation is allowable under the medicaid program is subject to and limited by this chapter and rules adopted under ~~section 5165.02 of the Revised Code~~it. 95187
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Subject to division (C) of this section, any costs incurred on behalf of a nursing facility by a temporary manager or special master appointed under sections 5165.60 to 5165.89 of the Revised Code shall be paid by the facility. The allowability of these costs under the medicaid program shall be subject to and governed by this chapter and rules adopted under ~~section 5165.02 of the Revised Code~~it. This division does not prohibit a facility from applying for or receiving any waiver of cost ceilings available under the rules. 95197
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(C) No temporary manager or special master appointed under sections 5165.60 to 5165.89 of the Revised Code shall enter into any employment contract on behalf of a facility, or purchase any capital goods using facility funds totaling more than ten thousand dollars, unless the temporary manager or special master has obtained prior approval for the contract or purchase from 95206
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either the provider or the court. 95212

(D) (1) A temporary manager appointed for a nursing 95213
facility under section 5165.72 of the Revised Code is hereby 95214
vested, subject to division (C) of this section, with the legal 95215
authority necessary to correct any deficiency or cluster of 95216
deficiencies at a facility, bring the facility into compliance 95217
with certification requirements, and otherwise ensure the health 95218
and safety of the residents. 95219

(2) A temporary manager appointed under section 5165.77 of 95220
the Revised Code is hereby vested, subject to division (C) of 95221
this section, with the authority necessary to eliminate the 95222
emergency, bring the facility into compliance with certification 95223
requirements, and otherwise ensure the health and safety of the 95224
residents. 95225

(3) A temporary manager appointed under section 5165.80 of 95226
the Revised Code is hereby vested, subject to division (C) of 95227
this section, with the authority necessary to ensure the 95228
transfer of medicaid eligible residents to other appropriate 95229
care settings and, if applicable, the orderly closure of the 95230
facility, and to otherwise ensure the health and safety of the 95231
residents. 95232

(E) Prior to acting under division (A) (1) (b) or (2) (b) of 95233
section 5165.72 of the Revised Code to appoint a temporary 95234
manager or apply for a special master, the department of 95235
medicaid or contracting agency shall order the facility to 95236
substantially correct the deficiency or deficiencies within five 95237
days after receiving the statement and inform the facility, in 95238
the statement it provides pursuant to division (B) of section 95239
5165.75 of the Revised Code, of the order and that it will not 95240
take that action unless the facility fails to substantially 95241

correct the deficiency or deficiencies within that five-day 95242
period. At the end of the five-day period, the department of 95243
health shall conduct a follow-up survey that focuses on the 95244
deficiency or deficiencies. If the department of health 95245
determines that the facility has substantially corrected the 95246
deficiency or deficiencies within that time, the department of 95247
medicaid or contracting agency shall not appoint a temporary 95248
manager or apply for a special master. If the department of 95249
health determines that the facility has failed to substantially 95250
correct the deficiency or deficiencies within that time, the 95251
department of medicaid or contracting agency may proceed with 95252
appointment of the temporary manager or application for a 95253
special master. Until the statement required under division (B) 95254
of section 5165.75 of the Revised Code is actually delivered, no 95255
action taken by the department or agency to appoint a temporary 95256
manager or apply for a temporary manager under division (A) (1) 95257
(b) or (2) (b) of section 5165.72 of the Revised Code shall have 95258
any legal effect. No action taken by a facility under this 95259
division to substantially correct a deficiency or deficiencies 95260
shall be considered an admission by the facility of the 95261
existence of a deficiency or deficiencies. 95262

(F) Appointment of a temporary manager under division (A) 95263
(1) (b) or (2) (b) of section 5165.72 or division (A) (1) (d) of 95264
section 5165.77 of the Revised Code shall expire at the end of 95265
the seventh day following the appointment. If the department of 95266
medicaid or contracting agency finds that the deficiency or 95267
deficiencies that prompted the appointment under division (A) (1) 95268
(b) or (2) (b) of section 5165.72 of the Revised Code cannot be 95269
substantially corrected, or the condition of immediate jeopardy 95270
that prompted the appointment under division (A) (1) (d) of 95271
section 5165.77 of the Revised Code cannot be eliminated, prior 95272

to the expiration of the appointment, it may take one of the 95273
following actions: 95274

(1) Appoint, subject to the continuing consent of the 95275
provider, a temporary manager for the facility; 95276

(2) Apply to the common pleas court of the county in which 95277
the facility is located for an order appointing a special master 95278
who, under the authority and direct supervision of the court and 95279
subject to divisions (B) and (C) of this section, may take such 95280
additional actions as are necessary to correct the deficiency or 95281
deficiencies or eliminate the condition of immediate jeopardy 95282
and bring the facility into compliance with certification 95283
requirements. 95284

(G) The court, on finding that the deficiency or 95285
deficiencies for which a special master was appointed under 95286
division (F) (2) of this section or division (A) (1) (b) or (2) (b) 95287
of section 5165.72 of the Revised Code has been substantially 95288
corrected, or the emergency for which a special master was 95289
appointed under division (F) (2) of this section or division (A) 95290
(1) (b) or (B) (2) of section 5165.77 of the Revised Code has been 95291
eliminated, that the facility has been brought into compliance 95292
with certification requirements, and that the provider has 95293
established the management capability to ensure continued 95294
compliance with the certification requirements, shall 95295
immediately terminate its jurisdiction over the facility and 95296
return control and management of the facility to the provider. 95297
If the deficiency or deficiencies cannot be substantially 95298
corrected, or the emergency cannot be eliminated practicably 95299
within a reasonable time following appointment of the special 95300
master, the court may order the special master to close the 95301
facility and transfer all residents to other nursing facilities 95302

or other appropriate care settings. 95303

(H) This section does not apply to temporary resident 95304
safety assurance managers appointed under section 5165.78 of the 95305
Revised Code. 95306

Sec. 5166.02. (A) The medicaid director shall adopt rules 95307
in accordance with Chapter 119. of the Revised Code governing 95308
medicaid waiver components. The rules may establish all of the 95309
following: 95310

(1) Eligibility requirements for the medicaid waiver 95311
components; 95312

(2) The type, amount, duration, and scope of medicaid 95313
services the medicaid waiver components cover; 95314

(3) The conditions under which the medicaid waiver 95315
components cover medicaid services; 95316

(4) The amounts the medicaid waiver components pay for 95317
medicaid services or the methods by which the amounts are 95318
determined; 95319

(5) The manners in which the medicaid waiver components 95320
pay for medicaid services; 95321

(6) Safeguards for the health and welfare of medicaid 95322
recipients receiving medicaid services under a medicaid waiver 95323
component; 95324

(7) Procedures for prioritizing and approving for 95325
enrollment individuals who are eligible for a home and 95326
community-based services medicaid waiver component and choose to 95327
be enrolled in the component; 95328

(8) Procedures for enforcing the rules, including 95329

establishing corrective action plans for, and imposing financial 95330
and administrative sanctions on, persons and government entities 95331
that violate the rules. Sanctions shall include terminating 95332
provider agreements. The procedures shall include due process 95333
protections. 95334

~~(9) Other policies necessary for the efficient 95335
administration of the medicaid waiver components. 95336~~

(B) The director may adopt different rules for the 95337
different medicaid waiver components. The rules shall be 95338
consistent with the terms of the waiver authorizing the medicaid 95339
waiver component. 95340

(C) The following apply to procedures established under 95341
division (A) (7) of this section: 95342

(1) Any such procedures established for the medicaid- 95343
funded component of the PASSPORT program shall be consistent 95344
with section 173.521 of the Revised Code. 95345

(2) Any such procedures established for the medicaid- 95346
funded component of the assisted living program shall be 95347
consistent with section 173.542 of the Revised Code. 95348

(3) Any such procedures established for the Ohio home care 95349
waiver program shall be consistent with section 5166.121 of the 95350
Revised Code. 95351

Sec. 5166.04. The following requirements apply to each 95352
home and community-based services medicaid waiver component: 95353

(A) Only an individual who qualifies for a component shall 95354
receive that component's medicaid services. 95355

(B) A level of care determination shall be made as part of 95356
the process of determining whether an individual qualifies for a 95357

component and shall be made each year after the initial 95358
determination if, during such a subsequent year, the 95359
administrative agency determines there is a reasonable 95360
indication that the individual's needs have changed. 95361

(C) A written plan of care or individual service plan 95362
based on an individual assessment of the medicaid services that 95363
an individual needs to avoid needing admission to a hospital, 95364
nursing facility, or ICF/IID shall be created for each 95365
individual determined eligible for a component. 95366

(D) Each individual determined eligible for a component 95367
shall receive that component's medicaid services in accordance 95368
with the individual's level of care determination and written 95369
plan of care or individual service plan. 95370

(E) No individual may receive medicaid services under a 95371
component while the individual is a hospital inpatient or 95372
resident of a skilled nursing facility, nursing facility, or 95373
ICF/IID. 95374

(F) No individual may receive prevocational, educational, 95375
or supported employment services under a component if the 95376
individual is eligible for such services that are funded with 95377
federal funds provided under 29 U.S.C. 730 or the "Individuals 95378
with Disabilities Education Act," 111 Stat. 37 (1997), 20 U.S.C. 95379
1400, as amended. 95380

(G) Safeguards shall be taken to protect the health and 95381
welfare of individuals receiving medicaid services under a 95382
component, including safeguards established in rules adopted 95383
~~under section 5166.02 of the Revised Code by the medicaid~~ 95384
director and safeguards established by licensing and 95385
certification requirements that are applicable to the providers 95386

of that component's medicaid services. 95387

(H) No medicaid services may be provided under a component 95388
by a provider that is subject to standards that the "Social 95389
Security Act," section 1616(e) (1), 42 U.S.C. 1382e(e) (1), 95390
requires be established if the provider fails to comply with the 95391
standards applicable to the provider. 95392

(I) Individuals determined to be eligible for a component, 95393
or such individuals' representatives, shall be informed of that 95394
component's medicaid services, including any choices that the 95395
individual or representative may make regarding the component's 95396
medicaid services, and given the choice of either receiving 95397
medicaid services under that component or, as appropriate, 95398
hospital services, nursing facility services, or ICF/IID 95399
services. 95400

(J) No individual shall lose eligibility for services 95401
under a component, or have the services reduced or otherwise 95402
disrupted, on the basis that the individual also receives 95403
services under the medicaid buy-in for workers with disabilities 95404
program. 95405

(K) No individual shall lose eligibility for services 95406
under a component, or have the services reduced or otherwise 95407
disrupted, on the basis that the individual's income or 95408
resources increase to an amount above the eligibility limit for 95409
the component if the individual is participating in the medicaid 95410
buy-in for workers with disabilities program and the amount of 95411
the individual's income or resources does not exceed the 95412
eligibility limit for the medicaid buy-in for workers with 95413
disabilities program. 95414

(L) No individual receiving services under a component 95415

shall be required to pay any cost sharing expenses for the 95416
services for any period during which the individual also 95417
participates in the medicaid buy-in for workers with 95418
disabilities program. 95419

Sec. 5166.121. (A) Unless the Ohio home care waiver 95420
program is terminated pursuant to section 5165.12 of the Revised 95421
Code, the department of medicaid shall establish a home first 95422
component for the Ohio home care waiver program. An individual 95423
is eligible for the Ohio home care waiver program's home first 95424
component if the individual has been determined to be eligible 95425
for the Ohio home care waiver program and at least one of the 95426
following applies: 95427

(1) If the individual is under twenty-one years of age, 95428
the individual received inpatient hospital services for at least 95429
fourteen consecutive days, or had at least three inpatient 95430
hospital stays during the twelve months, immediately preceding 95431
the date the individual applies for the Ohio home care waiver 95432
program. 95433

(2) If the individual is at least twenty-one but less than 95434
sixty years of age, the individual received inpatient hospital 95435
services for at least fourteen consecutive days immediately 95436
preceding the date the individual applies for the Ohio home care 95437
waiver program. 95438

(3) The individual received private duty nursing services 95439
under the medicaid program for at least twelve consecutive 95440
months immediately preceding the date the individual applies for 95441
the Ohio home care waiver program. 95442

(4) The individual does not reside in a nursing facility 95443
or hospital long-term care unit at the time the individual 95444

applies for the Ohio home care waiver program but is at risk of 95445
imminent admission to a nursing facility or hospital long-term 95446
care unit due to a documented loss of a primary caregiver. 95447

(5) The individual resides in a nursing facility at the 95448
time the individual applies for the Ohio home care waiver 95449
program. 95450

(6) At the time the individual applies for the Ohio home 95451
care waiver program, the individual participates in the money 95452
follows the person demonstration project authorized by section 95453
6071 of the "Deficit Reduction Act of 2005," Pub. L. No. 109- 95454
171, as amended, and either resides in a residential treatment 95455
facility or inpatient hospital setting. 95456

(B) An individual determined to be eligible for the home 95457
first component of the Ohio home care waiver program shall be 95458
enrolled in the program ~~in accordance with rules adopted under~~ 95459
~~section 5166.02 of the Revised Code.~~ 95460

Sec. 5166.23. (A) Subject to division (D) of this section, 95461
the medicaid director shall adopt rules ~~under section 5166.02 of~~ 95462
~~the Revised Code~~ establishing the payment amounts or the methods 95463
by which the payment amounts are to be determined for home and 95464
community-based services specified in division (A)(1) of section 95465
5166.20 of the Revised Code and provided under the components of 95466
the medicaid program that the department of developmental 95467
disabilities administers under section 5166.21 of the Revised 95468
Code. With respect to these rules, all of the following apply: 95469

(1) The rules shall establish procedures for the 95470
department of developmental disabilities to follow in arranging 95471
for the initial and ongoing collection of cost information from 95472
a comprehensive, statistically valid sample of persons and 95473

government entities providing the services at the time the information is obtained. 95474
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(2) The rules shall establish procedures for the collection of consumer-specific information through an assessment instrument the department of developmental disabilities shall provide to the department of medicaid. 95476
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(3) With the information collected pursuant to divisions (A) (1) and (2) of this section, an analysis of that information, and other information the director determines relevant, the rules shall establish payment standards that do all of the following: 95480
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(a) Assure that payment amounts are consistent with efficiency, economy, and quality of care; 95485
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(b) Consider the intensity of consumer resource need; 95487

(c) Recognize variations in different geographic areas regarding the resources necessary to assure the health and welfare of consumers; 95488
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(d) Recognize variations in environmental supports available to consumers. 95491
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(B) As part of the process of adopting rules authorized by this section, the director shall consult with the director of developmental disabilities, representatives of county boards of developmental disabilities, persons who provide the home and community-based services, and other persons and government entities the director identifies. 95493
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(C) The medicaid director and director of developmental disabilities shall review the rules authorized by this section at times they determine are necessary to ensure that the payment 95499
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amounts or the methods by which the payment amounts are to be 95502
determined continue to meet the payment standards established 95503
under division (A) (3) of this section. 95504

(D) This section applies to home and community-based 95505
services provided under the medicaid waiver component known as 95506
the transitions developmental disabilities waiver only to the 95507
extent, if any, provided by the contract required by section 95508
5166.21 of the Revised Code regarding the component. 95509

Sec. 5166.30. (A) As used in sections 5166.30 to 5166.3010 95510
of the Revised Code: 95511

(1) "Adult" means an individual at least eighteen years of 95512
age. 95513

(2) "Appropriate director" means the following: 95514

(a) The medicaid director in the context of both of the 95515
following: 95516

(i) The Ohio home care waiver program; 95517

(ii) The integrated care delivery system medicaid waiver 95518
component authorized by section 5166.16 of the Revised Code. 95519

(b) The director of aging in the context of the medicaid- 95520
funded component of the PASSPORT program. 95521

(3) "Authorized representative" means the following: 95522

(a) In the case of a consumer who is a minor, the 95523
consumer's parent, custodian, or guardian; 95524

(b) In the case of a consumer who is an adult, an 95525
individual selected by the consumer pursuant to section 95526
5166.3010 of the Revised Code to act on the consumer's behalf 95527
for purposes regarding home care attendant services. 95528

(4) "Authorizing health care professional" means a health care professional who, pursuant to section 5166.307 of the Revised Code, authorizes a home care attendant to assist a consumer with self-administration of medication, nursing tasks, or both.

(5) "Consumer" means an individual to whom all of the following apply:

(a) The individual is enrolled in a participating medicaid waiver component.

(b) The individual has a medically determinable physical impairment to which both of the following apply:

(i) It is expected to last for a continuous period of not less than twelve months.

(ii) It causes the individual to require assistance with activities of daily living, self-care, and mobility, including either assistance with self-administration of medication or the performance of nursing tasks, or both.

(c) In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of selecting, directing the actions of, and dismissing a home care attendant.

(d) In the case of an individual who is a minor, the individual has an authorized representative who is capable of selecting, directing the actions of, and dismissing a home care attendant.

(6) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(7) "Custodian" has the same meaning as in section

2151.011 of the Revised Code.	95557
(8) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach.	95558 95559
(9) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.	95560 95561
(10) "Health care professional" means a physician or registered nurse.	95562 95563
(11) "Home care attendant" means an individual holding a valid provider agreement in accordance with section 5166.301 of the Revised Code that authorizes the individual to provide home care attendant services to consumers.	95564 95565 95566 95567
(12) "Home care attendant services" means all of the following as provided by a home care attendant:	95568 95569
(a) Personal care aide services;	95570
(b) Assistance with the self-administration of medication;	95571
(c) Assistance with nursing tasks.	95572
(13) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum.	95573 95574
(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.	95575 95576
(15) "Minor" means an individual under eighteen years of age.	95577 95578
(16) "Participating medicaid waiver component" means all of the following:	95579 95580
(a) The medicaid-funded component of the PASSPORT program;	95581
(b) The Ohio home care waiver program;	95582

(c) The integrated care delivery system medicaid waiver component authorized by section 5166.16 of the Revised Code. 95583
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(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 95585
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(18) "Practice of nursing as a registered nurse," "practice of nursing as a licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code. "Registered nurse" includes an advanced practice registered nurse, as defined in section 4723.01 of the Revised Code. 95588
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(19) "Schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code. 95594
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(B) Participating medicaid waiver components may cover home care attendant services in accordance with sections 5166.30 to 5166.3010 of the Revised Code ~~and rules adopted under section 5166.02 of the Revised Code.~~ 95597
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Sec. 5166.301. The medicaid director shall enter into a provider agreement with an individual to authorize the individual to provide home care attendant services to consumers if the individual does both of the following: 95601
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(A) Agrees to comply with the requirements of sections 5166.30 to 5166.3010 ~~and rules adopted under section 5166.02 of the Revised Code;~~ 95605
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95607

(B) Provides the director evidence satisfactory to the director of ~~all~~ both of the following: 95608
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(1) That the individual either meets the personnel 95610

qualifications specified in 42 C.F.R. 484.4 for home health 95611
aides or has successfully completed at least one of the 95612
following: 95613

(a) A competency evaluation program or training and 95614
competency evaluation program approved or conducted by the 95615
director of health under section 3721.31 of the Revised Code; 95616

(b) A training program approved by the appropriate 95617
director that includes training in at least all of the following 95618
and provides training equivalent to a training and competency 95619
evaluation program specified in division (B)(1)(a) of this 95620
section or meets the requirements of 42 C.F.R. 484.36(a): 95621

(i) Basic home safety; 95622

(ii) Universal precautions for the prevention of disease 95623
transmission, including hand-washing and proper disposal of 95624
bodily waste and medical instruments that are sharp or may 95625
produce sharp pieces if broken; 95626

(iii) Personal care aide services; 95627

(iv) The labeling, counting, and storage requirements for 95628
schedule II, III, IV, and V medications. 95629

(2) That the individual has obtained a certificate of 95630
completion of a course in first aid from a first aid course to 95631
which all of the following apply: 95632

(a) It is not provided solely through the internet. 95633

(b) It includes hands-on training provided by a first aid 95634
instructor who is qualified to provide such training according 95635
to standards set in rules adopted ~~under section 5166.02 of the~~ 95636
~~Revised Code~~ by the medicaid director. 95637

(c) It requires the individual to demonstrate successfully 95638
that the individual has learned the first aid taught in the 95639
course. 95640

~~(3) That the individual meets any other requirements for 95641
the medicaid provider agreement specified in rules adopted under 95642
section 5166.02 of the Revised Code. 95643~~

Sec. 5166.303. A home care attendant shall do all of the 95644
following: 95645

(A) Maintain a clinical record for each consumer to whom 95646
the attendant provides home care attendant services in a manner 95647
that protects the consumer's privacy; 95648

(B) Participate in a face-to-face visit every ninety days 95649
with all of the following to monitor the health and welfare of 95650
each of the consumers to whom the attendant provides home care 95651
attendant services: 95652

(1) The consumer; 95653

(2) The consumer's authorized representative, if any; 95654

(3) A registered nurse who agrees to answer any questions 95655
that the attendant, consumer, or authorized representative has 95656
about consumer care needs, medications, and other issues. 95657

(C) Document the activities of each visit required by 95658
division (B) of this section in the consumer's clinical record 95659
with the assistance of the registered nurse. 95660

(D) The face-to-face visit requirement in division (B) of 95661
this section may be satisfied by telephone or electronically if 95662
permitted by rules adopted ~~under section 5166.02 of the Revised~~ 95663
~~Code~~ by the medicaid director. 95664

Sec. 5166.308. When authorizing a home care attendant to 95665
assist a consumer with nursing tasks or self-administration of 95666
medication, a health care professional may not authorize a home 95667
care attendant to do any of the following: 95668

(A) Perform a task that is outside of the health care 95669
professional's scope of practice; 95670

(B) Assist the consumer with the self-administration of a 95671
medication, including a schedule II, schedule III, schedule IV, 95672
or schedule V drug unless both of the following apply: 95673

(1) The medication is administered orally, topically, or 95674
via a gastrostomy tube or jejunostomy tube, including through 95675
any of the following: 95676

(a) In the case of an oral medication, a metered dose 95677
inhaler; 95678

(b) In the case of a topical medication, including a 95679
transdermal medication, either of the following: 95680

(i) An eye, ear, or nose drop or spray; 95681

(ii) A vaginal or rectal suppository. 95682

(c) In the case of a gastrostomy tube or jejunostomy tube, 95683
only through a pre-programmed pump. 95684

(2) The medication is in its original container and the 95685
label attached to the container displays all of the following: 95686

(a) The consumer's full name in print; 95687

(b) The medication's dispensing date, which must not be 95688
more than twelve months before the date the attendant assists 95689
the consumer with self-administration of the medication; 95690

(c) The exact dosage and means of administration that 95691

match the health care professional's authorization to the attendant. 95692
95693

(C) Assist the consumer with the self-administration of a schedule II, schedule III, schedule IV, or schedule V medication unless, in addition to meeting the requirements of division (B) of this section, all of the following apply: 95694
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(1) The medication has a warning label on its container. 95698

(2) The attendant counts the medication in the consumer's or authorized representative's presence when the medication is administered to the consumer and records the count on a form used for the count as specified in rules adopted ~~under section 5166.02 of the Revised Code~~ by the medicaid director. 95699
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(3) The attendant recounts the medication in the consumer's or authorized representative's presence at least monthly and reconciles the recount on a log located in the consumer's clinical record. 95704
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(4) The medication is stored separately from all other medications and is secured and locked at all times when not being administered to the consumer to prevent unauthorized access. 95708
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(D) Perform an intramuscular injection; 95712

(E) Perform a subcutaneous injection unless it is for a routine dose of insulin; 95713
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(F) Program a pump used to deliver a medication unless the pump is used to deliver a routine dose of insulin; 95715
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(G) Insert, remove, or discontinue an intravenous access device; 95717
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(H) Engage in intravenous medication administration;	95719
(I) Insert or initiate an infusion therapy;	95720
(J) Perform a central line dressing change.	95721
Sec. 5166.409. The medicaid director shall adopt rules	95722
under section 5166.02 of the Revised Code to do all of the	95723
following:	95724
(A) For the purpose of division (F) (1) (a) of section	95725
5166.402 of the Revised Code, establish requirements regarding	95726
preventative health services for healthy Ohio program	95727
participants. The requirements may differ for participants of	95728
different ages and genders.	95729
(B) For the purpose of division (G) (2) of section 5166.402	95730
of the Revised Code, authorize additional uses of a buckeye	95731
account and establish the means for using the account for those	95732
purposes.	95733
(C) For the purpose of division (A) (3) of section 5166.403	95734
of the Revised Code, establish requirements for the use of a	95735
healthy Ohio program debit swipe card to pay for the costs of	95736
medically necessary health care services not covered by the	95737
health plan in which a healthy Ohio program participant enrolls.	95738
(D) For the purpose of division (C) of section 5166.404 of	95739
the Revised Code, establish a system under which the director	95740
may award points to healthy Ohio program participants who	95741
achieve health care goals. The rules shall specify the goals	95742
that qualify for points and the number of points each goal is	95743
worth. The number of points may vary for different goals.	95744
(E) For the purpose of section 5166.407 of the Revised	95745
Code, establish procedures and requirements for the transfer of	95746

the amounts remaining in former healthy Ohio program 95747
participants' buckeye accounts to bridge accounts. 95748

Sec. 5167.031. (A) As used in this section: 95749

(1) "Children's care network" means any of the following: 95750

(a) A children's hospital; 95751

(b) A group of children's hospitals; 95752

(c) A group of pediatric physicians. 95753

(2) "Children's hospital" has the same meaning as in 95754
section 2151.86 of the Revised Code. 95755

(B) If the department of medicaid includes in the care 95756
management system, pursuant to section 5167.03 of the Revised 95757
Code, individuals under twenty-one years of age who are included 95758
in the category of individuals who receive medicaid on the basis 95759
of being aged, blind, or disabled, the department may recognize 95760
entities as pediatric accountable care organizations. 95761

An entity recognized by the department as a pediatric 95762
accountable care organization may develop innovative 95763
partnerships between relevant groups and may contract directly 95764
or subcontract with the state to provide care coordination and 95765
other services to the medicaid recipients under twenty-one years 95766
of age described in this division who are permitted or required 95767
to participate in the care management system. 95768

(C) (1) To be recognized by the department as a pediatric 95769
accountable care organization, an entity shall meet the 95770
standards established by the department. Unless required by 95771
section 2706 of the "Patient Protection and Affordable Care 95772
Act," 124 Stat. 325 (2010) and the "Social Security Act," 95773
section 1895, 42 U.S.C. 1395jjj, the regulations adopted 95774

pursuant to those sections, and the laws of this state, the 95775
department shall not require that an entity be a health insuring 95776
corporation as a condition of receiving the department's 95777
recognition. 95778

(2) Any of the following entities may receive the 95779
department's recognition, if the standards for recognition have 95780
been met: 95781

(a) A children's care network; 95782

(b) A children's care network that may include one or more 95783
other entities, including, but not limited to, health insuring 95784
corporations or other managed care organizations; 95785

(c) Any other entity the department determines is 95786
qualified. 95787

(D) The medicaid director shall consult with all of the 95788
following in adopting rules authorized by division (E) of this 95789
section necessary for an entity to be recognized by the 95790
department as a pediatric accountable care organization: 95791

(1) The superintendent of insurance; 95792

(2) Children's hospitals; 95793

(3) Medicaid managed care organizations; 95794

(4) Any other relevant entities, as determined necessary 95795
by the department, with interests in pediatric accountable care 95796
organizations. 95797

(E) ~~In adopting rules under section 5167.02 of the Revised~~ 95798
~~Code, the~~ The medicaid director shall adopt rules to do all of 95799
the following: 95800

(1) Establish application procedures to be followed by an 95801

entity seeking recognition as a pediatric accountable care organization; 95802
95803

(2) Ensure that the standards for recognition as a pediatric accountable care organization are the same as and do not conflict with those specified in section 2706 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and the "Social Security Act," section 1895, 42 U.S.C. 1395jjj or the regulations adopted pursuant to those sections; 95804
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(3) Establish requirements regarding the access to pediatric specialty care provided through or by a pediatric accountable care organization; 95810
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(4) Establish accountability and financial requirements for an entity recognized as a pediatric accountable care organization; 95813
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(5) Establish quality improvement initiatives consistent with any state medicaid quality plan established by the department; 95816
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(6) Establish transparency and consumer protection requirements for an entity recognized as a pediatric accountable care organization; 95819
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(7) Establish a process for sharing data. 95822

(F) This section does not limit the authority of the department of insurance to regulate the business of insurance in this state. 95823
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95825

Sec. 5167.101. (A) Subject to division (B) of this section, the department of medicaid or its actuary shall base the hospital inpatient capital payment portion of the payment made to a medicaid managed care organization on data for 95826
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services provided to all of the organization's enrollees, as 95830
reported by hospitals on relevant cost reports submitted 95831
pursuant to rules adopted ~~under section 5167.02 of the Revised~~ 95832
~~Code~~ by the medicaid director. 95833

(B) The hospital inpatient capital payment portion of the 95834
payment made to medicaid managed care organizations shall not 95835
exceed any maximum rate established in rules adopted ~~under~~ 95836
~~section 5167.02 of the Revised Code~~ by the medicaid director. 95837

If a maximum rate is established, a medicaid managed care 95838
organization shall not compensate hospitals for inpatient 95839
capital costs in an amount that exceeds that rate. 95840

Sec. 5167.173. (A) As used in this section: 95841

(1) "Board of health" means the board of health of a city 95842
or general health district or the authority having the duties of 95843
a board of health under section 3709.05 of the Revised Code. 95844

(2) "Certified community health worker" has the same 95845
meaning as in section 4723.01 of the Revised Code. 95846

(3) "Community health worker services" means the services 95847
described in section 4723.81 of the Revised Code. 95848

(4) "Public health nurse" means a registered nurse 95849
employed or contracted by a board of health. 95850

(5) "Qualified community hub" means a central 95851
clearinghouse for a network of community care coordination 95852
agencies that meets all of the following criteria: 95853

(a) Demonstrates to the director of health that it uses an 95854
evidenced-based, pay-for-performance community care coordination 95855
model (endorsed by the federal agency for healthcare research 95856
and quality, the national institutes of health, and the centers 95857

for medicare and medicaid services or their successors) or uses 95858
certified community health workers or public health nurses to 95859
connect at-risk individuals to health, housing, transportation, 95860
employment, education, and other social services; 95861

(b) Is a board of health or demonstrates to the director 95862
of health that it has achieved, or is engaged in achieving, 95863
certification from a national hub certification program; 95864

(c) Has a plan, approved by the medicaid director, 95865
specifying how the board of health or community hub ensures that 95866
children served by it receive appropriate developmental 95867
screenings as specified in the publication titled "Bright 95868
Futures: Guidelines for Health Supervision of Infants, Children, 95869
and Adolescents," available from the American academy of 95870
pediatrics, as well as appropriate early and periodic screening, 95871
diagnostic, and treatment services. 95872

(B) Each medicaid managed care organization shall provide 95873
to an enrollee who meets the criteria in division (C) of this 95874
section, or arrange for the enrollee to receive, both of the 95875
following services provided by a certified community health 95876
worker or public health nurse, as applicable, who is employed 95877
by, or works under a contract with, a qualified community hub: 95878

(1) Community health worker services or services provided 95879
by a public health nurse; 95880

(2) Other services that are not community health worker 95881
services or services provided by a public health nurse but are 95882
performed for the purpose of ensuring that the enrollee is 95883
linked to employment services, housing, educational services, 95884
social services, or medically necessary physical and behavioral 95885
health services. 95886

(C) An enrollee qualifies to receive the services 95887
specified in division (B) of this section if the enrollee is 95888
pregnant or capable of becoming pregnant, resides in a community 95889
served by a qualified community hub, and has been recommended to 95890
receive the services by a physician, public health nurse, or 95891
another licensed health professional specified in rules adopted 95892
under division (D) of this section. 95893

(D) The medicaid director shall adopt rules ~~under section~~ 95894
~~5167.02 of the Revised Code~~ specifying the licensed health 95895
professionals, in addition to physicians and public health 95896
nurses, who may recommend that an enrollee receive the services 95897
specified in division (B) of this section. 95898

Sec. 5167.20. (A) Except as provided in division (B) of 95899
this section, when a medicaid managed care organization refers 95900
an enrollee to receive services, other than emergency services 95901
provided on or after January 1, 2007, at a hospital that 95902
participates in the medicaid program but is not under contract 95903
with the organization, the hospital shall provide the service 95904
for which the referral was made and shall accept from the 95905
organization, as payment in full, the amount derived from the 95906
payment rate used by the department of medicaid to pay other 95907
hospitals of the same type for providing the same service to a 95908
medicaid recipient who is not enrolled in a medicaid MCO plan. 95909

(B) A hospital is not subject to division (A) of this 95910
section if all of the following are the case: 95911

(1) The hospital is located in a county in which 95912
participants in the care management system are required before 95913
January 1, 2006, to be enrolled in a medicaid MCO plan; 95914

(2) The hospital has entered into a contract before 95915

January 1, 2006, with at least one health insuring corporation 95916
serving the participants specified in division (B) (1) of this 95917
section; 95918

(3) The hospital remains under contract with at least one 95919
health insuring corporation serving participants in the care 95920
management system who are required to be enrolled in a medicaid 95921
MCO plan. 95922

(C) The medicaid director shall adopt rules ~~under section~~ 95923
~~5167.02 of the Revised Code~~ specifying the circumstances under 95924
which a medicaid managed care organization is permitted to refer 95925
an enrollee to a hospital that is not under contract with the 95926
organization. 95927

Sec. 5167.31. The department of medicaid may provide 95928
financial incentive awards to medicaid managed care 95929
organizations that meet or exceed performance standards 95930
specified in provider agreements ~~or rules adopted by the~~ 95931
~~medicaid director under section 5167.02 of the Revised Code.~~ The 95932
department may specify in a contract with a medicaid managed 95933
care organization the amounts of financial incentive awards, 95934
methodology for distributing awards, types of awards, and 95935
standards for administration by the department. 95936

Sec. 5167.33. (A) Not later than July 1, 2018, each 95937
medicaid managed care organization shall implement strategies 95938
that base payments to providers on the value received from the 95939
providers' services, including their success in reducing waste 95940
in the provision of the services. Not later than July 1, 2020, 95941
each medicaid managed care organization shall ensure that at 95942
least fifty per cent of the aggregate net payments it makes to 95943
providers are based on the value received from the providers' 95944
services. 95945

The department of medicaid may measure a medicaid managed care organization's compliance with this section based on the actions of the organization, the providers in the organization's provider panel, the organization's subcontractors, or any combination of the organization, providers, and subcontractors.

(B) The medicaid director shall adopt rules ~~under section 5167.02 of the Revised Code as necessary to implement this section, including rules~~ that specify how all of the following are to be determined:

(1) The value received from a provider's services;

(2) A provider's success in reducing waste in the provision of services;

(3) The percentage of a medicaid managed care organization's aggregate net payments to providers that are based on the value received from the providers' services.

Sec. 5167.35. (A) Consistent with the requirements of the care management system implemented on February 1, 2023, to address medicaid population health and social determinants of health and encourage optimal health and self-sufficiency of medicaid enrollees, the department of medicaid, in collaboration with the department of job and family services, shall develop a program to assist medicaid enrollees with securing meaningful employment.

(B) As part of that program, each medicaid managed care organization shall develop a specialized component of its medicaid MCO plan to provide referral and support to medicaid enrollees in obtaining and maintaining meaningful employment. Each medicaid managed care organization shall give priority to identified enrollees who are of working age and are able-bodied,

or who would benefit from assistance to overcome unemployment or 95975
underemployment. In carrying out the requirements of this 95976
section, each medicaid managed care organization shall do all of 95977
the following: 95978

(1) Identify any barriers that an identified enrollee has 95979
to achieving greater financial independence, including the 95980
following: 95981

(a) Education; 95982

(b) Employment; 95983

(c) Physical and behavioral health care; 95984

(d) Transportation; 95985

(e) Childcare; 95986

(f) Housing; 95987

(g) Legal history, including prior conviction of a 95988
criminal offense. 95989

(2) Develop state and local relationships that link and 95990
refer identified enrollees to assessments, resources, and 95991
supports that assist with obtaining and maintaining meaningful 95992
employment. 95993

(3) Utilize a standard health risk assessment form 95994
established by the medicaid director to identify enrollees to 95995
receive assistance under the program established by this 95996
section. 95997

(C) (1) Not later than six months after ~~the effective date~~ 95998
~~of this section~~ October 3, 2023, the medicaid director and the 95999
director of job and family services shall convene a workgroup. 96000
The workgroup shall consist of the following members, selected 96001

by the directors: 96002

(a) Representatives of the director of opportunities for Ohioans with disabilities, the director of developmental disabilities, and director of mental health and addiction services; 96003
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(b) Representatives of the Ohio job and family services directors' association and workforce development agencies; 96007
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(c) Representatives of technical, career, and higher education; 96009
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(d) Representatives of each medicaid managed care organization; 96011
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(e) Representatives of other organizations with expertise and resources involved in career and job development, as determined by the medicaid director and director of job and family services. 96013
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(2) The workgroup shall do all of the following: 96017

(a) Identify state and local resources that provide job skills and career development, including available resources to support identified enrollees to seek employment and develop needed skills; 96018
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(b) Develop models for local agreements or protocols for collaboration between medicaid managed care organizations and other community agencies; 96022
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(c) Identify conflicts among program requirements that should be addressed by state agencies and the general assembly to facilitate identified enrollees' ability to secure and maintain employment. 96025
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(D) The medicaid director may do ~~any~~either of the 96029
following with respect to the program established under this 96030
section: 96031

(1) Establish additional requirements for medicaid managed 96032
care organizations; 96033

(2) Create supplemental assessments to assist in 96034
identifying barriers to achieving financial independence, in 96035
addition to the barriers identified in division (B) (1) of this 96036
section;~~—~~ 96037

~~(3) Adopt rules, in accordance with Chapter 119. of the~~ 96038
~~Revised Code, as necessary to implement these provisions.~~ 96039

(E) The medicaid director and the director of job and 96040
family services shall report to the governor, the senate 96041
medicaid committee, and any other standing legislative committee 96042
having jurisdiction over medicaid regarding the implementation 96043
and operation of the program. The directors shall report on a 96044
periodic basis during the first year of the program. Thereafter, 96045
the directors shall report not less than annually. 96046

Sec. 5167.40. The department of medicaid shall appoint a 96047
temporary manager for a medicaid managed care organization if 96048
the department determines that the medicaid managed care 96049
organization has repeatedly failed to meet substantive 96050
requirements specified in the "Social Security Act," sections 96051
1903(m) and 1932, 42 U.S.C. 1396b(m) and 1396u-2; or 42 C.F.R. 96052
438 Part I. The appointment of a temporary manager does not 96053
preclude the department from imposing other sanctions available 96054
to the department against the medicaid managed care 96055
organization. 96056

The medicaid managed care organization shall pay all costs 96057

of having the temporary manager perform the temporary manager's 96058
duties, including all costs the temporary manager incurs in 96059
performing those duties. If the temporary manager incurs costs 96060
or liabilities on behalf of the medicaid managed care 96061
organization, the medicaid managed care organization shall pay 96062
those costs and be responsible for those liabilities. 96063

The appointment of a temporary manager is not subject to 96064
Chapter 119. of the Revised Code, but the managed care 96065
organization may request a reconsideration of the appointment. 96066
Reconsiderations shall be requested and conducted in accordance 96067
with rules the medicaid director shall adopt ~~under section~~ 96068
~~5167.02 of the Revised Code.~~ 96069

The appointment of a temporary manager does not cause the 96070
medicaid managed care organization to lose the right to appeal, 96071
in accordance with Chapter 119. of the Revised Code, any 96072
proposed termination or any decision not to revalidate the 96073
medicaid managed care organization's provider agreement or the 96074
right to initiate the sale of the medicaid managed care 96075
organization or its assets. 96076

Sec. 5167.41. The department of medicaid may disenroll 96077
some or all medicaid recipients from a medicaid MCO plan offered 96078
by a medicaid managed care organization if the department 96079
proposes to terminate or not to renew the contract entered into 96080
under section 5167.10 of the Revised Code and determines that 96081
the recipients' access to medically necessary services is 96082
jeopardized by the proposal to terminate or not to renew the 96083
contract. The disenrollment is not subject to Chapter 119. of 96084
the Revised Code, but the medicaid managed care organization may 96085
request a reconsideration of the disenrollment. Reconsiderations 96086
shall be requested and conducted in accordance with rules the 96087

medicaid director shall adopt ~~under section 5167.02 of the~~ 96088
~~Revised Code~~. The request for, or conduct of, a reconsideration 96089
regarding a proposed disenrollment shall not delay the 96090
disenrollment. 96091

Sec. 5167.47. (A) When contracting with a medicaid managed 96092
care organization, the department of medicaid shall require the 96093
medicaid managed care organization to provide to medicaid 96094
enrollees the same benefits and rights as required under 96095
division (B) of section 3902.36 of the Revised Code. 96096

(B) The medicaid director shall do both of the following: 96097

(1) Implement and enforce division (B) of section 3902.36 96098
of the Revised Code with respect to medicaid managed care 96099
organizations; 96100

(2) Enforce, monitor compliance with, and ensure continued 96101
compliance with this section. 96102

~~(C) The director may adopt rules under section 5167.02 of~~ 96103
~~the Revised Code as necessary to carry out the provisions of~~ 96104
~~this section.~~ 96105

Sec. 5168.02. (A) The medicaid director shall adopt rules 96106
in accordance with Chapter 119. of the Revised Code ~~for the~~ 96107
~~purpose of administering sections 5168.01 to 5168.14 of the~~ 96108
~~Revised Code, including rules that~~ do all of the following: 96109

(1) Define as a "disproportionate share hospital" any 96110
hospital included under the "Social Security Act," section 96111
1923(b), 42 U.S.C. 1396r-4(b), and any other hospital the 96112
director determines appropriate; 96113

(2) Prescribe the form for submission of cost reports 96114
under section 5168.05 of the Revised Code; 96115

(3) Establish, in accordance with division (A) of section 5168.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section 5168.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5168.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B) (2) (b) of section 5168.06 of the Revised Code in the amount of installments on their assessment;

(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5168.08 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;

(7) Establish, in accordance with section 5168.09 of the Revised Code, the methodology for paying hospitals under that section.

The director shall consult with hospitals when adopting the rules required by divisions (A) (4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

(1) Medicaid recipients;

(2) Recipients of the program for children and youth with

special health care needs established under section 3701.023 of the Revised Code; 96144
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(3) Medicare beneficiaries; 96146

(4) Recipients of Title V of the "Social Security Act," 42 U.S.C. 701 et seq.† 96147
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~~(5) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., and the rules adopted under that title.~~ 96149
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Sec. 5168.26. (A) The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary to implement sections 5168.20 to 5168.28 of the Revised Code, including rules that~~ specify the percentage of hospitals' total facility costs to be used in calculating hospitals' assessments under section 5168.21 of the Revised Code. 96153
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(B) The rules adopted under this section may do the following: 96159
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(1) Provide that a hospital's total facility costs for the purpose of the assessment under section 5168.21 of the Revised Code exclude any of the following: 96161
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(a) A hospital's costs associated with providing care to recipients of any of the following: 96164
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(i) The medicaid program; 96166

(ii) The medicare program; 96167

(iii) The program for children and youth with special health care needs established under section 3701.023 of the Revised Code; 96168
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(iv) Services provided under the maternal and child health services block grant established under Title V of the "Social Security Act," 42 U.S.C. 701 et seq. 96171
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(b) Any other category of hospital costs the director deems appropriate under federal law and regulations governing the medicaid program. 96174
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(2) Subject to division (C) of this section, provide for the percentage of hospitals' total facility costs used in calculating hospitals' assessments to vary for different hospitals. 96177
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(C) Before adopting rules authorized by division (B) (2) of this section that establish varied percentages to be used in calculating hospitals' assessments, the director shall obtain a waiver from the United States secretary of health and human services under the "Social Security Act," section 1903(w) (3) (E), 42 U.S.C. 1396b(w) (3) (E), if the varied percentages would cause the assessments to not be imposed uniformly. 96181
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Sec. 5168.56. The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code to ~~do both of the following:~~ 96188
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~~(A) Prescribe~~ prescribe the actions the department of medicaid will take to cease implementation of sections 5168.40 to 5168.56 of the Revised Code if the United States centers for medicare and medicaid services determines that the franchise permit fee established by those sections is an impermissible health-care related tax under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w) ~~+~~ 96191
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~~(B) Establish any requirements or procedures the director considers necessary to implement sections 5168.40 to 5168.56 of~~ 96198
96199

~~the Revised Code.~~ 96200

Sec. 5168.71. To the extent authorized by rules authorized 96201
by section 5162.021 of the Revised Code, the director of 96202
developmental disabilities shall adopt rules in accordance with 96203
Chapter 119. of the Revised Code to ~~do both of the following:~~ 96204

~~(A) Prescribe~~ prescribe the actions the department of 96205
developmental disabilities will take to cease implementation of 96206
sections 5168.60 to 5168.71 of the Revised Code if the United 96207
States secretary of health and human services determines that 96208
the franchise permit fee imposed under section 5168.61 of the 96209
Revised Code is an impermissible health care-related tax under 96210
the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w) ~~+~~ 96211

~~(B) Establish any other requirements or procedures the~~ 96212
~~director considers necessary to implement sections 5168.60 to~~ 96213
~~5168.71 of the Revised Code.~~ 96214

Sec. 5168.75. As used in sections 5168.75 to ~~5168.86~~ 96215
5168.85 of the Revised Code: 96216

(A) "Basic health care services" means all of the services 96217
listed in division (A)(1) of section 1751.01 of the Revised 96218
Code. 96219

(B) "Care management system" has the same meaning as in 96220
section 5167.01 of the Revised Code. 96221

(C) "Dual eligible individual" has the same meaning as in 96222
section 5160.01 of the Revised Code. 96223

(D) "Franchise fee" means the fee imposed on health 96224
insuring corporation plans under section 5168.76 of the Revised 96225
Code. 96226

(E) "Health insuring corporation" has the same meaning as 96227

in section 1751.01 of the Revised Code, except it does not mean 96228
a corporation that, pursuant to a policy, contract, certificate, 96229
or agreement, pays for, reimburses, or provides, delivers, 96230
arranges for, or otherwise makes available, only supplemental 96231
health care services or only specialty health care services. 96232

(F) "Health insuring corporation plan" means a policy, 96233
contract, certificate, or agreement of a health insuring 96234
corporation under which the corporation pays for, reimburses, 96235
provides, delivers, arranges for, or otherwise makes available 96236
basic health care services. "Health insuring corporation plan" 96237
does not mean any of the following: 96238

(1) A policy, contract, certificate, or agreement under 96239
which a health insuring corporation pays for, reimburses, 96240
provides, delivers, arranges for, or otherwise makes available 96241
only supplemental health care services or only specialty health 96242
care services; 96243

(2) An approved health benefits plan described in 5 U.S.C. 96244
8903 or 8903a, if imposing the franchise fee on the plan would 96245
violate 5 U.S.C. 8909(f); 96246

(3) A medicare advantage plan authorized by Part C of 96247
Title XVIII of the "Social Security Act," 42 U.S.C. 1395w-21 et 96248
seq. 96249

(G) "Indirect guarantee percentage" means the percentage 96250
specified in section 1903(w)(4)(C)(ii) of the "Social Security 96251
Act," 42 U.S.C. 1396b(w)(4)(C)(ii), that is to be used in 96252
determining whether a health care class is indirectly held 96253
harmless for any portion of the costs of a broad-based health- 96254
care-related tax. If the indirect guarantee percentage changes 96255
during a fiscal year, the indirect guarantee percentage is the 96256

following: 96257

(1) For the part of the fiscal year before the change 96258
takes effect, the percentage in effect before the change; 96259

(2) For the part of the fiscal year beginning with the 96260
date the indirect guarantee percentage changes, the new 96261
percentage. 96262

(H) "Medicaid managed care organization" has the same 96263
meaning as in section 5167.01 of the Revised Code. 96264

(I) "Medicaid provider" has the same meaning as in section 96265
5164.01 of the Revised Code. 96266

(J) "Ohio medicaid member month" means a month in which a 96267
medicaid recipient residing in this state is enrolled in a 96268
health insuring corporation plan. 96269

(K) "Other Ohio member month" means a month in which a 96270
resident of this state who is not a medicaid recipient is 96271
enrolled in a health insuring corporation plan. 96272

(L) "Rate year" means the fiscal year for which a 96273
franchise fee is imposed. 96274

Sec. 5168.78. The department of medicaid may request that 96275
a health insuring corporation provide the department 96276
documentation the department needs to verify the amount of the 96277
franchise fees imposed on the health insuring corporation plans 96278
administered by the corporation and to ensure the corporation's 96279
compliance with sections 5168.75 to ~~5168.86~~ 5168.85 of the 96280
Revised Code. On receipt of the request, the health insuring 96281
corporation shall provide the department the requested 96282
documentation. The department also may review relevant 96283
documentation possessed by other entities for the purpose of 96284

making such verifications. 96285

Sec. 5168.90. (A) At least quarterly, the medicaid 96286
director shall report to the legislative service commission both 96287
of the following: 96288

(1) The fee rates and the aggregate total of the fees 96289
assessed for each of the following: 96290

(a) The hospital assessment established under section 96291
5168.21 of the Revised Code; 96292

(b) The nursing home and hospital long-term care unit 96293
franchise permit fee under section 5168.41 of the Revised Code; 96294

(c) The ICF/IID franchise permit fee under section 5168.61 96295
of the Revised Code; 96296

(d) The health insuring corporation franchise fee under 96297
section 5168.76 of the Revised Code. 96298

(2) If there is a rate increase for any of the fee rates 96299
listed under division (A) (1) of this section pending before the 96300
centers for medicare and medicaid services. 96301

(B) The director may adopt rules ~~under section 5162.02 of~~ 96302
~~the Revised Code~~ to compile and submit the reports required 96303
under this section, including rules, as authorized under section 96304
5162.021 of the Revised Code, that specify the information that 96305
must be submitted to the director by the department of 96306
developmental disabilities regarding the ICF/IID franchise 96307
permit fee. 96308

Sec. 5180.02. (A) The director of children and youth is 96309
the chief executive of and appointing authority for the 96310
department of children and youth. In this role, the director 96311
shall administer the department and implement the delivery in 96312

this state of children's services, including by doing all of the following: 96313
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~~(1) Adopting as necessary rules in accordance with Chapter 119. of the Revised Code and section 111.15 of the Revised Code;~~ 96315
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~~(2)~~ Approving and entering into contracts, agreements, and other business arrangements on behalf of the department; 96317
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~~(3)~~ (2) Making as necessary appointments to the department and approving actions related to departmental employees and officers, including their hiring, promotion, termination, discipline, or investigation; 96319
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~~(4)~~ (3) Administering the department and directing the performance of its employees and officers; 96323
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~~(5)~~ (4) Applying for grants available under federal law or from other federal, state, or private sources and allocating, disbursing, or accounting for any funds awarded; 96325
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~~(6)~~ (5) Any other action, except for adopting rules that the Revised Code does not specifically authorize the director to adopt, as necessary to carry out the purposes of this chapter. 96328
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(B) Whenever by law a duty is imposed on or an action is required of the department, the director or director's designee shall fulfill the duty or perform the action. 96331
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(C) The director may organize the department for its efficient operation, including by creating as necessary any divisions or offices within it. The director also may establish procedures for the governance of the department, the conduct of its employees and officers, the performance of its business, and the custody, use, and preservation of departmental books, documents, papers, property, and records. 96334
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(D) If the director issues any directive governing the delivery in this state of children's services, each state and local agency involved in the delivery of those services shall comply with the directive and collaborate with the department.

(E) ~~For purposes of division (A) (1) of this section, if~~ If a law permits or requires the director to adopt a rule, the director shall do so in accordance with Chapter 119. of the Revised Code, unless the law requiring or permitting adoption of the rule specifies a different rule adoption procedure.

Sec. 5180.21. (A) The department of children and youth shall establish the help me grow program as the state's evidence-based parent support program that encourages early prenatal and well-baby care, as well as provides parenting education to promote the comprehensive health and development of children. The program shall provide home visiting services to families with a pregnant woman or child under five years of age that meet the eligibility requirements established in rules adopted under this section. Home visiting services shall be provided through evidence-based home visiting models or innovative, promising home visiting models recommended by the children and youth advisory council created under section 5180.04 of the Revised Code.

(B) Families shall be referred to the appropriate home visiting services through the central intake and referral system created under section 5180.22 of the Revised Code.

(C) To the extent possible, the goals of the help me grow program shall be consistent with the goals of the federal home visiting program, as specified by the maternal and child health bureau of the health resources and services administration in the United States department of health and human services or its

successor. 96371

(D) The director of children and youth shall enter into an 96372
interagency agreement with one or more state agencies, including 96373
the department of developmental disabilities, department of job 96374
and family services, department of medicaid, commission on 96375
minority health, Ohio fatherhood commission, and children's 96376
trust fund board, to implement the help me grow program, to 96377
ensure coordination of early childhood programs, and to maximize 96378
reimbursement for the help me grow program from any federal 96379
source. 96380

In addition to creating the central intake and referral 96381
system as described in section 5180.22 of the Revised Code, the 96382
department of children and youth shall ensure there is a 96383
consistent comprehensive screening and connection program to 96384
support the coordination of home visiting services across the 96385
state, including through the department of health, department of 96386
developmental disabilities, department of job and family 96387
services, department of medicaid, and commission on minority 96388
health. Following the program's establishment, the department of 96389
children and youth shall evaluate the program's effectiveness in 96390
coordinating home visiting services at least once annually. 96391

(E) The director may distribute help me grow program funds 96392
through contracts, grants, or subsidies to entities providing 96393
services under the program. 96394

(F) As a condition of receiving payments for home visiting 96395
services, providers shall report to the director data on the 96396
program performance indicators, specified in rules adopted under 96397
division (G) of this section, that are used to assess progress 96398
toward achieving all of the following: 96399

(1) The benchmark domains established for the federal home visiting program, including improvement in maternal and newborn health; reduction in child injuries, abuse, and neglect; improved school readiness and achievement; reduction in crime and domestic violence; and improved family economic self-sufficiency;

(2) Improvement in birth outcomes and reduction in stillbirths, as that term is defined in section 5180.12 of the Revised Code;

(3) Reduction in tobacco use by pregnant women, new parents, and others living in households with children.

The providers shall report the data in the format and within the time frames specified in the rules.

The director shall prepare an annual report on the data received from the providers. Each report shall include an evaluation addressing the number of families and children served, the number and type of services provided, health and developmental outcomes for participating families and children, and variation in outcomes between the types of home visiting programs specified in division (B)(3) of section 5180.22 of the Revised Code. The director shall submit the report to the general assembly in accordance with section 101.68 of the Revised Code and make the report available on the internet web site maintained by the department of children and youth.

(G) Pursuant to Chapter 119. of the Revised Code, the director shall adopt rules that ~~are necessary and proper to implement this section. The rules shall specify all of the~~ following:

(1) Subject to division (H) of this section, eligibility

requirements for home visiting services;	96429
(2) Eligibility requirements for providers of home visiting services;	96430 96431
(3) Standards and procedures for the provision of program services, including data collection, program monitoring, and program evaluation;	96432 96433 96434
(4) Procedures for appealing the denial of an application for program services or the termination of services;	96435 96436
(5) Procedures for appealing the denial of an application to become a provider of program services or the termination of the department's approval of a provider;	96437 96438 96439
(6) Procedures for addressing complaints;	96440
(7) The program performance indicators on which data must be reported by providers of home visiting services under division (F) of this section, which, to the extent possible, shall be consistent with federal reporting requirements for federally funded home visiting services;	96441 96442 96443 96444 96445
(8) The format in which reports must be submitted under division (F) of this section and the time frames within which the reports must be submitted;	96446 96447 96448
(9) Criteria for payment of approved providers of program services;	96449 96450
(10) Any other rules necessary to implement the program.	96451
(H) When adopting rules required by division (G) (1) of this section, the director shall specify that families residing in the urban and rural communities specified in rules adopted under section 3701.142 of the Revised Code and families in the	96452 96453 96454 96455

child welfare system are to receive priority over other families 96456
for home visiting services. 96457

(I) The department, in collaboration with the departments 96458
of job and family services and medicaid, shall propose 96459
strategies to increase the workforce capacity of home visiting 96460
service providers and parenting support professionals, including 96461
efforts to incentivize and retain such providers and 96462
professionals in this state. 96463

Sec. 5180.278. The director of children and youth shall 96464
adopt rules ~~that are necessary for the implementation of~~ 96465
~~sections 5180.27 to 5180.277 of the Revised Code, including~~ 96466
~~rules~~ that do all of the following: 96467

(A) Establish a procedure for the PAMR board to follow in 96468
conducting pregnancy-associated death reviews; 96469

(B) Specify the data and other relevant information the 96470
board must use when conducting pregnancy-associated death 96471
reviews; 96472

(C) Establish guidelines for the board to follow to 96473
prevent an unauthorized dissemination of confidential 96474
information in violation of division (B) of section 5180.275 of 96475
the Revised Code. 96476

The rules shall be adopted in accordance with Chapter 119. 96477
of the Revised Code. 96478

Sec. 5180.32. The director of children and youth shall 96479
adopt rules in accordance with Chapter 119. of the Revised Code 96480
~~that are necessary to implement the state's part C early~~ 96481
~~intervention services program, including rules~~ that specify all 96482
of the following: 96483

(A) Eligibility requirements to receive <u>part C early intervention services</u> program services;	96484 96485
(B) Eligibility requirements to be a program service provider;	96486 96487
(C) Operating standards and procedures for program service providers, including standards and procedures governing data collection, program monitoring, and program evaluation;	96488 96489 96490
(D) Procedures to appeal the denial of an application to receive program services or the termination of program services;	96491 96492
(E) Procedures to appeal a decision by the department of developmental disabilities to deny an application to be a program service provider or to terminate a provider's status;	96493 96494 96495
(F) Procedures for addressing complaints by persons who receive program services;	96496 96497
(G) Criteria for the payment of program service providers;	96498
(H) The metrics or indicators used to measure program service provider performance.	96499 96500
Sec. 5180.404. (A) Notwithstanding any provision of the Revised Code that requires confidentiality of information that is contained in the uniform statewide automated child welfare information system established in section 5180.40 of the Revised Code, the department of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code regarding a private child placing agency's or private noncustodial agency's access, data entry, and use of information in the uniform statewide automated child welfare information system.	96501 96502 96503 96504 96505 96506 96507 96508 96509
(B) (1) The department of children and youth may adopt rules in accordance with section 111.15 of the Revised Code, as	96510 96511

~~if they were internal management rules, as necessary to carry out the purposes of sections 5180.40 to 5180.403 of the Revised Code.~~

~~(2)(B)~~ The department may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the purposes of division (A) (2) of section 5180.402 of the Revised Code.

(C) Public children services agencies shall implement and use the information system established pursuant to section 5180.40 of the Revised Code in accordance with rules adopted by the department.

Sec. 5180.42. (A) As used in sections 5180.42 to 5180.4214 of the Revised Code:

(1) "Adopted young adult" means a person:

(a) Who was in the temporary or permanent custody of a public children services agency;

(b) Who was adopted at the age of sixteen or seventeen and attained the age of sixteen before a Title IV-E adoption assistance agreement became effective;

(c) Who has attained the age of eighteen; and

(d) Who has not yet attained the age of twenty-one.

(2) "Child" means any of the following:

(a) A person who meets the requirements of division (B) (3) of section 5153.01 of the Revised Code;

(b) An adopted young adult;

(c) An emancipated young adult.

- (3) "Emancipated young adult" means a person: 96538
- (a) Who was in the temporary or permanent custody of a 96539
public children services agency, a planned permanent living 96540
arrangement, or in the Title-IV-E-eligible care and placement 96541
responsibility of a juvenile court or other governmental agency 96542
that provides Title IV-E reimbursable placement services; 96543
- (b) Whose custody, arrangement, or care and placement was 96544
terminated on or after the person's eighteenth birthday; and 96545
- (c) Who has not yet attained the age of twenty-one. 96546
- (4) "Kinship guardianship young adult" means an individual 96547
that meets the following criteria: 96548
- (a) Was in the temporary or permanent custody of a public 96549
children services agency or a planned permanent living 96550
arrangement prior to the commitment described in division (A) (4) 96551
(b) of this section; 96552
- (b) Was committed to the legal custody or legal 96553
guardianship of a kinship caregiver at the age of sixteen or 96554
seventeen and attained the age of sixteen before a Title IV-E 96555
kinship guardianship assistance agreement became effective; 96556
- (c) Has attained the age of eighteen; 96557
- (d) Has not yet attained the age of twenty-one. 96558
- (5) "Relative" means, with respect to a child, any of the 96559
following who is eighteen years of age or older: 96560
- (a) The following individuals related by blood or adoption 96561
to the child: 96562
- (i) Grandparents, including grandparents with the prefix 96563
"great," "great-great," or "great-great-great"; 96564

(ii) Siblings;	96565
(iii) Aunts, uncles, nephews, and nieces, including such relatives with the prefix "great," "great-great," "grand," or "great-grand";	96566 96567 96568
(iv) First cousins and first cousins once removed.	96569
(b) Stepparents and stepsiblings of the child;	96570
(c) Spouses and former spouses of individuals named in divisions (A) (5) (a) and (b) of this section;	96571 96572
(d) A legal guardian of the child;	96573
(e) A legal custodian of the child;	96574
(f) Any nonrelative adult that has a familiar and long-standing relationship or bond with the child or the family, which relationship or bond will ensure the child's social ties.	96575 96576 96577
(6) "Representative" means a person with whom the department of children and youth has entered into a contract, pursuant to division (B) (2) (b) of this section.	96578 96579 96580
(7) "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended.	96581 96582
(B) (1) Except as provided in divisions (B) (2) and (3) of this section, the department of children and youth shall act as the single state agency to administer federal payments for foster care, kinship guardianship assistance, and adoption assistance made pursuant to Title IV-E. The director of children and youth shall adopt rules to implement this authority. Rules governing financial and administrative requirements applicable to public children services agencies and government entities that provide Title IV-E reimbursable placement services to	96583 96584 96585 96586 96587 96588 96589 96590 96591

children, and such rules shall be adopted in accordance with 96592
section 111.15 of the Revised Code, as if they were internal 96593
management rules. Rules governing requirements applicable to 96594
private child placing agencies and private noncustodial agencies 96595
and rules establishing eligibility, program participation, and 96596
other requirements concerning Title IV-E shall be adopted in 96597
accordance with Chapter 119. of the Revised Code. A public 96598
children services agency to which the department distributes 96599
Title IV-E funds shall administer the funds in accordance with 96600
~~those~~ any associated rules. 96601

(2) (a) The department shall implement the state plan as 96602
amended under section 5180.428 of the Revised Code if the 96603
general assembly has appropriated sufficient funds to operate 96604
the program required under the plan as amended. 96605

(b) The department shall have, exercise, and perform all 96606
new duties required under the plan as amended. In doing so, the 96607
department may contract with another person to carry out those 96608
new duties, to the extent permitted under Title IV-E. 96609

(3) The department shall implement the state plan as 96610
amended under section 5180.4213 of the Revised Code. 96611

(C) (1) Except with regard to the new duties imposed on the 96612
department or its contractor under division (B) (2) (b) of this 96613
section that are not imposed on the county, the county, on 96614
behalf of each child eligible for foster care maintenance 96615
payments under Title IV-E, shall make payments to cover the cost 96616
of providing all of the following: 96617

(a) The child's food, clothing, shelter, daily 96618
supervision, and school supplies; 96619

(b) The child's personal incidentals; 96620

(c) Reasonable travel to the child's home for visitation.	96621
(2) In addition to payments made under division (C) (1) of this section, the county may, on behalf of each child eligible for foster care maintenance payments under Title IV-E, make payments to cover the cost of providing the following:	96622 96623 96624 96625
(a) Liability insurance with respect to the child;	96626
(b) If the county is participating in the demonstration project established under division (A) of section 5180.421 of the Revised Code, services provided under the project.	96627 96628 96629
(3) With respect to a child who is in a child-care institution, including any type of group home designed for the care of children or any privately operated program consisting of two or more certified foster homes operated by a common administrative unit, the foster care maintenance payments made by the county on behalf of the child shall include the reasonable cost of the administration and operation of the institution, group home, or program, as necessary to provide the items described in divisions (C) (1) and (2) of this section.	96630 96631 96632 96633 96634 96635 96636 96637 96638
(D) To the extent that either foster care maintenance payments under division (C) of this section, Title IV-E kinship guardianship assistance, or Title IV-E adoption assistance payments for maintenance costs require the expenditure of county funds, the board of county commissioners shall report the nature and amount of each expenditure of county funds to the department.	96639 96640 96641 96642 96643 96644 96645
(E) The department shall distribute to public children services agencies that incur and report expenditures of the type described in division (D) of this section federal financial participation received for administrative and training costs	96646 96647 96648 96649

incurred in the operation of foster care maintenance, kinship guardianship assistance, and adoption assistance programs. The department may withhold not more than three per cent of the federal financial participation received. The funds withheld may be used only to fund the following:

(1) The Ohio child welfare training program established under section 5103.30 of the Revised Code;

(2) The university partnership program for college and university students majoring in social work who have committed to work for a public children services agency upon graduation;

(3) Efforts supporting organizational excellence, including voluntary activities to be accredited by a nationally recognized accreditation organization.

The funds withheld shall be in addition to any administration and training cost for which the department is reimbursed through its own cost allocation plan.

(F) All federal financial participation funds received by a county pursuant to this section shall be deposited into the county's children services fund created pursuant to section 5180.411 of the Revised Code.

(G) (1) The department shall periodically publish and distribute the maximum amounts that the department will reimburse public children services agencies for making payments on behalf of children eligible for foster care maintenance payments.

(2) The department may issue a request for proposals to establish statewide rate cards for placement and care of children eligible for foster care maintenance payments. If a request for proposals is issued, the department shall review and

accept the reasonable cost of providing the items described in 96679
division (C) of this section. Foster homes, as defined in 96680
section 5103.02 of the Revised Code, and kinship caregivers, as 96681
defined in section 5101.85 of the Revised Code, shall be exempt 96682
from the established statewide rates. 96683

(H) The department, by and through its director, is hereby 96684
authorized to develop, participate in the development of, 96685
negotiate, and enter into one or more interstate compacts on 96686
behalf of this state with agencies of any other states, for the 96687
provision of social services to children in relation to whom all 96688
of the following apply: 96689

(1) They have special needs. 96690

(2) This state or another state that is a party to the 96691
interstate compact is providing kinship guardianship assistance 96692
or adoption assistance on their behalf. 96693

(3) They move into this state from another state or move 96694
out of this state to another state. 96695

Sec. 5180.422. (A) In adopting rules ~~under section 5180.42~~ 96696
~~of the Revised Code~~ regarding financial requirements applicable 96697
to public children services agencies, private child placing 96698
agencies, private noncustodial agencies, and government entities 96699
that provide Title IV-E reimbursable placement services to 96700
children, the department of children and youth may establish 96701
both of the following: 96702

(1) A single form for the agencies or entities to report 96703
costs reimbursable under Title IV-E and costs reimbursable under 96704
medicaid; 96705

(2) Procedures to monitor cost reports submitted by the 96706
agencies or entities. 96707

(B) The procedures established under division (A) (2) of this section shall be used to do both of the following: 96708
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(1) Determine which of the costs are reimbursable under Title IV-E; 96710
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(2) Ensure that costs reimbursable under medicaid are excluded from determinations made under division (B) (1) of this section. 96712
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Sec. 5180.427. In addition to the remedies available under sections 5101.24 and 5180.423 of the Revised Code, the department of children and youth may certify a claim to the attorney general under section 131.02 of the Revised Code for the attorney general to take action under that section against a public children services agency, private child placing agency, private noncustodial agency, or government entity that provides Title IV-E reimbursable placement services to children if all of the following are the case: 96715
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(A) The agency or entity files a cost report with the department pursuant to rules ~~adopted under division (B) of section 5180.42 of the Revised Code.~~ 96724
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(B) The department receives and distributes federal Title IV-E reimbursement funds based on the cost report. 96727
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(C) The agency's or entity's misstatement, misclassification, overstatement, understatement, or other inclusion or omission of any cost included in the cost report causes the United States department of health and human services to disallow all or part of the federal Title IV-E reimbursement funds the department received and distributed. 96729
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(D) The agency's or entity's misstatement, misclassification, overstatement, understatement, or other 96735
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inclusion or omission of any cost included in the cost report is 96737
not the direct result of a written directive concerning the 96738
agency or entity's cost report that the department issued to the 96739
agency or entity. 96740

Sec. 5180.4211. (A) The department of children and youth 96741
shall adopt rules ~~necessary to carry out the purposes of~~ 96742
~~sections 5180.428 to 5180.4210 of the Revised Code, including~~ 96743
~~rules that~~ to do all of the following: 96744

(1) Allow an emancipated young adult described in division 96745
(A) (1) of section 5180.428 of the Revised Code who is directly 96746
receiving foster care payments, or on whose behalf such foster 96747
care payments are received, or an adopted young adult whose 96748
adoptive parents are receiving adoption assistance payments, to 96749
maintain eligibility while transitioning into, or out of, 96750
qualified employment or educational activities; 96751

(2) Require that a thirty-day notice of termination be 96752
given by the department to an emancipated young adult described 96753
in division (A) (1) of section 5180.428 of the Revised Code who 96754
is receiving foster care payments, or on whose behalf such 96755
foster care payments are received, or to a parent receiving 96756
adoption assistance payments for an adopted young adult 96757
described in division (B) (1) of section 5180.428 of the Revised 96758
Code, who is determined to be ineligible for payments; 96759

(3) Establish the scope of practice and training necessary 96760
for case managers and supervisors who care for emancipated young 96761
adults described in division (A) (1) of section 5180.428 of the 96762
Revised Code who are receiving foster care payments, or on whose 96763
behalf such foster care payments are received, under section 96764
5180.428 of the Revised Code. 96765

(B) The department of children and youth shall create an advisory council to evaluate and make recommendations for statewide implementation of sections 5180.428 and 5180.429 of the Revised Code.

Sec. 5180.4214. The department of children and youth shall adopt rules ~~necessary to carry out the purposes of sections 5180.42, 5180.428, and 5180.4213 of the Revised Code, and 42 U.S.C. 673(d) of the "Social Security Act," including rules that~~ do all of the following:

(A) Allow a kinship guardianship young adult described in division (C) of section 5180.428 of the Revised Code on whose behalf kinship guardianship assistance is received, to maintain eligibility while transitioning into, or out of, qualified employment or educational activities;

(B) Require that a thirty-day notice of termination be given by the department to a person receiving kinship guardianship assistance for a kinship guardianship young adult described in division (C) of section 5180.428 of the Revised Code, who is determined to be ineligible for assistance.

Sec. 5180.43. (A) (1) If, after a child's adoption is finalized, the department of children and youth considers the child to be in need of public care or protective services, the department may, to the extent state funds are available for this purpose, enter into an agreement with the child's adoptive parent under which the department may make post adoption special services subsidy payments on behalf of the child as needed when both of the following apply:

(a) The child has a physical or developmental disability or mental or emotional condition that either:

- (i) Existed before the adoption petition was filed; or 96795
- (ii) Developed after the adoption petition was filed and 96796
can be directly attributed to factors in the child's preadoption 96797
background, medical history, or biological family's background 96798
or medical history. 96799
- (b) The department determines the expenses necessitated by 96800
the child's disability or condition are beyond the adoptive 96801
parent's economic resources. 96802
- (2) Services for which the department may make post 96803
adoption special services subsidy payments on behalf of a child 96804
under this section shall include medical, surgical, psychiatric, 96805
psychological, and counseling services, including residential 96806
treatment. 96807
- (3) The department shall establish clinical standards to 96808
evaluate a child's physical or developmental disability or 96809
mental or emotional condition and assess the child's need for 96810
services. 96811
- (4) The total dollar value of post adoption special 96812
services subsidy payments made on a child's behalf shall not 96813
exceed ten thousand dollars in any fiscal year, unless the 96814
department determines that extraordinary circumstances exist 96815
that necessitate further funding of services for the child. 96816
Under such extraordinary circumstances, the value of the 96817
payments made on the child's behalf shall not exceed fifteen 96818
thousand dollars in any fiscal year. 96819
- (5) The adoptive parent or parents of a child who receives 96820
post adoption special services subsidy payments shall pay at 96821
least five per cent of the total cost of all services provided 96822
to the child; except that the department may waive this 96823

requirement if the gross annual income of the child's adoptive family is not more than two hundred per cent of the federal poverty guideline. 96824
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(6) The department may use other sources of revenue to make post adoption special services subsidy payments, in addition to any state funds appropriated for that purpose. 96827
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(7) The department may contract with another person to carry out any of the duties described in this section. 96830
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(B) No payment shall be made on behalf of any person eighteen years of age or older beyond the end of the school year during which the person attains the age of eighteen or on behalf of a mentally or physically disabled person twenty-one years of age or older. 96832
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(C) The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code necessary to implement this section. The rules shall establish all of the following: 96837
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(1) The application process for all forms of assistance provided under this section; 96841
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(2) Standards for determining the children who qualify to receive assistance provided under this section; 96843
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(3) The method of determining the amount, duration, and scope of services provided to a child; 96845
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(4) The method of transitioning the post adoption special services subsidy program from public children services agencies to the department; 96847
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~~(5) Any other rule, requirement, or procedure the department considers appropriate for the implementation of this~~ 96850
96851

section. 96852

Sec. 5180.453. (A) ~~The director of children and youth shall adopt rules to administer and implement the Ohio adoption grant program.~~ The director of children and youth, in consultation with the tax commissioner, shall also adopt rules authorizing the department to withhold and remit to the Internal Revenue Service federal income tax from grant payments under division (B) of section 5180.451 of the Revised Code, provided such withholding is authorized under federal law or approved by the Internal Revenue Service. 96853
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(B) No application fee shall be charged for the grant program. 96862
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(C) Notwithstanding any law to the contrary, the director may require, as necessary to administer the Ohio adoption grant program, either or both of the following: 96864
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(1) Certified copies of any court or legal document necessary to prove a final order of adoption, an interlocutory order of adoption, or recognition of the adoption under section 3107.18 of the Revised Code; 96867
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(2) Any department, agency, court, or division of the state, including the department of health, to provide any document related to the adoption. 96871
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(D) (1) No person shall knowingly produce or submit any false or misleading documentation or information to the department of children and youth in an effort to qualify for or obtain a grant from the Ohio adoption grant program. 96874
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(2) Whoever violates division (D) (1) of this section is guilty of falsification in accordance with section 2921.13 of the Revised Code. 96878
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(E) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under section 5180.453 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code.

Sec. 5180.52. (A) As used in this section:

(1) "Custodian," "guardian," and "minor child" have the same meanings as in section 5107.02 of the Revised Code.

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.

(3) "Kinship caregiver" has the same meaning as in section 5180.50 of the Revised Code.

(B) Subject to division (E) of section 5101.801 of the Revised Code, there is hereby created the kinship permanency incentive program to promote permanency for a minor child in the legal and physical custody of a kinship caregiver. The program shall provide an initial one-time incentive payment to the kinship caregiver to defray the costs of initial placement of the minor child in the kinship caregiver's home. The program may provide additional permanency incentive payments for the minor child at six-month intervals, based on the availability of funds. An eligible caregiver may receive a maximum of eight incentive payments per minor child.

(C) A kinship caregiver may participate in the program if all of the following requirements are met:

(1) The kinship caregiver applies to a public children services agency in accordance with the application process established in rules authorized by division (E) of this section;

(2) Not earlier than July 1, 2005, a juvenile court issues

an order granting legal custody to the kinship caregiver, or a probate court grants guardianship to the kinship caregiver, except that a temporary court order is not sufficient to meet this requirement;

(3) The kinship caregiver is either the minor child's custodian or guardian;

(4) The minor child resides with the kinship caregiver pursuant to a placement approval process established in rules authorized by division (E) of this section;

(5) Excluding any income excluded under rules adopted under division (E) of this section, the gross income of the kinship caregiver's family, including the minor child, does not exceed three hundred per cent of the federal poverty guidelines.

(6) The kinship caregiver is not receiving kinship guardianship assistance under Title IV-E of the "Social Security Act," 42 U.S.C. 673(d), as amended, or the program described in section 5180.428 of the Revised Code or the program described in section 5153.163 of the Revised Code.

(D) Public children services agencies shall make initial and ongoing eligibility determinations for the kinship permanency incentive program in accordance with rules authorized by division (E) of this section. The director of children and youth shall supervise public children services agencies' duties under this section.

(E) The director of children and youth shall adopt rules ~~under division (C) of section 5101.801 of the Revised Code as necessary to implement the kinship permanency incentive program.~~ The rules shall to establish all of the following:

(1) The application process for the program;

(2) The placement approval process through which a minor child is placed with a kinship caregiver for the kinship caregiver to be eligible for the program; 96938
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(3) The initial and ongoing eligibility determination process for the program, including the computation of income eligibility; 96941
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(4) The amount of the incentive payments provided under the program; 96944
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(5) The method by which the incentive payments are provided to a kinship caregiver. 96946
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(F) The amendments made to this section by Am. Sub. H.B. 119 of the 127th general assembly shall not affect the eligibility of any kinship caregiver whose eligibility was established before June 30, 2007. 96948
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Sec. 5180.53. As used in sections 5180.531 to ~~5180.536~~ 5180.535 of the Revised Code: 96952
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(A) "Cost-of-living adjustment" has the same meaning as in section 5107.04 of the Revised Code. 96954
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(B) "Kinship caregiver" has the same meaning as in section 5180.50 of the Revised Code. 96956
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Sec. 5180.71. (A) Subject to division (E) of section 5101.801 of the Revised Code, there is hereby created the Ohio parenting and pregnancy program to provide services for pregnant women and parents or other relatives caring for children twelve months of age or younger that do both of the following: 96958
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(1) Promote childbirth, parenting, and alternatives to abortion; 96963
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(2) Meet one or more of the four purposes of the temporary assistance for needy families block grant as specified in 42 U.S.C. 601. 96965
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(B) To the extent permitted by federal law, the department of children and youth may provide funds under the program to entities with which the department enters into agreements under division (B)(3) of section 5101.801 of the Revised Code. In accordance with criteria the department develops, the department may solicit proposals from entities seeking to provide services under the program. The department may enter into an agreement with an entity only if it meets all of the following conditions: 96968
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(1) Is a private, not-for-profit entity; 96976

(2) Is an entity whose primary purpose is to promote childbirth, rather than abortion, through counseling and other services, including parenting and adoption support; 96977
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(3) Provides services to pregnant women and parents or other relatives caring for children twelve months of age or younger, including clothing, counseling, diapers, food, furniture, health care, parenting classes, postpartum recovery, shelter, and any other supportive services, programs, or related outreach; 96980
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(4) Does not charge pregnant women and parents or other relatives caring for children twelve months of age or younger a fee for any services received; 96986
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(5) Is not involved in or associated with any abortion activities, including providing abortion counseling or referrals to abortion clinics, performing abortion-related medical procedures, or engaging in pro-abortion advertising; 96989
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(6) Does not discriminate in its provision of services on 96993

the basis of race, religion, color, age, marital status, 96994
national origin, disability, or gender. 96995

(C) An entity that has entered into an agreement with the 96996
department under division (B) (3) of section 5101.801 of the 96997
Revised Code may enter into a subcontract with another entity 96998
under which the other entity provides all or part of the 96999
services described in division (B) (3) of this section. A 97000
subcontract may be entered into with another entity only if that 97001
entity meets all of the following conditions: 97002

(1) Is a private, not-for-profit entity; 97003

(2) Is physically and financially separate from any 97004
entity, or component of an entity, that engages in abortion 97005
activities; 97006

(3) Is not involved in or associated with any abortion 97007
activities, including providing abortion counseling or referrals 97008
to abortion clinics, performing abortion-related medical 97009
procedures, or engaging in pro-abortion advertising. 97010

~~(D) The director of children and youth shall adopt rules 97011
under division (C) of section 5101.801 of the Revised Code as 97012
necessary to implement the Ohio parenting and pregnancy program. 97013~~

Sec. 5180.72. (A) There is hereby created in the state 97014
treasury the "choose life" fund. The fund shall consist of the 97015
contributions that are paid to the registrar of motor vehicles 97016
by applicants who voluntarily elect to obtain "choose life" 97017
license plates pursuant to section 4503.91 of the Revised Code 97018
and any money returned to the fund under division (E) (1) (d) of 97019
this section. All investment earnings of the fund shall be 97020
credited to the fund. 97021

(B) (1) At least annually, the director of children and 97022

youth shall distribute the money in the fund to any private, 97023
nonprofit organization that is eligible to receive funds under 97024
this section and that applies for funding under division (C) of 97025
this section. 97026

(2) The director shall allocate the funds to each county 97027
in proportion to the number of "choose life" license plates 97028
issued during the preceding year to vehicles registered in each 97029
county. The director shall distribute funds allocated for a 97030
county as follows: 97031

(a) To one or more eligible organizations located within 97032
the county; 97033

(b) If no eligible organization located within the county 97034
applies for funding, to one or more eligible organizations 97035
located in contiguous counties; 97036

(c) If no eligible organization located within the county 97037
or a contiguous county applies for funding, to one or more 97038
eligible organizations within any other county. 97039

(3) The director shall ensure that any funds allocated for 97040
a county are distributed equally among eligible organizations 97041
that apply for funding within the county. 97042

(C) Any organization seeking funds under this section 97043
annually shall apply for distribution of the funds based on the 97044
county in which the organization is located. An organization 97045
also may apply for funding in a county in which it is not 97046
located if it demonstrates that it provides services for 97047
pregnant women residing in that county. The director shall 97048
develop an application form and may determine the schedule and 97049
procedures that an organization shall follow when annually 97050
applying for funds. The application shall inform the applicant 97051

of the conditions for receiving and using funds under division 97052
(E) of this section. The application shall require evidence that 97053
the organization meets all of the following requirements: 97054

(1) Is a private, nonprofit organization; 97055

(2) Is committed to counseling pregnant women about the 97056
option of adoption; 97057

(3) Provides services within the state to pregnant women 97058
who are planning to place their children for adoption, including 97059
counseling and meeting the material needs of the women; 97060

(4) Does not charge women for any services received; 97061

(5) Is not involved or associated with any abortion 97062
activities, including counseling for or referrals to abortion 97063
clinics, providing medical abortion-related procedures, or pro- 97064
abortion advertising; 97065

(6) Does not discriminate in its provision of any services 97066
on the basis of race, religion, color, age, marital status, 97067
national origin, disability, gender, or age; 97068

(7) If the organization is applying for funding in a 97069
county in which it is not located, provides services for 97070
pregnant women residing in that county. 97071

(D) The director shall not distribute funds to an 97072
organization that does not provide verifiable evidence of the 97073
requirements specified in the application under division (C) of 97074
this section and shall not provide additional funds to any 97075
organization that fails to comply with division (E) of this 97076
section in regard to its previous receipt of funds under this 97077
section. 97078

(E) (1) An organization receiving funds under this section 97079

shall do all of the following: 97080

(a) Use not more than sixty per cent of the funds 97081
distributed to it for the material needs of pregnant women who 97082
are planning to place their children for adoption or for infants 97083
awaiting placement with adoptive parents, including clothing, 97084
housing, medical care, food, utilities, and transportation; 97085

(b) Use not more than forty per cent of the funds 97086
distributed to it for counseling, training, or advertising; 97087

(c) Not use any of the funds distributed to it for 97088
administrative expenses, legal expenses, or capital 97089
expenditures; 97090

(d) Annually return to the fund created under division (A) 97091
of this section any unused money that exceeds ten per cent of 97092
the money distributed to the organization. 97093

(2) The organization annually shall submit to the director 97094
an audited financial statement verifying its compliance with 97095
division (E)(1) of this section. 97096

~~(F) The director, in accordance with Chapter 119. of the~~ 97097
~~Revised Code, shall adopt rules to implement this section.~~ 97098

~~It~~ It is not the intent of the general assembly that the 97099
department create a new position within the department to 97100
implement and administer this section. It is the intent of the 97101
general assembly that the implementation and administration of 97102
this section be accomplished by existing department personnel. 97103

(G) If funds that have been allocated to a county for any 97104
previous year have not been distributed to one or more eligible 97105
organizations, the director may distribute those funds in 97106
accordance with this section. 97107

Sec. 5301.254. (A) For the purposes of this section, 97108
"nonresident alien" means any individual who is not a citizen 97109
of, and is not domiciled in, the United States. 97110

(B) Every nonresident alien who acquires any interest 97111
either in ~~his~~the nonresident alien's own name or in the name of 97112
another, in real property located in this state that is in 97113
excess of three acres or that has a market value greater than 97114
one hundred thousand dollars or any interest in and to minerals, 97115
and any mining or other rights appurtenant thereto or in 97116
connection therewith that has a market value in excess of fifty 97117
thousand dollars shall, within thirty days of the acquisition of 97118
the interest in the property, together with a filing fee of five 97119
dollars, submit to the secretary of state on forms prescribed by 97120
~~him~~the secretary of state all of the following information: 97121

- (1) Name, address, and telephone number; 97122
- (2) Country of citizenship; 97123
- (3) Location and amount of acreage of real property; 97124
- (4) Intended use of real property at the time of filing. 97125

(C) Every corporation or other business entity that is 97126
created or organized under the laws of any state or a foreign 97127
nation or that has its principal place of business in a foreign 97128
nation, in which a nonresident alien acquires at least ten per 97129
cent of the shares of stock or other interests or in which any 97130
number of nonresident aliens acquire at least forty per cent of 97131
the shares of stock or other interests, and which acquires any 97132
interest either in its own name or in the name of another, in 97133
real property located in this state that is in excess of three 97134
acres or that has a market value greater than one hundred 97135
thousand dollars or any interest in and to minerals, and any 97136

mining or other rights appurtenant thereto or exercisable in 97137
connection therewith that has a market value in excess of fifty 97138
thousand dollars shall, within thirty days of acquisition of the 97139
interest in the property, together with a filing fee of twenty- 97140
five dollars, submit to the secretary of state on forms 97141
prescribed by ~~him~~the secretary of state all of the following 97142
information: 97143

(1) Name, address of principal place of business, and 97144
address of principal Ohio office; 97145

(2) Name, address, telephone number, and country of 97146
citizenship of each nonresident alien who owns at least ten per 97147
cent of the shares of stock or other interests, if any; 97148

(3) The percentage, within five percentage points, of 97149
shares of stock or other interests controlled by the nonresident 97150
aliens of each country represented by them if such interests 97151
exceed five per cent; 97152

(4) Location and amount of acreage of real property; 97153

(5) Principal business of corporation or entity; 97154

(6) Intended use of real property at the time of filing; 97155

(7) ~~Chairman~~Chairperson of the governing board, if any, 97156
chief executive, if any, and partners, if any; 97157

(8) Corporation's or entity's agent in this state; 97158

(9) Place of incorporation, if a corporation; 97159

(10) Number of persons who own shares of stock or other 97160
interests. 97161

(D) If the ownership or control of a corporation or other 97162
business entity that is required in division (C) of this section 97163

to file with the secretary of state changes in such a way that 97164
the information contained on the filing form is no longer 97165
accurate, the corporation or other business entity shall notify 97166
the secretary of state in writing of such change within thirty 97167
days of the occurrence of the change. 97168

If the ownership or control of a corporation or other 97169
business entity that owns real property in an amount larger than 97170
three acres or that has a market value greater than one hundred 97171
thousand dollars or that owns any interest in and to minerals, 97172
and any mining or other rights appurtenant thereto or 97173
exercisable in connection therewith that has a market value in 97174
excess of fifty thousand dollars changes in such a way that a 97175
nonresident alien acquires at least ten per cent of the shares 97176
of stock or other interests or any number of nonresident aliens 97177
acquire at least forty per cent of the shares of stock or other 97178
interests, the corporation or other business entity shall file 97179
with the secretary of state as required in division (C) of this 97180
section within thirty days of the occurrence of the change. 97181

If a nonresident alien who is required to file with the 97182
secretary of state in division (B) of this section becomes a 97183
resident alien or a citizen of the United States, ~~he~~the former 97184
nonresident alien shall notify the secretary of state in writing 97185
of the change in ~~his~~ status within thirty days of the change. 97186

If a nonresident alien or a corporation or other business 97187
entity that is required to file with the secretary of state 97188
pursuant to this section sells the real property or mineral or 97189
mining rights that were reported to the secretary of state, the 97190
nonresident alien or corporation or other business entity shall 97191
notify the secretary of state in writing of the sale within 97192
thirty days of the sale. 97193

(E) The secretary of state shall:	97194
(1) Prescribe all forms and make all rules that are necessary for the implementation of this section;	97195 97196
(2) Maintain accurate records of the information that the secretary of state receives pursuant to this section and make such information available to the public;	97197 97198 97199
(3) Annually report this information, itemized by county, to the general assembly.	97200 97201
(F) No nonresident alien or corporation or other business entity that is required to file with the secretary of state pursuant to this section shall fail to comply with this section. Either the county prosecutor of the county in which the real property or the mineral or mining rights are located or the attorney general may bring action against any alleged offender. The secretary of state may request a county prosecutor or the attorney general to bring such an action.	97202 97203 97204 97205 97206 97207 97208 97209
(G) The filing of the information required by this section shall not be construed to perfect any interests permitted to be perfected under Title XIII of the Revised Code by filing with the secretary of state.	97210 97211 97212 97213
Sec. 5315.02. To assist in the establishment of the D.O.L.L.A.R. deed program, the Ohio housing finance agency shall adopt in rule all of the following:	97214 97215 97216
(A) A model form by which a person may apply to participate in the program;	97217 97218
(B) A model for the deed, which act shall <u>act</u> as the deed in lieu of foreclosure described in division (A) (1) of section 5315.04 of the Revised Code;	97219 97220 97221

(C) A model for the lease with option to purchase 97222
agreement described in divisions (A) (2) and (3) of section 97223
5315.04 of the Revised Code. 97224

~~(D) Any other rules necessary to implement this chapter.~~ 97225

Sec. 5501.311. (A) Notwithstanding sections 123.01 and 97226
127.16 of the Revised Code the director of transportation may 97227
lease or lease-purchase all or any part of a transportation 97228
facility to or from one or more persons, one or more 97229
governmental agencies, a transportation improvement district, or 97230
any combination thereof, and may grant leases, easements, or 97231
licenses for lands under the control of the department of 97232
transportation. ~~The director may adopt rules necessary to give~~ 97233
~~effect to this section.~~ 97234

(B) Plans and specifications for the construction of a 97235
transportation facility under a lease or lease-purchase 97236
agreement are subject to approval of the director and must meet 97237
or exceed all applicable standards of the department. 97238

(C) Any lease or lease-purchase agreement under which the 97239
department is the lessee shall be for a period not exceeding the 97240
then current two-year period for which appropriations have been 97241
made by the general assembly to the department, and such 97242
agreement may contain such other terms as the department and the 97243
other parties thereto agree, notwithstanding any other provision 97244
of law, including provisions that rental payments in amounts 97245
sufficient to pay bond service charges payable during the 97246
current two-year lease term shall be an absolute and 97247
unconditional obligation of the department independent of all 97248
other duties under the agreement without set-off or deduction or 97249
any other similar rights or defenses. Any such agreement may 97250
provide for renewal of the agreement at the end of each term for 97251

another term, not exceeding two years, provided that no renewal 97252
shall be effective until the effective date of an appropriation 97253
enacted by the general assembly from which the department may 97254
lawfully pay rentals under such agreement. Any such agreement 97255
may include, without limitation, any agreement by the department 97256
with respect to any costs of transportation facilities to be 97257
included prior to acquisition and construction of such 97258
transportation facilities. Any such agreement shall not 97259
constitute a debt or pledge of the faith and credit of the 97260
state, or of any political subdivision of the state, and the 97261
lessor shall have no right to have taxes or excises levied by 97262
the general assembly, or the taxing authority of any political 97263
subdivision of the state, for the payment of rentals thereunder. 97264
Any such agreement shall contain a statement to that effect. 97265

(D) A municipal corporation, township, or county may use 97266
service payments in lieu of taxes credited to special funds or 97267
accounts pursuant to sections 5709.43, 5709.47, 5709.75, and 97268
5709.80 of the Revised Code to provide its contribution to the 97269
cost of a transportation facility, provided such facility was 97270
among the purposes for which such service payments were 97271
authorized. The contribution may be in the form of a lump sum or 97272
periodic payments. 97273

(E) Pursuant to the "Telecommunications Act of 1996," 110 97274
Stat. 152, 47 U.S.C. 332 note, the director may grant a lease, 97275
easement, or license in a transportation facility to a 97276
telecommunications service provider for construction, placement, 97277
or operation of a telecommunications facility. An interest 97278
granted under this division is subject to all of the following 97279
conditions: 97280

(1) The transportation facility is owned in fee simple or 97281

easement by this state at the time the lease, easement, or 97282
license is granted to the telecommunications provider. 97283

(2) The lease, easement, or license shall be granted on a 97284
competitive basis in accordance with policies and procedures to 97285
be determined by the director. The policies and procedures may 97286
include provisions for master leases for multiple sites. 97287

(3) The telecommunications facility shall be designed to 97288
accommodate the state's multi-agency radio communication system, 97289
the intelligent transportation system, and the department's 97290
communication system as the director may determine is necessary 97291
for highway or other departmental purposes. 97292

(4) The telecommunications facility shall be designed to 97293
accommodate such additional telecommunications equipment as may 97294
feasibly be co-located thereon as determined in the discretion 97295
of the director. 97296

(5) The telecommunications service providers awarded the 97297
lease, easement, or license, agree to permit other 97298
telecommunications service providers to co-locate on the 97299
telecommunications facility, and agree to the terms and 97300
conditions of the co-location as determined in the discretion of 97301
the director. 97302

(6) The director shall require indemnity agreements in 97303
favor of the department as a condition of any lease, easement, 97304
or license granted under this division. Each indemnity agreement 97305
shall secure this state and its agents from liability for 97306
damages arising out of safety hazards, zoning, and any other 97307
matter of public interest the director considers necessary. 97308

(7) The telecommunications service provider fully complies 97309
with any permit issued under section 5515.01 of the Revised Code 97310

pertaining to land that is the subject of the lease, easement, 97311
or license. 97312

(8) All plans and specifications shall meet with the 97313
director's approval. 97314

(9) Any other conditions the director determines 97315
necessary. 97316

(F) In accordance with section 5501.031 of the Revised 97317
Code, to further efforts to promote energy conservation and 97318
energy efficiency, the director may grant a lease, easement, or 97319
license in a transportation facility to a utility service 97320
provider that has received its certificate from the Ohio power 97321
siting board or appropriate local entity for construction, 97322
placement, or operation of an alternative energy generating 97323
facility service provider as defined in section 4928.64 of the 97324
Revised Code. An interest granted under this division is subject 97325
to all of the following conditions: 97326

(1) The transportation facility is owned in fee simple or 97327
in easement by this state at the time the lease, easement, or 97328
license is granted to the utility service provider. 97329

(2) The lease, easement, or license shall be granted on a 97330
competitive basis in accordance with policies and procedures to 97331
be determined by the director. The policies and procedures may 97332
include provisions for master leases for multiple sites. 97333

(3) The alternative energy generating facility shall be 97334
designed to provide energy for the department's transportation 97335
facilities with the potential for selling excess power on the 97336
power grid, as the director may determine is necessary for 97337
highway or other departmental purposes. 97338

(4) The director shall require indemnity agreements in 97339

favor of the department as a condition of any lease, easement, 97340
or license granted under this division. Each indemnity agreement 97341
shall secure this state from liability for damages arising out 97342
of safety hazards, zoning, and any other matter of public 97343
interest the director considers necessary. 97344

(5) The alternative energy service provider fully complies 97345
with any permit issued by the Ohio power siting board under 97346
Chapter 4906. of the Revised Code and complies with section 97347
5515.01 of the Revised Code pertaining to land that is the 97348
subject of the lease, easement, or license. 97349

(6) All plans and specifications shall meet with the 97350
director's approval. 97351

(7) Any other conditions the director determines 97352
necessary. 97353

(G) Money the department receives under this section shall 97354
be deposited into the state treasury to the credit of the 97355
highway operating fund. 97356

(H) A lease, easement, or license granted under division 97357
(E) or (F) of this section, and any telecommunications facility 97358
or alternative energy generating facility relating to such 97359
interest in a transportation facility, is hereby deemed to 97360
further the essential highway purpose of building and 97361
maintaining a safe, energy-efficient, and accessible 97362
transportation system. 97363

Sec. 5501.51. (A) The state shall reimburse a utility for 97364
the cost of relocation of utility facilities necessitated by the 97365
construction of a highway project only in the event that the 97366
utility can evidence a vested interest in the nature of a fee 97367
interest, an easement interest, or a lesser estate in the real 97368

property it occupies in the event that the utility possesses a 97369
vested interest in such property. The utility shall present 97370
evidence satisfactory to the state substantiating the cost of 97371
relocation. The director may audit all financial records which 97372
the director determines necessary to verify such actual costs. 97373

~~(B) The director of transportation may establish and 97374
enforce such rules and procedures as the director may determine 97375
to be necessary to assure consistency governing any and all 97376
aspects of the cost of utility relocations. The director may 97377
adopt such amendments to such rules as are necessary and within 97378
the guidelines of this section. 97379~~

~~(C) As used in this section: 97380~~

(1) "Cost of relocation" includes the actual cost paid by 97381
a utility directly attributable to relocation after deducting 97382
any increase in the value of the new facility and any salvage 97383
value derived from the old facility. 97384

(2) "Utility" includes all of the following: 97385

(a) Publicly, privately, and cooperatively owned utilities 97386
that are subject to the authority of the public utilities 97387
commission of Ohio; 97388

(b) A cable operator as defined in the "Cable 97389
Communications Policy Act of 1984," 98 Stat. 2780, 47 U.S.C. 97390
522, as amended by the "Telecommunications Act of 1996," 110 97391
Stat. 56, 47 U.S.C. 151, and includes the provision of other 97392
information or telecommunications services, or both; 97393

(c) An electric cooperative and a municipal electric 97394
utility, both as defined in section 4928.01 of the Revised Code; 97395

(d) County-owned or county-operated water and sewer 97396

facilities. 97397

Sec. 5502.011. (A) As used in this section, "department of 97398
public safety" and "department" include all divisions within the 97399
department of public safety. 97400

(B) The director of public safety is the chief executive 97401
and administrative officer of the department. The director may 97402
establish policies governing the department, the performance of 97403
its employees and officers, the conduct of its business, and the 97404
custody, use, and preservation of departmental records, papers, 97405
books, documents, and property. The director also may authorize 97406
and approve investigations to be conducted by any of the 97407
department's divisions. Whenever the Revised Code imposes a duty 97408
upon or requires an action of the department, the director may 97409
perform the action or duty in the name of the department or 97410
direct such performance to be performed by the director's 97411
designee. 97412

(C) In addition to any other duties enumerated in the 97413
Revised Code, the director or the director's designee shall do 97414
all of the following: 97415

(1) Administer and direct the performance of the duties of 97416
the department; 97417

~~(2) Pursuant to Chapter 119. of the Revised Code, approve,~~ 97418
~~adopt, and prescribe such forms and rules as are necessary to~~ 97419
~~carry out the duties of the department;~~ 97420

~~(3)~~ On behalf of the department and in addition to any 97421
authority the Revised Code otherwise grants to the department, 97422
have the authority and responsibility for approving and entering 97423
into contracts, agreements, and other business arrangements; 97424

~~(4)~~ (3) Make appointments for the department as needed to 97425

comply with requirements of the Revised Code; 97426

~~(5)~~(4) Approve employment actions of the department, 97427
including appointments, promotions, discipline, investigations, 97428
and terminations; 97429

~~(6)~~(5) Accept, hold, and use, for the benefit of the 97430
department, any gift, donation, bequest, or devise, and may 97431
agree to and perform all conditions of the gift, donation, 97432
bequest, or devise, that are not contrary to law; 97433

~~(7)~~(6) Apply for, allocate, disburse, and account for 97434
grants made available under federal law or from other federal, 97435
state, or private sources; 97436

~~(8)~~(7) Develop a list of disqualifying offenses for 97437
licensure as a private investigator or a security guard provider 97438
pursuant to sections 9.79, 4749.03, 4749.04, 4749.10, and 97439
4776.10 of the Revised Code; 97440

~~(9)~~(8) Do all other acts, except adopting rules that the 97441
Revised Code does not specifically authorize the director or the 97442
director's designee to adopt, that are necessary or desirable to 97443
carry out this chapter. 97444

(D) (1) The director of public safety may assess a 97445
reasonable fee, plus the amount of any charge or fee passed on 97446
from a financial institution, on a drawer or indorser for each 97447
of the following: 97448

(a) A check, draft, or money order that is returned or 97449
dishonored; 97450

(b) An automatic bank transfer that is declined, due to 97451
insufficient funds or for any other reason; 97452

(c) Any financial transaction device that is returned or 97453

dishonored for any reason. 97454

(2) The director shall deposit any fee collected under this division in an appropriate fund as determined by the director based on the tax, fee, or fine being paid. 97455
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(3) As used in this division, "financial transaction device" has the same meaning as in section 113.40 of the Revised Code. 97458
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(E) (1) The director shall establish a homeland security advisory council to advise the director on homeland security, including homeland security funding efforts. 97461
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(2) The advisory council shall consist of the following members, who shall serve without compensation: 97464
97465

(a) The secretary of state; 97466

(b) State and local government officials, appointed by the director, who have homeland security or emergency management responsibilities and who represent first responders; 97467
97468
97469

(c) Any other members appointed by the director. 97470

Sec. 5502.22. (A) There is hereby established within the department of public safety an emergency management agency, which shall be governed under rules adopted by the director of public safety under ~~section 5502.25~~ Chapter 119. of the Revised Code. The director, with the concurrence of the governor, shall appoint an executive director, who shall be head of the emergency management agency. The executive director may appoint a chief executive assistant, executive assistants, and administrative and technical personnel within that agency as may be necessary to plan, organize, and maintain emergency management adequate to the needs of the state. The executive 97471
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director shall coordinate all activities of all agencies for 97482
emergency management within the state, shall maintain liaison 97483
with similar agencies of other states and of the federal 97484
government, shall cooperate with those agencies subject to the 97485
approval of the governor, and shall develop a statewide 97486
emergency operations plan that shall meet any applicable federal 97487
requirements for such plans. The executive director shall have 97488
such additional authority, duties, and responsibilities as are 97489
prescribed by the governor and the director or provided by law 97490
in all matters relating to emergency management that may be 97491
reflected in other sections of the Revised Code. The executive 97492
director shall advise the governor and director on matters 97493
pertaining to emergency management on a regular basis. 97494

Whenever the disaster services agency or director is 97495
referred to or designated in any statute, rule, contract, or 97496
other document, the reference or designation shall be deemed to 97497
refer to the emergency management agency or executive director, 97498
as the case may be. 97499

(B) For the purposes of emergency management, the 97500
executive director, with the approval of the director, may 97501
participate in federal programs, accept grants from, and enter 97502
into cooperative agreements or contractual arrangements with any 97503
federal, state, or local department, agency, or subdivision 97504
thereof, or any other person or body politic. Whenever the 97505
duties of the emergency management agency overlap with rights or 97506
duties of other federal, state, or local departments, agencies, 97507
subdivisions, or officials, or private agencies, the executive 97508
director shall cooperate with, and not infringe upon the rights 97509
and duties of, the other public or private entities. 97510

Funds made available by the United States for the use of 97511

the emergency management agency shall be expended by that agency 97512
only for the purposes for which the funds were appropriated. In 97513
accepting federal funds, the emergency management agency shall 97514
abide by the terms and conditions of the grant, cooperative 97515
agreement, or contractual arrangement and shall expend the funds 97516
in accordance with the laws and regulations of the United 97517
States. 97518

Sec. 5502.26. (A) The board of county commissioners of a 97519
county and the chief executive of all or a majority of the other 97520
political subdivisions within the county may enter into a 97521
written agreement establishing a countywide emergency management 97522
agency. 97523

A representative from each political subdivision entering 97524
into the agreement, selected by the political subdivision's 97525
chief executive, shall constitute a countywide advisory group 97526
for the purpose of appointing an executive committee under this 97527
section through which the countywide agency shall implement 97528
emergency management in the county in accordance with this 97529
section and for the purpose of advising the executive committee 97530
on matters pertaining to countywide emergency management. The 97531
executive committee shall consist of at least the following 97532
seven members: one county commissioner representing the board of 97533
county commissioners entering into the agreement; five chief 97534
executives representing the municipal corporations and townships 97535
entering into the agreement; and one nonelected representative. 97536
The countywide agreement shall specify how many additional 97537
members, if any, shall serve on the executive committee and 97538
their manner of selection. 97539

The agency shall be supported financially by the political 97540
subdivisions entering into the countywide agreement. The 97541

executive committee shall appoint a director/coordinator of 97542
emergency management who shall pursue a professional development 97543
training program in accordance with rules adopted by the 97544
director of public safety under ~~section 5502.25~~ Chapter 119. of 97545
the Revised Code. The director/coordinator of emergency 97546
management may be an official or employee of any political 97547
subdivision entering into the countywide agreement, except that 97548
the director/coordinator shall not be the chief executive of any 97549
such political subdivision. 97550

A countywide emergency management agency organized under 97551
this section shall establish a program for emergency management 97552
that: 97553

(1) Is in accordance with sections 5502.21 to 5502.51 of 97554
the Revised Code, rules adopted under those sections, local 97555
ordinances pertaining to emergency management, the "Robert T. 97556
Stafford Disaster Relief and Emergency Assistance Act," 88 Stat. 97557
143, 42 U.S.C. 5121, et- seq., as amended, and all applicable 97558
rules and regulations adopted under that act; 97559

(2) Includes, without limitation, development of an all- 97560
hazards emergency operations plan that has been coordinated with 97561
all agencies, boards, and divisions having emergency management 97562
functions within the county; 97563

(3) Includes the preparation and conduct of an annual 97564
exercise of the county's all-hazards emergency operations plan; 97565

(4) Is applicable to all political subdivisions entering 97566
into the countywide agreement. 97567

The director/coordinator of emergency management for a 97568
countywide agency organized under this section shall be 97569
responsible for coordinating, organizing, administering, and 97570

operating emergency management in accordance with the agency's 97571
program established under this section, subject to the direction 97572
and control of the executive committee. All agencies, boards, 97573
and divisions having emergency management functions within each 97574
political subdivision within the county shall cooperate in the 97575
development of the all-hazards emergency operations plan and 97576
shall cooperate in the preparation and conduct of the annual 97577
exercise. 97578

(B) Nothing in this section requires any political 97579
subdivision that is located within a county that has entered 97580
into a written agreement under this section establishing a 97581
countywide emergency management agency to enter into that 97582
agreement, provided that the political subdivision has 97583
established a program for emergency management in accordance 97584
with section 5502.271 of the Revised Code. 97585

(C) A countywide emergency management agency shall be 97586
considered a county board and shall receive the services of the 97587
auditor, treasurer, and prosecuting attorney of the county in 97588
the same manner as other county agencies, boards, or divisions. 97589

Sec. 5502.27. (A) In lieu of establishing a countywide 97590
emergency management agency under section 5502.26 of the Revised 97591
Code, the boards of county commissioners of two or more 97592
counties, with the consent of the chief executives of a majority 97593
of the participating political subdivisions of each county 97594
involved, may enter into a written agreement establishing a 97595
regional authority for emergency management. 97596

A representative from each political subdivision entering 97597
into the agreement, selected by the political subdivision's 97598
chief executive, shall constitute a regional advisory group for 97599
the purpose of appointing an executive committee under this 97600

section through which the regional authority shall implement 97601
emergency management in the counties in accordance with this 97602
section and for the purpose of advising the executive committee 97603
on matters pertaining to regional emergency management. The 97604
executive committee shall consist of at least the following nine 97605
members: two county commissioners representing the boards of 97606
county commissioners entering into the agreement; six chief 97607
executives representing the municipal corporations and townships 97608
entering into the agreement; and one nonelected representative. 97609
The regional agreement shall specify how many additional 97610
members, if any, shall serve on the executive committee and 97611
their manner of selection. 97612

The authority shall be supported financially by the 97613
political subdivisions entering into the regional agreement. The 97614
executive committee shall appoint a director/coordinator of 97615
emergency management who shall pursue a professional development 97616
training program in accordance with rules adopted by the 97617
director of public safety under ~~section 5502.25~~ Chapter 119. of 97618
the Revised Code. The director/coordinator of emergency 97619
management may be an official or employee of any political 97620
subdivision entering into the regional agreement, except that 97621
the director/coordinator shall not be the chief executive of any 97622
such political subdivision. 97623

A regional authority for emergency management organized 97624
under this section shall establish a program for emergency 97625
management that: 97626

(1) Is in accordance with sections 5502.21 to 5502.51 of 97627
the Revised Code, rules adopted under those sections, local 97628
ordinances pertaining to emergency management, the "Robert T. 97629
Stafford Disaster Relief and Emergency Assistance Act," 88 Stat. 97630

143, 42 U.S.C. 5121, et. seq., as amended, and all applicable 97631
rules and regulations adopted under that act; 97632

(2) Includes, without limitation, development of an all- 97633
hazards emergency operations plan that has been coordinated with 97634
all agencies, boards, and divisions having emergency management 97635
functions within the regional authority; 97636

(3) Includes the preparation and conduct of an annual 97637
exercise of the regional authority's all-hazards emergency 97638
operations plan; 97639

(4) Is applicable to all political subdivisions entering 97640
into the regional agreement. 97641

The director/coordinator of emergency management for a 97642
regional authority organized under this section shall be 97643
responsible for coordinating, organizing, administering, and 97644
operating emergency management in accordance with the 97645
authority's program established under this section, subject to 97646
the direction and control of the executive committee. All 97647
agencies, boards, and divisions having emergency management 97648
functions within each political subdivision within the regional 97649
authority shall cooperate in the development of the all-hazards 97650
emergency operations plan and shall cooperate in the preparation 97651
and conduct of the annual exercise. 97652

(B) Nothing in this section requires any political 97653
subdivision that is located within a county that has entered 97654
into a written agreement under this section establishing a 97655
regional authority for emergency management to enter into that 97656
agreement, provided that the political subdivision has 97657
established a program for emergency management in accordance 97658
with section 5502.271 of the Revised Code. 97659

(C) A regional authority for emergency management may 97660
designate the county auditor and county treasurer of one of the 97661
counties in the region as fiscal officers for the regional 97662
authority and may designate the prosecuting attorney of one of 97663
the counties in the region as legal advisor for the regional 97664
authority. 97665

Sec. 5502.271. The chief executive of any political 97666
subdivision that has not entered into a written agreement 97667
establishing either a countywide emergency management agency 97668
under section 5502.26 of the Revised Code or a regional 97669
authority for emergency management under section 5502.27 of the 97670
Revised Code shall establish a program for emergency management 97671
within that political subdivision that meets all of the 97672
following criteria: 97673

(A) Is in accordance with sections 5502.21 to 5502.51 of 97674
the Revised Code, rules adopted under those sections, local 97675
ordinances pertaining to emergency management, the "Robert T. 97676
Stafford Disaster Relief and Emergency Assistance Act," 88 Stat. 97677
143, 42 U.S.C. 5121, et. seq., as amended, and all applicable 97678
rules and regulations adopted under that act; 97679

(B) Includes, without limitation, development of an all- 97680
hazards emergency operations plan that has been coordinated with 97681
all agencies, boards, and divisions having emergency management 97682
functions within the political subdivision; 97683

(C) Includes the preparation and conduct of an annual 97684
exercise of the political subdivision's all-hazards emergency 97685
operations plan; 97686

(D) Is not inconsistent with the program for emergency 97687
management established for the county in which the political 97688

subdivision is located by a countywide emergency management 97689
agency under section 5502.26 of the Revised Code or a regional 97690
authority for emergency management under section 5502.27 of the 97691
Revised Code. 97692

All agencies, boards, and divisions having emergency 97693
management functions within the political subdivision shall 97694
cooperate in the development of the all-hazards emergency 97695
operations plan and shall cooperate in the preparation and 97696
conduct of the annual exercise. 97697

The chief executive shall appoint a director/coordinator 97698
of emergency management who shall pursue a professional 97699
development training program in accordance with rules adopted by 97700
the director of public safety under ~~section 5502.25~~ Chapter 119. 97701
of the Revised Code. The director/coordinator of emergency 97702
management may be an official or employee of the political 97703
subdivision, but shall not be the chief executive of the 97704
political subdivision. 97705

The director/coordinator shall be responsible for 97706
coordinating, organizing, administering, and operating emergency 97707
management in accordance with the political subdivision's 97708
program established under this section, subject to the direction 97709
and control of the chief executive. 97710

Sec. 5502.65. (A) (1) When funds are available for criminal 97711
justice purposes pursuant to section 5502.64 of the Revised 97712
Code, the division of criminal justice services shall provide 97713
funds to metropolitan county criminal justice services agencies 97714
for the purpose of developing, coordinating, evaluating, and 97715
implementing comprehensive plans within their respective 97716
counties. The division of criminal justice services shall 97717
provide funds to an agency only if it complies with the 97718

conditions of division (B) of this section. 97719

(2) When funds are available for juvenile justice purposes 97720
pursuant to section 5502.64 of the Revised Code, the department 97721
of youth services shall provide funds to metropolitan county 97722
criminal justice services agencies for the purpose of 97723
developing, coordinating, evaluating, and implementing 97724
comprehensive plans within their respective counties. The 97725
department shall provide funds to an agency only if it complies 97726
with the conditions of division (B) of this section. 97727

(B) A metropolitan county criminal justice services agency 97728
shall do all of the following: 97729

(1) Submit, in a form that is acceptable to the division 97730
of criminal justice services or the department of youth services 97731
pursuant to section 5139.01 of the Revised Code, a comprehensive 97732
plan for the county; 97733

(2) Establish a metropolitan county criminal justice 97734
services supervisory board whose members shall include a 97735
majority of the local elected officials in the county and 97736
representatives from law enforcement agencies, courts, 97737
prosecuting authorities, public defender agencies, 97738
rehabilitation and correction agencies, community organizations, 97739
juvenile justice services agencies, professionals, and private 97740
citizens in the county, and that shall have the authority set 97741
forth in division (C) of this section; 97742

(3) Organize in the manner provided in sections 167.01 to 97743
167.03, 302.21 to 302.24, or 713.21 to 713.27 of the Revised 97744
Code, unless the board created pursuant to division (B) (2) of 97745
this section organizes pursuant to these sections. 97746

(C) A metropolitan county criminal justice services 97747

supervisory board shall do all of the following: 97748

(1) Exercise leadership in improving the quality of the 97749
criminal and juvenile justice systems in the county; 97750

(2) Review, approve, and maintain general oversight of the 97751
comprehensive plans for the county and the implementation of the 97752
plans; 97753

(3) Review and comment on the overall needs and 97754
accomplishments of the criminal and juvenile justice systems in 97755
the county; 97756

(4) Establish, as required to comply with this division, 97757
task forces, ad hoc committees, and other committees, whose 97758
members shall be appointed by the chairperson of the board; 97759

~~(5) Establish any rules that the board considers necessary 97760
and that are consistent with the federal criminal justice acts 97761
and section 5502.62 of the Revised Code. 97762~~

Sec. 5502.703. (A) The Ohio school safety and crisis 97763
center is hereby created within the department of public safety 97764
and shall be operated by the mobile training team established 97765
under section 5502.70 of the Revised Code. 97766

(B) The mobile training team shall develop curriculum and 97767
provide instruction and training, including firearms training, 97768
that individuals may complete to satisfy the criterion specified 97769
in division (D)(1)(d)(i) of section 2923.122 of the Revised Code 97770
to be permitted to convey deadly weapons or dangerous ordnance 97771
into a school safety zone under division (D)(1)(d) of that 97772
section. Except as otherwise specified in division (D)(1)(d)(i) 97773
of that section, an individual shall successfully complete the 97774
curriculum, instruction, and training so developed as a 97775
requirement to be permitted to convey deadly weapons or 97776

dangerous ordnance into a school safety zone under the authority 97777
of division (D) (1) (d) of that section. 97778

The curriculum, instruction, and training shall follow the 97779
private investigator and security guard firearms training 97780
guidelines adopted under section 4749.06 of the Revised Code and 97781
include both of the following: 97782

(1) Initial instruction and training, which shall not 97783
exceed twenty-four hours; 97784

(2) Annual requalification training, which shall not 97785
exceed eight hours. 97786

Nothing in this section prohibits a school district board 97787
of education or governing body of a school from requiring 97788
additional training for an individual to which this section 97789
applies. 97790

(C) (1) The curriculum of the initial and requalification 97791
instruction and training required under this section shall 97792
include instruction in all of the following: 97793

(a) Mitigation techniques; 97794

(b) Communications capabilities and coordination and 97795
collaboration techniques; 97796

(c) Neutralization of potential threats and active 97797
shooters; 97798

(d) Accountability; 97799

(e) Reunification; 97800

(f) Psychology of critical incidents; 97801

(g) De-escalation techniques; 97802

(h) Crisis intervention;	97803
(i) Trauma and first aid care;	97804
(j) The history and pattern of school shootings;	97805
(k) Tactics of responding to critical incidents in schools;	97806 97807
(l) At least four hours of training in scenario-based or simulated training exercises;	97808 97809
(m) Completion of tactical live firearms training;	97810
(n) Realistic urban training.	97811
(2) The board or governing body of the school that authorizes an individual to convey deadly weapons or dangerous ordnance into a school safety zone, under division (D) (1) (d) of section 2923.122 of the Revised Code, shall pay all fees for the training described in divisions (B) and (C) (1) of this section that the individual receives.	97812 97813 97814 97815 97816 97817
(3) A school district board of education or governing body of a school may adopt alternate curriculum, instruction, and training, provided it includes all of the topics specified in division (C) (1) of this section.	97818 97819 97820 97821
A district board or governing body shall submit any alternate curriculum, instruction, and training adopted under division (C) (3) of this section to the school safety and crisis center for approval prior to granting authorization to an individual to convey deadly weapons or dangerous ordnance into a school safety zone under the control of the district board or governing authority. The school safety center shall approve any curriculum, instruction, and training within thirty days after receipt if the curriculum, instruction, and training comply with	97822 97823 97824 97825 97826 97827 97828 97829 97830

divisions (B) and (C) of this section. 97831

(D) Each school district board of education or governing 97832
body of a school shall provide to the school safety and crisis 97833
center a current list of the qualified personnel authorized to 97834
convey deadly weapons or dangerous ordnance into a school safety 97835
zone under the control of the district board or governing body 97836
who have completed training under this section. 97837

The list is not a public record under section 149.43 of 97838
the Revised Code. 97839

~~(E) The department of public safety, in accordance with 97840
Chapter 119. of the Revised Code, shall adopt rules to implement 97841
this section. 97842~~

Sec. 5503.10. There is hereby created in the department of 97843
public safety, division of state highway patrol, a program for 97844
administering and operating a law enforcement automated data 97845
system, to be known as LEADS, providing computerized data and 97846
communications to the various criminal justice agencies of the 97847
state. The program shall be administered by the superintendent 97848
of the state highway patrol, who may employ such persons as are 97849
necessary to carry out the purposes of this section. The 97850
superintendent shall adopt rules under Chapter 119. of the 97851
Revised Code establishing fees ~~and guidelines~~ for the operation 97852
of and participation in the LEADS program. These rules shall 97853
~~include~~ establish criteria for granting and restricting access 97854
to information maintained in LEADS. 97855

The superintendent shall appoint a steering committee to 97856
advise ~~him~~ the superintendent in the operation of the law 97857
enforcement automated data system, comprised of persons who are 97858
representative of the criminal justice agencies in Ohio that use 97859

the system. The superintendent or ~~his~~ the superintendent's 97860
designee shall be ~~chairman~~ chairperson of the committee. 97861

Sec. 5503.11. (A) The superintendent of the state highway 97862
patrol, with the approval of the director of public safety, may 97863
establish an auxiliary unit within the state highway patrol, and 97864
provide for the regulation of the auxiliary officers. The 97865
superintendent shall be the head of the auxiliary unit, and 97866
shall have the sole authority to make all appointments to and 97867
dismissals from the auxiliary unit. The superintendent shall 97868
prescribe rules for the organization, administration, and 97869
control of the auxiliary unit, and the eligibility requirements, 97870
training, and conduct of the auxiliary officers. The 97871
superintendent also shall have the authority to expend any funds 97872
appropriated to the state highway patrol to pay any expenses the 97873
state highway patrol incurs in administering the auxiliary unit. 97874
Members of the auxiliary unit may be required to pay any portion 97875
of their expenses, as determined by the superintendent. 97876

No member of the auxiliary unit shall have any power to 97877
arrest any person or to enforce any law of this state. 97878

(B) Each member of the auxiliary unit, in the performance 97879
of the member's official duties as determined by the 97880
superintendent, possesses personal immunity from civil liability 97881
for damages for injury, death, or loss to person or property as 97882
specified in section 9.86 of the Revised Code, and is entitled 97883
to ~~idemnification~~ indemnification and representation as an 97884
officer or employee of this state to the extent described in and 97885
in accordance with sections 109.361 to ~~109.366~~ 109.365 of the 97886
Revised Code. 97887

Sec. 5505.07. (A) The state highway patrol retirement 97888
board may employ a secretary and secure the services of 97889

employees for the transaction of business of the state highway 97890
patrol retirement system. 97891

Effective ninety days after ~~the effective date of this~~ 97892
~~amendment~~ September 15, 2004, the board may not employ a state 97893
retirement system investment officer, as defined in section 97894
1707.01 of the Revised Code, who does not hold a valid state 97895
retirement system investment officer license issued by the 97896
division of securities in the department of commerce. 97897

The compensation of all persons engaged by the board and 97898
all other expenses of the board necessary for the proper 97899
operation of the pension fund shall be paid at such rates and in 97900
such amounts as the board approves. Every expense voucher of an 97901
employee, officer, or board member of the state highway patrol 97902
retirement system shall itemize all purchases and expenditures. 97903

(B) The clerical procedures required in the operation of 97904
the retirement system shall be performed by the staff of the 97905
secretary appointed by the board. The cost of such clerical 97906
procedures and the services performed by the secretary of the 97907
retirement system shall be paid by the retirement system. 97908

(C) The board shall appoint an actuary who shall be its 97909
technical advisor. 97910

(D) The board shall from time to time adopt such mortality 97911
and other tables of experience, and such rate or rates of 97912
interest, as are required in the proper operation of the 97913
retirement system. 97914

(E) The board shall determine by appropriate rules the 97915
service to be credited any member in any calendar year. 97916

The board shall perform other functions ~~and adopt rules,~~ 97917
except for adopting rules that the Revised Code does not 97918

specifically authorize the board to adopt, as required for the 97919
proper execution of Chapter 5505. of the Revised Code. 97920

Sec. 5505.17. (A) (1) Upon retirement as provided in 97921
section 5505.16 of the Revised Code, a state highway patrol 97922
retirement system retirant shall receive a life pension, without 97923
guaranty or refund, equal to the greater of one thousand fifty 97924
dollars or the sum of two and one-half per cent of the 97925
retirant's final average salary multiplied by the first twenty 97926
years of total service credit, plus two and one-quarter per cent 97927
of the retirant's final average salary multiplied by the number 97928
of years, and fraction of a year, of total service credit in 97929
excess of twenty years but not in excess of twenty-five years, 97930
plus two per cent of the retirant's final average salary 97931
multiplied by the number of years, and fraction of a year, in 97932
excess of twenty-five years; provided that in no case shall the 97933
pension exceed the lesser of seventy-nine and one-quarter per 97934
cent of the retirant's final average salary or the limit 97935
established by section 415 of the "Internal Revenue Code of 97936
1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended. 97937

(2) A member with fifteen or more years of total service 97938
credit, who voluntarily resigns or who is discharged from the 97939
state highway patrol for any reason except retirement under this 97940
chapter, death, dishonesty, cowardice, intemperate habits, or 97941
conviction of a felony, shall receive a pension equal to one and 97942
one-half per cent of the member's final average salary 97943
multiplied by the number of years, and fraction of a year, of 97944
total service credit, except that the pension shall not exceed 97945
the limit established by section 415 of the "Internal Revenue 97946
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended. The 97947
pension shall commence at the end of the calendar month in which 97948
the application is filed with the retirement board on or after 97949

the attainment of age fifty-five years by the applicant. A 97950
member or former member who withdraws any part or all of the 97951
accumulated contributions from the employees' savings fund shall 97952
thereupon forfeit all rights to a pension provided for in this 97953
division. 97954

(3) (a) A surviving spouse of a deceased member who died 97955
~~before the effective date of this amendment~~ May 11, 2018, shall 97956
receive a monthly pension, determined as follows, during the 97957
spouse's life: 97958

(i) If at the time of death the member was not eligible to 97959
be granted a pension payable under division (A) (1) of this 97960
section or to elect to receive a reduced pension payable under 97961
section 5505.16 of the Revised Code, nine hundred dollars; 97962

(ii) If at the time of death the member was eligible to be 97963
granted a pension payable under division (A) (1) of this section 97964
or to elect to receive a reduced pension payable under section 97965
5505.16 of the Revised Code, the greater of nine hundred dollars 97966
or fifty per cent of the computed monthly pension the member 97967
would have received had the member been granted a pension under 97968
division (A) (1) of this section or elected to receive a reduced 97969
pension under section 5505.16 of the Revised Code. 97970

(b) The surviving spouse of a retirant who retired before- 97971
~~the effective date of this amendment~~ May 11, 2018, shall receive 97972
a monthly pension, determined as follows, during the spouse's 97973
life: 97974

(i) If the retirant had been granted retirement under 97975
section 5505.16 of the Revised Code, but at the time of death 97976
had not attained the age of eligibility for a pension, nine 97977
hundred dollars; 97978

(ii) If the retirant had been granted retirement under section 5505.16 of the Revised Code and had attained the age of eligibility for a pension, but at the time of death had not elected to begin receiving the pension, the greater of nine hundred dollars or fifty per cent of the computed monthly pension the retirant was eligible to receive under section 5505.16 of the Revised Code;

(iii) If the retirant had been granted retirement and was receiving a pension under division (A) (1) of this section or section 5505.16 or 5505.18 of the Revised Code, or, regardless of whether or not the retirant had actually received any payment, was eligible to receive a pension under division (A) (1) of this section or section 5505.16 or 5505.18 of the Revised Code and had elected to begin receiving it, the greater of nine hundred dollars or fifty per cent of the computed monthly pension awarded the retirant.

(c) The surviving spouse of a deceased member who dies on or after ~~the effective date of this amendment~~ May 11, 2018, or a retirant who retires on or after ~~the effective date of this amendment~~ May 11, 2018, shall receive a monthly pension during the spouse's life if the spouse was married to the member or retirant while the member or retirant was in the active service of the state highway patrol. The pension shall be determined as follows:

(i) During the period beginning ~~on the effective date of this amendment~~ May 11, 2018, and ending December 31, 2018, nine hundred dollars;

(ii) During the period beginning January 1, 2019, and continuing the following twelve months, and the period beginning the first day of January of each year thereafter and continuing

the following twelve months, an amount equal to the monthly 98009
amount payable during the prior twelve-month period plus an 98010
amount determined by multiplying nine hundred dollars by the 98011
amount the board determines annually under division (B) (1) (b) of 98012
section 5505.174 of the Revised Code. 98013

(d) In addition to the pension determined under division 98014
(A) (3) (c) of this section, the surviving spouse of a deceased 98015
member who dies on or after ~~the effective date of this amendment~~ 98016
May 11, 2018, shall receive a monthly pension during the 98017
spouse's life if the spouse was married to the member while the 98018
member was in the active service of the state highway patrol 98019
and, at the time of death, the member was eligible to be granted 98020
a pension payable under division (A) (1) of this section or to 98021
elect to receive a reduced pension payable under section 5505.16 98022
of the Revised Code. The pension shall be an amount equal to the 98023
amount the surviving spouse would have been entitled to receive 98024
had the member retired effective the day following the date of 98025
death having selected an option 2 plan under division (A) (2) (b) 98026
of section 5505.162 of the Revised Code providing for one-half 98027
of the member's lesser pension to be paid to the surviving 98028
spouse. 98029

(e) If a monthly pension to a surviving spouse was 98030
terminated due to a remarriage, the surviving spouse is eligible 98031
to receive a monthly pension under division (A) (3) of this 98032
section effective the first day of the first month following 98033
June 5, 1996. The pension shall be computed under division (A) 98034
(3) of this section as of June 5, 1996. The pension payable to a 98035
person who is the surviving spouse of more than one state 98036
highway patrol retirement system member or retirant shall be 98037
computed on the basis of the service of the member or retirant 98038
to whom the surviving spouse was most recently married. 98039

(4) A pension of one hundred fifty dollars per month shall 98040
be paid by the system to or for the benefit of each child of a 98041
deceased member or retirant until the child attains the age of 98042
eighteen years or marries, whichever event occurs first, or 98043
until the child attains twenty-three years of age if the child 98044
is a student in and attending an institution of learning or 98045
training pursuant to a program designed to complete in each 98046
school year the equivalent of at least two-thirds of the full- 98047
time curriculum requirements of the institution, as determined 98048
by the retirement board. If any surviving child, regardless of 98049
age at the time of the member's or retirant's death, because of 98050
physical or mental disability, was totally dependent upon the 98051
deceased member or retirant for support at the time of death, a 98052
pension of one hundred fifty dollars per month shall be paid by 98053
the system to or for the benefit of the child during the child's 98054
natural life or until the child recovers from the disability. 98055

(5) (a) If a retirant died prior to June 6, 1988, and the 98056
surviving spouse was not married to the retirant while the 98057
retirant was in the active service of the patrol, the surviving 98058
spouse shall receive a pension of the greater of four hundred 98059
twenty-five dollars per month or fifty per cent of the computed 98060
monthly pension the retirant was receiving. 98061

(b) If the pension payable to a person receiving a pension 98062
under division (A) (5) (a) of this section on June 30, 2000, is 98063
less than nine hundred dollars per month, the pension shall be 98064
increased to nine hundred dollars per month. 98065

(6) If a deceased member or retirant leaves no spouse or 98066
surviving children, but leaves two parents depending solely upon 98067
the deceased member or retirant for support, each parent shall 98068
be paid a monthly pension of one hundred fifty-four dollars. If 98069

in such case there is only one parent dependent solely upon the 98070
deceased member or retirant for support, such parent shall be 98071
paid a monthly pension of one hundred fifty-four dollars. Such 98072
pension shall be paid during the life of the surviving parents, 98073
or until dependency ceases, or until remarriage, whichever event 98074
occurs first. 98075

(7) Any amount remaining as accumulated contributions at 98076
the time of death of a retirant who leaves no surviving spouse 98077
or dependent children or parents shall be paid to the 98078
beneficiary or beneficiaries the retirant has nominated by 98079
written designation duly executed and filed with the board. A 98080
retirant may designate an individual or a trust as a 98081
beneficiary. If there is no designated beneficiary surviving the 98082
retirant, the retirant's accumulated contributions shall be paid 98083
according to the state law of descent and distribution; provided 98084
that, if the retirant's accumulated contributions are not 98085
claimed by an eligible person or by the estate of the retirant 98086
within seven years, they shall be transferred to the income fund 98087
of the system and after that shall be paid from that fund to 98088
such person or estate upon application to the board. 98089

(8) The increase provided for by division (A) (5) of this 98090
section shall be included in the calculation of the additional 98091
benefit paid under section 5505.174 of the Revised Code. 98092

~~(B) The board shall adopt, and may amend or rescind, the~~ 98093
~~necessary rules for the administration of this section and~~ 98094
~~all~~All decisions of the board shall be final. Any payment of a 98095
pension or benefit under this section is subject to the 98096
provisions of section 5505.26 of the Revised Code. 98097

(C) A member's total service credit may include periods 98098
during which the member's employment with the state highway 98099

patrol is interrupted by a leave of absence, when requested by the governor, to accept employment with another agency of the state, provided that:

(1) The member is reemployed by the state highway patrol within thirty days following termination of such other employment;

(2) The member pays into the retirement system, to the credit of the employees' savings fund, an amount equal to the total contributions the member would have paid had the state highway patrol employment not been so interrupted. Such repayment shall begin within ninety days after the member's return to duty with the state highway patrol and be completed within a period equal to that of the leave of absence.

(D) Service credits granted under division (C) of this section shall not include any duplications of credits for which a pension is payable by the public employees retirement system.

Sec. 5505.174. (A) Eligibility for an increase under this section shall be determined as follows:

(1) For a person whose pension effective date is prior to January 7, 2013, an "eligible person" is one of the following:

(a) A person fifty-three years old or older who has been receiving a pension pursuant to division (B) of section 5505.16, division (A)(1) of section 5505.17, or division (B) of section 5505.18 of the Revised Code for not less than twelve months;

(b) A person who has been receiving a pension pursuant to division (B) of section 5505.18 of the Revised Code for not less than sixty months regardless of age;

(c) A person who has been receiving a pension pursuant to

section 5505.162 or division (A) (3), (4), (5), or (6) of section 98128
5505.17 of the Revised Code for not less than twelve months 98129
regardless of age. 98130

(2) For a person whose pension effective date is on or 98131
after January 7, 2013, but before ~~the effective date of this~~ 98132
~~amendment~~ May 11, 2018, an "eligible person" is a person who is 98133
sixty years old or older who has been receiving a pension 98134
pursuant to division (B) of section 5505.16, section 5505.162, 98135
division (A) (1), (3), (4), (5), or (6) of section 5505.17, or 98136
division (B) of section 5505.18 of the Revised Code for not less 98137
than twelve months. 98138

(3) For a person whose pension effective date is on or 98139
after ~~the effective date of this amendment~~ May 11, 2018, an 98140
"eligible person" is a person who is sixty years old or older 98141
who has been receiving a pension pursuant to division (B) of 98142
section 5505.16, section 5505.162, division (A) (1), (3) (a), (b), 98143
or (d), (4), (5), or (6) of section 5505.17, or division (B) of 98144
section 5505.18 of the Revised Code for not less than twelve 98145
months. 98146

(B) (1) Except as otherwise provided in this section, the 98147
state highway patrol retirement board shall annually increase 98148
pensions payable to eligible persons under this chapter in 98149
accordance with the following: 98150

(a) For each person sixty-five years of age or older who 98151
is receiving a pension not greater than one hundred eighty-five 98152
per cent of the federal poverty level for a family of two 98153
persons, as revised annually by the United States department of 98154
health and human services in accordance with section 673(2) of 98155
the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 98156
U.S.C. 9902, as amended, the board shall increase the pension by 98157

three per cent. 98158

(b) For persons other than those described in division (B) 98159
(1)(a) of this section, the board may increase the pension. Any 98160
increase shall be determined by the board based on compliance 98161
with the amortization period requirement of section 5505.121 of 98162
the Revised Code. The board's determination shall be based on 98163
the annual actuarial valuation required by section 5505.12 of 98164
the Revised Code. If the board determines that an increase may 98165
be made, the increase shall not exceed three per cent of the 98166
eligible person's pension. 98167

(2) No increase under this section shall exceed the limit 98168
established by section 415 of the "Internal Revenue Code of 98169
1986," 100 Stat. 2085, 26 U.S.C. 415, as amended. 98170

(3) The date of the first increase paid under this section 98171
shall be the anniversary date for future increases. The pension 98172
used in the first calculation of an increase under this section 98173
shall remain as the base for all future increases paid under 98174
this section, unless a new base is established. 98175

(C) If payment of a portion of a benefit is made to an 98176
alternate payee under section 5505.261 of the Revised Code, 98177
increases under this section granted while the order is in 98178
effect shall be apportioned between the alternate payee and the 98179
eligible person in the same proportion that the amount being 98180
paid to the alternate payee bears to the amount paid to the 98181
eligible person. 98182

If payment of a portion of a benefit is made to one or 98183
more beneficiaries under "option 4" under division (A)(4) of 98184
section 5505.162 of the Revised Code, each increase under this 98185
section granted while the plan of payment is in effect shall be 98186

divided among the designated beneficiaries in accordance with 98187
the portion each beneficiary has been allocated. 98188

~~(D) The board shall adopt, and may amend or rescind, any 98189
rule necessary to carry out this section. 98190~~

Sec. 5505.177. The state highway patrol retirement board 98191
may establish and maintain a qualified governmental excess 98192
benefit arrangement that meets the requirements of division (m) 98193
of section 415 of the "Internal Revenue Code of 1986," 100 Stat. 98194
2085, 26 U.S.C.A. 415, as amended, and any regulations adopted 98195
thereunder. If established, the arrangement shall be a separate 98196
portion of the state highway patrol retirement system and be 98197
maintained solely for the purpose of providing to retired 98198
members that part of a benefit otherwise payable under this 98199
chapter that exceeds the limits established by section 415 of 98200
the "Internal Revenue Code of 1986," as amended. 98201

Members participating in an arrangement established under 98202
this section shall not be permitted to elect to defer 98203
compensation to the arrangement. Contributions to and benefits 98204
paid under an arrangement shall not be payable from a trust that 98205
is part of the system unless the trust is maintained solely for 98206
the purpose of providing such benefits. 98207

~~The board shall adopt rules to administer an arrangement 98208
established under this section. 98209~~

Sec. 5505.18. As used in this section, "member" does not 98210
include state highway patrol cadets attending training schools 98211
pursuant to section 5503.05 of the Revised Code. 98212

(A) Upon the application of a member of the state highway 98213
patrol retirement system, a person acting on behalf of a member, 98214
or the superintendent of the state highway patrol on behalf of a 98215

member, a member who becomes totally and permanently 98216
incapacitated for duty in the employ of the state highway patrol 98217
may be retired on disability by the board. To be eligible for 98218
retirement on account of disability incurred not in the line of 98219
duty, a member must have five or more years of service credit 98220
according to rules adopted by the board. 98221

The medical or psychological examination of a member who 98222
has applied for disability retirement shall be conducted by a 98223
competent health-care professional or professionals appointed by 98224
the board. The health-care professional or professionals shall 98225
file a written report with the board containing the following 98226
information: 98227

(1) Whether the member is totally incapacitated for duty 98228
in the employ of the patrol; 98229

(2) Whether the incapacity is expected to be permanent; 98230

(3) The cause of the member's incapacity. 98231

The board shall determine whether the member qualifies for 98232
disability retirement and its decision shall be final. The board 98233
shall consider the written medical or psychological report, 98234
opinions, statements, and other competent evidence in making its 98235
determination. If the incapacity is a result of heart disease or 98236
any cardiovascular disease of a chronic nature, which disease or 98237
any evidence of which was not revealed by the physical 98238
examination passed by the member on entry into the patrol, the 98239
member is presumed to have incurred the disease in the line of 98240
duty as a member of the patrol, unless the contrary is shown by 98241
competent evidence. 98242

(B) (1) Except as provided under division (A) of section 98243
5505.58 of the Revised Code, a member whose retirement on 98244

account of disability incurred in the line of duty shall receive 98245
the applicable pension provided for in section 5505.17 of the 98246
Revised Code, except that if the member has less than twenty- 98247
five years of contributing service, the member's service credit 98248
shall be deemed to be twenty-five years for the purpose of this 98249
provision. In no case shall the member's disability pension be 98250
less than sixty-one and one-quarter per cent or exceed the 98251
lesser of seventy-nine and one-quarter per cent of the member's 98252
final average salary or the limit established by section 415 of 98253
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 98254
415, as amended. 98255

(2) Except as provided under division (B) of section 98256
5505.58 of the Revised Code, a member whose retirement on 98257
account of disability incurred not in the line of duty shall 98258
receive the applicable pension provided for in section 5505.17 98259
of the Revised Code, except that if the board's determination 98260
that the member qualifies for disability retirement was made 98261
~~before the effective date of this amendment~~ May 11, 2018, and 98262
the member has less than twenty years of contributing service, 98263
the member's service credit shall be deemed to be twenty years 98264
for the purpose of this provision. If the board's determination 98265
that the member qualifies for disability retirement is made on 98266
~~or after the effective date of this amendment~~ May 11, 2018, and 98267
the member has less than twelve years of contributing service, 98268
the member's service credit shall be deemed to be twelve years 98269
for the purpose of this provision. 98270

In no case shall the member's disability pension under 98271
this division exceed the lesser of seventy-nine and one-quarter 98272
per cent of the member's final average salary or the limit 98273
established by section 415 of the "Internal Revenue Code of 98274
1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended. 98275

(C) The state highway patrol retirement board shall adopt 98276
rules requiring a disability retirant, as a condition of 98277
continuing to receive a disability pension, to agree in writing 98278
to obtain any medical or psychological treatment recommended by 98279
the board's health-care professional and submit medical or 98280
psychological reports regarding the treatment. If the board 98281
determines that a disability retirant is not obtaining the 98282
medical or psychological treatment or the board does not receive 98283
a required medical or psychological report, the disability 98284
pension shall be suspended until the treatment is obtained, the 98285
report is received by the board, or the board's health-care 98286
professional certifies that the treatment is no longer helpful 98287
or advisable. Should the retirant's failure to obtain treatment 98288
or submit a medical or psychological report continue for one 98289
year, the recipient's right to the disability pension shall be 98290
terminated as of the effective date of the original suspension. 98291

(D) A disability retirant who has not attained the age of 98292
sixty years shall be subject to an annual medical or 98293
psychological re-examination by health-care professionals 98294
appointed by the board, except that the board may waive the re- 98295
examination if the board's health-care professionals certify 98296
that the retirant's disability is ongoing. If any retirant 98297
refuses to submit to a medical or psychological re-examination, 98298
the retirant's disability pension shall be suspended until the 98299
retirant withdraws the refusal. If the refusal continues for one 98300
year, all the retirant's rights under and to the disability 98301
pension shall be terminated as of the effective date of the 98302
original suspension. 98303

(E) Each disability retirant who has not attained the age 98304
of sixty years shall file with the board an annual statement of 98305
earnings, current medical or psychological information on the 98306

recipient's condition, and any other information required in 98307
rules adopted by the board. The board may waive the requirement 98308
that a disability retirant file an annual statement of earnings 98309
or current medical or psychological information if the board's 98310
health-care professional certifies that the retirant's 98311
disability is ongoing. 98312

The board shall annually examine the information submitted 98313
by the retirant. If a retirant refuses to file the statement or 98314
information, the disability pension shall be suspended until the 98315
statement and information are filed. If the refusal continues 98316
for one year, the right to the pension shall be terminated as of 98317
the effective date of the original suspension. 98318

(F) (1) Except as provided in division (F) (2) of this 98319
section, a disability retirant who has been physically or 98320
psychologically examined and found no longer incapable of 98321
performing the retirant's duties, or who becomes employed as a 98322
law enforcement officer, shall have the right to be restored to 98323
the rank the retirant held at the time the retirant was 98324
pensioned and the right to have all previous rights restored, 98325
including the retirant's civil service status, and the 98326
disability pension shall terminate. Upon return to employment in 98327
the patrol, the retirant shall again become a contributing 98328
member of the retirement system, the total service at the time 98329
of the retirant's retirement shall be restored to the retirant's 98330
credit, and the retirant shall be given service credit for the 98331
period the retirant was in receipt of a disability pension. 98332

(2) The state highway patrol is not required to take 98333
action under division (F) (1) of this section if the retirant was 98334
dismissed or resigned in lieu of dismissal for dishonesty, 98335
misfeasance, malfeasance, or conviction of a felony. 98336

(G) The board shall adopt a rule to define "law enforcement officer" for purposes of division (F)(1) of this section, and may adopt ~~other rules to carry out this section,~~ including rules that specify the types of health-care professionals the board may appoint for the purpose of this section.

Sec. 5505.28. (A) The state highway patrol retirement board may enter into an agreement with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, or surgical benefits, or any combination thereof, for those persons receiving pensions and subscribing to the plan. Notwithstanding any other provision of this chapter, the policy or contract may also include coverage for any eligible individual's spouse and dependent children and for any of the individual's sponsored dependents as the board considers appropriate.

If all or any portion of the policy or contract premium is to be paid by any individual receiving a service, disability, or survivor pension or benefit, the individual shall, by written authorization, instruct the board to deduct from the individual's pension or benefit the premium agreed to be paid by the individual to the company, corporation, or agency.

The board may contract for coverage on the basis of part or all of the cost of the coverage to be paid from appropriate funds of the state highway patrol retirement system. The cost paid from the funds of the system shall be included in the employer's contribution rate as provided by section 5505.15 of the Revised Code.

(B) The board shall, beginning the month following receipt

of satisfactory evidence of the payment for coverage, pay 98367
monthly to each recipient of a pension under the state highway 98368
patrol retirement system who is eligible for coverage under part 98369
B of the medicare program established under Title XVIII of "The 98370
Social Security Amendments of 1965," 79 Stat. 301 (1965), 42 98371
U.S.C.A. 1395j, as amended, an amount ~~established by board rule~~ 98372
not exceeding the basic premium for such coverage. 98373

(C) The board shall establish by rule requirements for the 98374
coordination of any coverage, payment, or benefit provided under 98375
this section with any similar coverage, payment, or benefit made 98376
available to the same individual by the public employees 98377
retirement system, Ohio police and fire pension fund, state 98378
teachers retirement system, or school employees retirement 98379
system. 98380

~~(D) The board shall make all other necessary rules~~ 98381
~~pursuant to the purpose and intent of this section.~~ 98382

Sec. 5505.281. The state highway patrol retirement board 98383
may establish a program under which a member or a member's 98384
employer is permitted to make additional deposits for the 98385
purpose of providing funds for the payment of health, medical, 98386
hospital, surgical, dental, or vision care expenses, including 98387
insurance premiums, deductible amounts, or copayments. The 98388
program may be a voluntary employees' beneficiary association, 98389
as described in section 501(c)(9) of the Internal Revenue Code, 98390
26 U.S.C. 501(c)(9), as amended; an account described in section 98391
401(h) of the Internal Revenue Code, 26 U.S.C. 401(h), as 98392
amended; a medical savings account; or a similar type of program 98393
under which an individual may accumulate funds for the purpose 98394
of paying such expenses. To implement the program, the board may 98395
enter into agreements with insurance companies or other entities 98396

authorized to conduct business in this state. 98397

~~If the board establishes a program under this section, it shall adopt rules to administer the program.~~ 98398
98399

Sec. 5505.41. (A) As used in this section, "transferred service credit" means service credit purchased or obtained under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code prior to the date a member commenced the employment covered by the state highway patrol retirement system for which the member is currently contributing to the system. 98400
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(B) A member of the state highway patrol retirement system who has contributions on deposit with, but is no longer contributing to, a non-uniform retirement system shall, in computing years of service, be given full credit for transferred service credit if a transfer to the state highway patrol retirement system is made under this section. At the request of a member, the non-uniform system shall transfer to the state highway patrol retirement system the sum of the following: 98407
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(1) An amount equal to the amounts transferred to the non-uniform system under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code; 98415
98416
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(2) Interest, determined as provided in division (E) of this section, on the amount specified in division (B) (1) of this section for the period from the last day of the year in which the transfer under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code was made to the date a transfer is made under this section. 98418
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(C) A member with at least eighteen months of contributing service credit with the state highway patrol retirement system 98424
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who has received a refund of contributions to a non-uniform 98426
retirement system shall, in computing years of service, be given 98427
full credit for transferred service credit if, for each year of 98428
service, the state highway patrol retirement system receives the 98429
sum of the following: 98430

(1) An amount, which shall be paid by the member, equal to 98431
the amount refunded by the non-uniform system to the member for 98432
that year for transferred service credit, with interest on that 98433
amount from the date of the refund to the date a payment is made 98434
under this section; 98435

(2) Interest, which shall be transferred by the non- 98436
uniform system, on the amount refunded to the member for the 98437
period from the last day of the year in which the transfer under 98438
section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 98439
3309.731 of the Revised Code was made to the date the refund was 98440
made; 98441

(3) If the non-uniform system retained any portion of the 98442
amount transferred under section 145.295, 145.2913, 3307.761, 98443
3307.765, 3309.73, or 3309.731 of the Revised Code, an amount, 98444
which shall be transferred by the non-uniform system, equal to 98445
the amount retained, with interest on that amount for the period 98446
from the last day of the year in which the transfer under 98447
section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 98448
3309.731 of the Revised Code was made to the date a transfer is 98449
made under this section. 98450

On receipt of payment from the member, the state highway 98451
patrol retirement system shall notify the non-uniform system, 98452
which, on receipt of the notice, shall make the transfer 98453
required by this division. Interest shall be determined as 98454
provided in division (E) of this section. 98455

(D) Service credit purchased or obtained under this 98456
section shall be used in computing the pensions payable under 98457
section 5505.17 or 5505.18 of the Revised Code. A member may 98458
choose to purchase only part of the credit the member is 98459
eligible to purchase under division (C) of this section in any 98460
one payment, ~~subject to rules adopted by the state highway~~ 98461
~~patrol retirement board.~~ A member is ineligible to purchase or 98462
obtain service credit under this section for service to be used 98463
in the calculation of any retirement benefit currently being 98464
paid or payable to the member in the future under any other 98465
retirement program or for service credit that may be purchased 98466
or obtained under section 5505.40 of the Revised Code. 98467

(E) Interest charged under this section shall be 98468
calculated separately for each year of service credit at the 98469
lesser of the actuarial assumption rate for that year of the 98470
state highway patrol retirement system or of the non-uniform 98471
retirement system to which the credit was transferred under 98472
section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 98473
3309.731 of the Revised Code. The interest shall be compounded 98474
annually. 98475

(F) Any amounts transferred or paid under divisions (B) 98476
and (C) of this section that are attributable to contributions 98477
made by the member or to amounts paid to purchase service credit 98478
shall be credited to the employees' savings fund created under 98479
section 5505.03 of the Revised Code. Any remaining amounts shall 98480
be credited to one or more of the funds created under that 98481
section as determined by the board. 98482

(G) At the request of the state highway patrol retirement 98483
system, the non-uniform retirement system shall certify to the 98484
state highway patrol retirement system a copy of the records of 98485

the service and contributions of a member who seeks service 98486
credit under this section. The non-uniform retirement system 98487
shall specify the portions of the amounts transferred that are 98488
attributable to employee contributions, employer contributions, 98489
and interest. 98490

(H) If a member who is not a current contributor elects to 98491
receive service credit under section 145.2913, 3307.765, or 98492
3309.731 of the Revised Code for transferred service credit, as 98493
defined in those sections, the system shall transfer to the non- 98494
uniform retirement system, as applicable, the amount specified 98495
in division (B) or (C) of section 145.2913, division (B) or (C) 98496
of section 3307.765, or division (B) or (C) of section 3309.731 98497
of the Revised Code. 98498

~~(I) The board may adopt rules to implement this section.~~ 98499

Sec. 5505.50. The state highway patrol retirement board 98500
shall establish and administer a deferred retirement option 98501
plan. In establishing and administering the plan, the board 98502
shall comply with sections 5505.51 to 5505.59 of the Revised 98503
Code and may do all things necessary to meet the requirements of 98504
section 401(a) of the "Internal Revenue Code of 1986," (26 98505
U.S.C. 401(a)) as amended, applicable to governmental plans. 98506

The board shall adopt rules to ~~implement this section and~~ 98507
~~sections 5505.51 to 5505.59 of the Revised Code. The rules shall~~ 98508
specify the date of initial implementation of the plan 98509
established under this section. The rules may also specify a 98510
period during which an election made under section 5505.51 of 98511
the Revised Code may be rescinded. 98512

Sec. 5505.54. (A) During the period beginning on the 98513
effective date of an election to participate in the deferred 98514

retirement option plan and ending on the date participation 98515
ceases, a member's monthly pension amount determined under 98516
section 5505.53 of the Revised Code shall accrue to the member's 98517
benefit. To this amount shall be added any benefit increases the 98518
member would be eligible for under section 5505.174 of the 98519
Revised Code had the member, on the effective date of the 98520
member's election, retired under section 5505.16 of the Revised 98521
Code. 98522

(B) (1) The amounts contributed under division (A) of 98523
section 5505.15 of the Revised Code by a member participating in 98524
the deferred retirement option plan shall be credited as 98525
follows: 98526

(a) Ten per cent of the member's annual salary shall 98527
accrue to the member's benefit. 98528

(b) Any amount of the member's annual salary that is in 98529
excess of ten per cent shall be credited to the employer's 98530
accumulation fund. 98531

(2) The state highway patrol retirement system shall 98532
credit to the employer's accumulation fund the amounts 98533
contributed by the state under section 5505.15 of the Revised 98534
Code on behalf of a member participating in the deferred 98535
retirement option plan. 98536

(C) During the period beginning on the election's 98537
effective date and ending on the date the member ceases 98538
participation in the plan, the amounts described in divisions 98539
(A) and (B) (1) (a) of this section shall earn interest at an 98540
annual rate established by the state highway patrol retirement 98541
board and compounded annually using a method established by rule 98542
adopted under section ~~5505.50~~111.15 of the Revised Code. 98543

Sec. 5515.08. (A) The department of transportation may 98544
contract to sell commercial advertising space within or on the 98545
outside surfaces of any building located within a roadside rest 98546
area under its jurisdiction in exchange for cash payment. Money 98547
the department receives under this section shall be deposited in 98548
the state treasury to the credit of the highway operating fund. 98549

(B) Advertising placed under this section shall comply 98550
with all of the following: 98551

(1) It shall not be libelous or obscene and shall not 98552
promote any illegal product or service. 98553

(2) It shall not promote illegal discrimination on the 98554
basis of the race, religion, national origin, disability, age, 98555
or ancestry of any person. 98556

(3) It shall not support or oppose any candidate for 98557
political office or any political cause, issue, or organization. 98558

(4) It shall comply with any controlling federal or state 98559
regulations or restrictions. 98560

(5) To the extent physically and technically practical, it 98561
shall state that the advertisement is a paid commercial 98562
advertisement and that the state does not endorse the product or 98563
service promoted by the advertisement or make any representation 98564
about the accuracy of the advertisement or the quality or 98565
performance of the product or service promoted by the 98566
advertisement. 98567

(6) It shall conform to all applicable rules adopted by 98568
the director of transportation under division (E) of this 98569
section. 98570

(C) Contracts entered into under this section shall be 98571

awarded only to the qualified bidder who submits the highest 98572
responsive bid or according to uniformly applied rate classes. 98573

(D) No person, except an advertiser alleging a breach of 98574
contract or the improper awarding of a contract, has a cause of 98575
action against the state with respect to any contract or 98576
advertising authorized by this section. Under no circumstances 98577
is the state liable for consequential or noneconomic damages 98578
with respect to any contract or advertising authorized under 98579
this section. 98580

(E) The director, in accordance with Chapter 119. of the 98581
Revised Code, shall adopt rules to ~~implement this~~ 98582
~~section~~ regulate the awarding of contracts and may adopt rules to 98583
regulate the content, display, and other aspects of the 98584
commercial advertising authorized by this section. The rules 98585
shall be consistent with the policy of protecting the safety of 98586
the traveling public and consistent with the national policy 98587
governing the use and control of such roadside rest areas. ~~The~~ 98588
~~rules shall regulate the awarding of contracts and may regulate~~ 98589
~~the content, display, and other aspects of the commercial~~ 98590
~~advertising authorized by this section.~~ 98591

Sec. 5516.03. The director of transportation ~~shall~~ may 98592
adopt, amend, and enforce rules, that are consistent with the 98593
customary use of outdoor advertising, ~~the safety of the~~ 98594
~~traveling public, and national policy as are necessary to carry~~ 98595
~~out the provisions of this chapter. Such rules may and that~~ 98596
~~include, but shall not be limited to,~~ establish sizing, lighting, 98597
spacing, and ~~such other conditions as may be necessary to~~ 98598
promote the safety of the traveling public and effect the 98599
national policy. The rules shall be in addition to the 98600
provisions of municipal ordinances regulating advertising 98601

devices and shall not invalidate the provisions of any municipal ordinance that are equivalent to and consistent with the rules adopted by the director under this section. The director shall furnish a copy of such rules, without charge, to any person making a request therefor.

Sec. 5516.14. The director may issue a permit to any sign owner who has a lawful permit issued pursuant to section 5516.10 of the Revised Code to remove, cut, and trim vegetation located on the right-of-way of any highway of the interstate or primary system adjacent to the permitted advertising device and replace the same as directed, whenever such vegetation prevents clear visibility from the main traveled way of such highway. The director ~~shall~~ may adopt rules ~~for the enforcement of this section. The rules may include that establish~~ requirements for appropriate vehicle identification signage, appropriate bond or insurance, and distance limits, ~~and any other conditions as may be required by the director.~~

An application for a vegetation permit shall be made on forms designated by the director and a separate application must be submitted for each sign face. Each application shall be accompanied by a nonrefundable application fee in an amount to be determined by the director. Permits issued hereunder shall run for a period of one year and may be renewed upon application made upon forms prescribed by the director and upon the payment of a nonrefundable renewal fee in an amount to be determined by the director. Any permits that are not renewed shall be returned to the director for cancellation by the expiration date.

The director may modify any vegetation permit as is considered necessary for the safety of the traveling public. The director may revoke, cancel, or disapprove a permit or an

application pursuant to section 5516.12 of the Revised Code for 98632
any violation of this section or the rules adopted thereunder. 98633

Sec. 5526.06. ~~(A) The director of transportation may 98634
adopt, amend, or rescind rules in accordance with Chapter 119. 98635
of the Revised Code for the purpose of implementing sections 98636
5526.02 to 5526.05 of the Revised Code. 98637~~

~~(B) Sections 5526.02 to 5526.05 of the Revised Code do not 98638
apply to any of the following: 98639~~

~~(1)(A) A project with an estimated cost of less than fifty 98640
thousand dollars; 98641~~

~~(2)(B) A project that is determined by the director to be 98642
an emergency requiring immediate action under section 5526.08 of 98643
the Revised Code. When contracting for professional services for 98644
the purpose of addressing the emergency, the director shall 98645
comply with that section. 98646~~

~~(3)(C) A project requiring special expertise where there 98647
exist fewer than three qualified firms. 98648~~

Sec. 5531.09. (A) As used in this section and section 98649
5531.10 of the Revised Code: 98650

(1) "Qualified project" means any public or private 98651
transportation project as determined by the director of 98652
transportation, including, without limitation, planning, 98653
environmental impact studies, engineering, construction, 98654
reconstruction, resurfacing, restoring, rehabilitation, or 98655
replacement of public or private transportation facilities 98656
within the state, studying the feasibility thereof, and the 98657
acquisition of real or personal property or interests therein; 98658
any highway, public transit, aviation, rail, or other 98659
transportation project eligible for financing or aid under any 98660

federal or state program; and any project involving the 98661
maintaining, repairing, improving, or construction of any public 98662
or private highway, road, street, parkway, public transit, 98663
aviation, or rail project, and any related rights-of-way, 98664
bridges, tunnels, railroad-highway crossings, drainage 98665
structures, signs, guardrails, or protective structures. 98666

(2) "Small municipal corporation" means a municipal 98667
corporation that is determined by the department of 98668
transportation to be an eligible small city in accordance with 98669
the department's small city program. 98670

(B) The state infrastructure bank shall consist of the 98671
highway and transit infrastructure bank fund, the aviation 98672
infrastructure bank fund, the rail infrastructure bank fund, and 98673
the infrastructure bank obligations fund, which are hereby 98674
created as funds of the state treasury, to be administered by 98675
the director of transportation and used for the purposes 98676
described in division (C) of this section. The highway and 98677
transit infrastructure bank fund, the aviation infrastructure 98678
bank fund, and the rail infrastructure bank fund shall consist 98679
of federal grants and awards or other assistance received by the 98680
state and eligible for deposit therein under applicable federal 98681
law, payments received by the department in connection with 98682
providing financial assistance for qualifying projects under 98683
division (C) of this section, and such other amounts as may be 98684
provided by law. The infrastructure bank obligations fund shall 98685
consist of such amounts of the proceeds of obligations issued 98686
under section 5531.10 of the Revised Code as the director of 98687
transportation determines with the advice of the director of 98688
budget and management; and such other amounts as may be provided 98689
by law. The director of budget and management, upon the request 98690
of the director of transportation, may transfer amounts between 98691

the funds created in this division, except the infrastructure 98692
bank obligations fund. The investment earnings of each fund 98693
created by this division shall be credited to such fund. 98694

(C) The director of transportation shall use the state 98695
infrastructure bank to encourage public and private investment 98696
in transportation facilities that contribute to the multi-modal 98697
and intermodal transportation capabilities of the state, develop 98698
a variety of financing techniques designed to expand the 98699
availability of funding resources and to reduce direct state 98700
costs, maximize private and local participation in financing 98701
projects, and improve the efficiency of the state transportation 98702
system by using and developing the particular advantages of each 98703
transportation mode to the fullest extent. In furtherance of 98704
these purposes, the director shall use the state infrastructure 98705
bank to provide financial assistance to public or private 98706
entities for qualified projects. Such assistance shall be in the 98707
form of loans, loan guarantees, letters of credit, leases, 98708
lease-purchase agreements, interest rate subsidies, debt service 98709
reserves, and such other forms as the director determines to be 98710
appropriate. All fees, charges, rates of interest, payment 98711
schedules, security for, and other terms and conditions relating 98712
to such assistance shall be determined by the director. Any loan 98713
made to a small municipal corporation from the state 98714
infrastructure bank shall be a zero interest loan. 98715

(D) The director of transportation shall adopt rules 98716
establishing guidelines necessary for ~~the implementation and~~ 98717
~~exercise of the authority granted by this section, including~~ 98718
~~rules for receiving, reviewing, evaluating, and selecting~~ 98719
projects for which financial assistance may be approved. 98720

(E) The general assembly finds that state infrastructure 98721

projects, as defined in division (A) (8) of section 5531.10 of 98722
the Revised Code, and the state infrastructure bank, will 98723
materially contribute to the economic revitalization of areas of 98724
the state and result in improving the economic welfare of all 98725
the people of the state. Accordingly, it is declared to be the 98726
public purpose of the state, through operations under sections 98727
5531.09 and 5531.10 of the Revised Code, and other applicable 98728
laws adopted pursuant to Section 13 of Article VIII, Ohio 98729
Constitution, and other authority vested in the general 98730
assembly, to assist in and facilitate the purposes set forth in 98731
division (B) of section 5531.10 of the Revised Code, and to 98732
assist and cooperate with any governmental agency in achieving 98733
such purposes. 98734

Sec. 5531.14. (A) To the extent permitted by federal law, 98735
the director of transportation may fix, revise, charge, and 98736
collect user fees for each toll project, and contract with any 98737
person or governmental agency desiring the use of any part 98738
thereof, including the right-of-way adjoining the paved portion, 98739
for placing thereon telephone, electric light, or power lines, 98740
service facilities, or for any other purpose, and fix the terms, 98741
conditions, rents, and rates of charge for such use; provided, 98742
that no user fee, charge, or rental may be made for placing in, 98743
on, along, over, or under the toll project, equipment or public 98744
utility facilities that are necessary to serve service 98745
facilities or to interconnect any public utility facilities. 98746

A toll project operator shall display signs that identify 98747
the applicable user fees, including fees for motor vehicles that 98748
do not have an active, functioning electronic toll collection 98749
device registered for and in use in the vehicle. The toll 98750
project operator shall erect or otherwise display signs in 98751
advance of the toll project at locations that are of distances 98752

that are sufficient to notify motor vehicle operators of the 98753
opportunity to exit the street or highway on which they are 98754
traveling before the street or highway becomes, becomes part of, 98755
or otherwise leads to the toll project and for the use of which 98756
user fees apply. 98757

(B) In accordance with Chapter 119. of the Revised Code, 98758
the director shall establish a plan, schedule, or system of user 98759
fees or charges and shall declare the purpose, amount, and 98760
duration of the user fees or charges. Any proposal to implement 98761
a user fee or other charge under this section may include a 98762
plan, schedule, or system of tolls or charges that is subject to 98763
adjustment by the director within and in accordance with that 98764
plan, schedule, or system. As part of the plan, schedule, or 98765
system, the director shall develop a written process for setting 98766
user fee rates. In developing the process, the director shall 98767
seek and consider public comment. In doing so, the director 98768
shall hold at least one public hearing within fifty miles of the 98769
location of the toll project for which the written process is 98770
developed. 98771

~~The director, in accordance with Chapter 119. of the~~ 98772
~~Revised Code, also may adopt such additional rules as the~~ 98773
~~director determines necessary for the establishment, collection,~~ 98774
~~and enforcement of user fees and administrative fees, including~~ 98775
~~the purpose, amount, and duration of the fees.~~ 98776

(C) One or more user fees, or a portion of any user fees, 98777
may be pledged to the repayment of obligations issued for the 98778
purpose of financing the toll project and shall be a pledged 98779
receipt for those obligations to the extent pledged in the 98780
proceedings authorizing such obligations. One or more user fees, 98781
or a portion of any user fees, also may be pledged to the 98782

repayment of obligations under any public-private agreement or 98783
related financing as provided in sections 5501.70 to 5501.83 of 98784
the Revised Code. 98785

(D) User fees shall be so fixed and adjusted by the 98786
director as to provide funds at least sufficient with other 98787
revenues of the Ohio transportation system, if any, to pay all 98788
of the following: 98789

(1) Any debt service charges on obligations issued to pay 98790
costs of one or more toll projects as such charges become due 98791
and payable, taking into account any other amounts available for 98792
such purposes; 98793

(2) Any obligations under any public-private agreement 98794
entered into in connection with a toll project as such amounts 98795
become due and payable; 98796

(3) The cost of maintaining, improving, repairing, 98797
constructing, financing, and operating toll projects within the 98798
interstate system or the state highway system and its different 98799
parts and sections, and to create and maintain any reserves for 98800
those purposes. 98801

(E) Except as provided in division (F) of this section, 98802
money received from user fees, other than those received 98803
pursuant to a public-private agreement, which shall be deposited 98804
in accordance with such agreement and shall be used for the 98805
exclusive benefit of such toll project, shall be deposited to 98806
the credit of the Ohio toll fund, which is hereby created in the 98807
state treasury. The treasurer of state may establish separate 98808
subaccounts within the Ohio toll fund as determined to be 98809
necessary or convenient to pay costs of constructing, improving, 98810
repairing, maintaining, administering, and operating toll 98811

projects within the state highway system. Any remaining money 98812
deposited into the Ohio toll fund shall be used at the 98813
discretion of the director to support construction, improvement, 98814
repair, maintenance, administration, and operation costs for 98815
approved toll projects and highway projects within one mile of a 98816
toll project. All investment earnings of the fund shall be 98817
credited to the fund. 98818

(F) The issuing authority of obligations issued for the 98819
purpose of financing the toll project, by the fifteenth day of 98820
July of each fiscal year, shall certify or cause to be certified 98821
to the department of transportation and the office of budget and 98822
management the total amount of money required during the current 98823
fiscal year to meet in full all debt service charges and 98824
otherwise comply with the requirements of any applicable bond 98825
proceedings and all obligations under any public-private 98826
agreement relating to a toll project as provided in sections 98827
5501.70 to 5501.83 of the Revised Code. The issuing authority 98828
shall make or cause to be made supplemental certifications to 98829
the department and the office of budget and management for each 98830
bond service payment date and at such other times during each 98831
fiscal year as may be provided in the applicable bond proceeding 98832
or public-private agreement or required by that department or 98833
office. Bond service charges, costs of credit enhancement 98834
facilities, other financing costs, and any other amounts 98835
required under the applicable bond proceedings and all amounts 98836
required under any applicable public-private agreement shall be 98837
set forth separately in each certification. Money received from 98838
user fees and other pledged receipts shall be deposited to the 98839
credit of the bond service fund at such times and in such 98840
amounts as are necessary to satisfy all those payment 98841
requirements of the applicable bond proceedings or to the credit 98842

of any fund established for such purpose under any public- 98843
private agreement. At such time that bond service charges on all 98844
outstanding bonds issued in connection with any toll project and 98845
the interest on the bonds have been paid or a sufficient amount 98846
for the payment of all such bonds and the interest on the bonds 98847
to the maturity of the bonds has been set aside in trust for the 98848
benefit of the bondholders, as provided in the applicable bond 98849
proceedings, and at such time as all amounts due and to become 98850
due pursuant to a public-private agreement, which are payable 98851
from user fees, have been paid, the project shall be operated, 98852
improved, and maintained by the department of transportation as 98853
a part of the state highway system and shall be free of user 98854
fees. 98855

Sec. 5531.30. (A) (1) The director of transportation may 98856
enter into agreements and cooperate with the United States 98857
department of transportation, or any other appropriate federal 98858
agency as provided in 23 U.S.C. 325 to 327 and as authorized 98859
under the "Moving Ahead for Progress in the 21st Century Act 98860
(MAP-21)," 126 Stat. 405 (2012); the "Safe, Accountable, 98861
Flexible, Efficient Transportation Equity Act: A Legacy for 98862
Users (SAFETEA-LU)," 119 Stat. 1144 (2005); and the "National 98863
Environmental Policy Act of 1969," 83 Stat. 852 (1970). Pursuant 98864
to such an agreement the director may assume certain 98865
responsibilities of the secretary of the United States 98866
department of transportation, and take any other actions 98867
required by any such agreement or by such federal laws. 98868

~~(2) The director may adopt any rules necessary to 98869
implement an agreement pursuant to division (A) of this section- 98870
and carry out any duties imposed under such an agreement. 98871~~

~~(3) The director may make expenditures of money in 98872~~

connection with an agreement authorized under division (A) (1) of 98873
this section from any funds of the department of transportation 98874
that are available to the director. 98875

(B) Notwithstanding Chapter 2743. of the Revised Code, 98876
this state hereby waives its immunity from civil liability, 98877
including the immunity from suit in a federal court under the 98878
eleventh amendment to the United States Constitution, and 98879
consents to the jurisdiction of the federal courts over its 98880
civil liability with regard to the compliance, discharge, or 98881
enforcement of the responsibilities assumed under division (A) 98882
of this section in accordance with the same procedural and 98883
substantive requirements applicable to a suit against a federal 98884
agency. Division (B) of this section applies only to actions 98885
that are authorized under division (A) of this section and does 98886
not create liability that exceeds the liability created under 23 98887
U.S.C. 325 to 327. 98888

Sec. 5537.29. (A) As used in this section: 98889

(1) "Electronic toll account record" means a record kept 98890
by the Ohio turnpike and infrastructure commission or any other 98891
tolling agency that contains the information required for the 98892
commission or other tolling agency to collect the tolls charged 98893
to the holder of the electronic toll account or the owner of a 98894
motor vehicle that travels on a tolled road. 98895

(2) "Person" does not include any governmental agency. 98896

(3) "Personal information" means information that 98897
identifies an individual, including an individual's photograph 98898
or digital image, social security number, driver or driver's 98899
license identification number, credit card or financial 98900
information, name, telephone number, or an individual's address 98901

other than the five-digit zip code number. "Personal information" does not include information pertaining to a vehicular accident, driving or traffic violation, or driver's status.

(B) Except as provided in division (C) of this section, the commission, and any employee or contractor of the commission, shall not knowingly disclose or otherwise make available to any person or entity any personal information about an individual that the commission obtained in connection with processing a toll, fine, fee, or an electronic toll account record.

(C) The commission, or an employee or contractor of the commission, may disclose personal information as follows:

(1) For the use of a governmental agency, including a court or law enforcement agency, in carrying out its functions, or for the use of a private person or entity acting on behalf of an agency of this state, another state, the United States, or a political subdivision of this state or another state in carrying out its functions;

(2) For use in connection with a civil, criminal, administrative, or arbitral proceeding in a court or agency of this state, another state, the United States, or a political subdivision of this state or another state or before a self-regulatory body, including use in connection with the service of process, investigation in anticipation of litigation, or the execution or enforcement of a judgment or order;

(3) Pursuant to an order of a court of this state, another state, the United States, or a political subdivision of this state or another state;

(4) For use by the financial institutions and credit issuing companies directly involved in a credit transaction pertaining to the payment of a toll, fine, or fee; 98931
98932
98933

(5) For the collection of an unpaid toll, fine, fee, or other administrative charge; 98934
98935

(6) For use in exchanging information between other private and public toll transportation facilities; 98936
98937

(7) For any use not otherwise identified in divisions (C) 98938
(1) to (6) of this section that is in response to a request for 98939
personal information, if the individual whose personal 98940
information is requested completes and submits to the commission 98941
a form prescribed by the commission ~~by rule~~ giving express 98942
consent to such disclosure; 98943

(8) For use by a person, state, or state agency that 98944
requests the personal information, if the person, state, or 98945
state agency demonstrates that it has obtained the written 98946
consent of the individual to whom the information pertains. 98947

(D) The commission shall establish procedures for denying 98948
a request for the disclosure of personal information if the 98949
request does not satisfy the criteria for disclosure under 98950
division (C) of this section. 98951

(E) The commission shall establish any forms ~~and shall~~ 98952
~~adopt rules in accordance with section 111.15 of the Revised~~ 98953
~~Code as necessary to administer this section.~~ 98954

Sec. 5595.12. The governing board of a regional 98955
transportation improvement project shall not use any amount 98956
pledged or allocated to the board under this chapter for 98957
administrative expenses of the board without prior approval of 98958
the director of transportation. The director may approve 98959

expenses individually by line item or may approve an aggregate 98960
amount to be allocated for administrative expenses over a period 98961
of time not exceeding twelve months. ~~The director may prescribe~~ 98962
~~rules pursuant to Chapter 119. of the Revised Code necessary to~~ 98963
~~implement this section.~~ 98964

Sec. 5703.021. (A) There is hereby established a small 98965
claims docket within the board of tax appeals. 98966

(B) An appeal may be filed with the board of tax appeals 98967
and assigned to the small claims docket as authorized under 98968
division (C) of this section, provided the appeal is either of 98969
the following: 98970

(1) Commenced under section 5717.01 of the Revised Code in 98971
which the property at issue qualifies for the partial tax 98972
exemption described in section 319.302 of the Revised Code; or 98973

(2) Commenced under section 5717.011 or 5717.02 of the 98974
Revised Code when the amount in controversy claimed by the 98975
taxpayer does not exceed ten thousand dollars exclusive of 98976
interest and penalty. The board by rule may modify the 98977
jurisdictional dollar threshold for cases qualifying for the 98978
small claims docket. 98979

(C) (1) An appeal may be assigned to the small claims 98980
docket only if either of the following applies: 98981

(a) The appellant is one or more taxpayers that requests 98982
assignment of the appeal to the small claims docket; 98983

(b) The appellant is not a taxpayer, and the appellant 98984
files with the notice of appeal a written statement from every 98985
taxpayer that is a party to the appeal stating that each such 98986
taxpayer consents to the appeal being assigned to the small 98987
claims docket. 98988

(2) After an appeal is assigned to the small claims docket 98989
or the regular docket, the board may reassign the case to the 98990
regular docket or the small claims docket, respectively, only 98991
with the written consent of all the parties or as authorized 98992
under division (D) of this section. 98993

(D) Notwithstanding division (B) of this section, the 98994
board shall reassign an appeal initially assigned to the small 98995
claims docket to the regular docket upon the request of a party 98996
that is a taxpayer, when the appeal presents an issue of public 98997
or great general interest or presents a constitutional issue, or 98998
when the board determines that the appeal does not meet the 98999
requirements of division (B) of this section. 99000

(E) The board shall ~~adopt rules to~~ implement procedures to 99001
provide informal review of the taxpayers' appeals in the small 99002
claims docket, which may include telephonic hearings. 99003

(F) A decision or order for an appeal assigned to the 99004
small claims docket shall be conclusive as to all parties and 99005
may not be appealed, and shall be recorded in the journal 99006
required by division (C) of section 5703.02 of the Revised Code, 99007
but such a decision or order shall not be considered as 99008
precedent in any other case, hearing, or proceeding. 99009

(G) The appearance of an attorney at law licensed to 99010
practice law in this state on behalf of any party to an appeal 99011
assigned to the small claims docket is permitted but not 99012
required. A person other than a natural person, which is a real 99013
party in interest as taxpayer or claimant, or an entity that may 99014
participate by statute, may commence such an appeal or appear 99015
through an attorney at law licensed to practice law in this 99016
state. Such an organization may, through any bona fide officer, 99017
partner, member, trustee, or salaried employee, file and present 99018

its claim or defense in any appeal assigned to the small claims docket, provided the organization does not, in the absence of representation by an attorney at law licensed to practice law in this state, engage in cross-examination, argument, or other acts of advocacy. ~~The board may provide by rule for additional guidelines applicable to practice before the board.~~

Sec. 5703.49. (A) On or before December 31, 2001, the tax commissioner shall establish an electronic site accessible through the internet. The tax commissioner shall provide access on the site for each municipal corporation that has not established its own electronic site to post documents or information required under section 718.07 of the Revised Code. The tax commissioner shall provide electronic links for each municipal corporation that establishes a site under that section and for which a uniform resource locator has been provided to the tax commissioner. The tax commissioner is not responsible for the accuracy of the posted information, and is not liable for any inaccurate or outdated information provided by a municipal corporation. The tax commissioner may adopt rules governing the format and means of submitting such documents or information ~~and other matters necessary to implement this section.~~ The tax commissioner may charge municipal corporations a fee to defray the cost of establishing and maintaining the electronic site established under this section.

(B) The tax commissioner shall deposit any fees received under this section to the credit of the municipal internet site fund, which is hereby created in the state treasury. The commissioner shall use the fund for costs of establishing and maintaining the electronic site established under this section.

Sec. 5703.56. (A) As used in this section:

(1) "Sham transaction" means a transaction or series of transactions without economic substance because there is no business purpose or expectation of profit other than obtaining tax benefits.

(2) "Tax" includes any tax or fee administered by the tax commissioner.

(3) "Taxpayer" includes any entity subject to a tax.

(4) "Controlled group" means two or more persons related in such a way that one person directly or indirectly owns or controls the business operation of another member of the group. In the case of persons with stock or other equity, one person owns or controls another if it directly or indirectly owns more than fifty per cent of the other person's common stock with voting rights or other equity with voting rights.

(B) The tax commissioner may disregard any sham transaction in ascertaining any taxpayer's tax liability. Except as otherwise provided in the Revised Code, with respect to transactions between members of a controlled group, the taxpayer shall bear the burden of establishing by a preponderance of the evidence that a transaction or series of transactions between the taxpayer and one or more members of the controlled group was not a sham transaction. Except as otherwise provided in the Revised Code, for all other taxpayers, the tax commissioner shall bear the burden of establishing by a preponderance of the evidence that a transaction or series of transactions was a sham transaction.

(C) In administering any tax, the tax commissioner may apply the doctrines of "economic reality," "substance over form," and "step transaction."

(D) If the commissioner disregards a sham transaction 99078
under division (B) of this section, the applicable limitation 99079
period for assessing the tax, together with applicable 99080
penalties, charges, and interest, shall be extended for a period 99081
equal to the applicable limitation period. Nothing in this 99082
division shall be construed as extending an applicable 99083
limitation period for claiming any refund of a tax. 99084

~~(E) The tax commissioner may, in accordance with Chapter 99085
119. of the Revised Code, adopt rules that are necessary to 99086
administer this section, including rules establishing criteria 99087
for identifying sham transactions. 99088~~

Sec. 5703.76. Any payment or distribution of money that 99089
the tax commissioner is required by law to make to a political 99090
subdivision of this state, an officer thereof, or a political 99091
party shall be made by electronic funds transfer. ~~The 99092
commissioner shall promulgate any rules necessary to administer 99093
this section. 99094~~

Sec. 5703.77. (A) As used in this section: 99095

(1) "Taxpayer" means a person subject to or previously 99096
subject to a tax or fee, a person that remits a tax or fee, or a 99097
person required to or previously required to withhold or collect 99098
and remit a tax or fee on behalf of another person. 99099

(2) "Tax or fee" means a tax or fee administered by the 99100
tax commissioner. 99101

(3) "Credit account balance" means the amount that a 99102
taxpayer remits to the state in excess of the amount required to 99103
be remitted, after accounting for factors applicable to the 99104
taxpayer such as accelerated payments, estimated payments, tax 99105
credits, and tax credit balances that may be carried forward. 99106

(4) "Tax debt" means an unpaid tax or fee or any unpaid penalty, interest, or additional charge on such a tax or fee due the state.

(B) As soon as practicable, but not later than sixty days before the expiration of the period of time during which a taxpayer may file a refund application for a tax or fee, the tax commissioner shall review the taxpayer's accounts for the tax or fee and notify the taxpayer of any credit account balance for which the commissioner is required to issue a refund if the taxpayer were to file a refund application for that balance, regardless of whether the taxpayer files a refund application or amended return with respect to that tax or fee. The notice shall be made using contact information for the taxpayer on file with the commissioner.

(C) Notwithstanding sections 128.47, 718.91, 3734.905, 4307.05, 5726.30, 5727.28, 5727.42, 5727.91, 5728.061, 5735.122, 5736.08, 5739.07, 5739.104, 5741.10, 5743.05, 5743.53, 5747.11, 5749.08, 5751.08, 5753.06, and any other section of the Revised Code governing refunds, the commissioner may apply the amount of any credit account balance for which the commissioner is required to issue a refund if the taxpayer were to file a refund application for that balance as a credit against the taxpayer's liability for the tax or fee in the taxpayer's next reporting period for that tax or fee or issue a refund of that credit account balance to the taxpayer, subject to division (D) of this section.

(D) Before issuing a refund to a taxpayer under division (C) of this section, the tax commissioner shall withhold from that refund the amount of any of the taxpayer's tax debt certified to the attorney general under section 131.02 of the

Revised Code and the amount of the taxpayer's liability, if any, 99137
for a tax debt. The commissioner shall apply any amount withheld 99138
first in satisfaction of the amount of the taxpayer's certified 99139
tax debt and then in satisfaction of the taxpayer's liability. 99140
If the credit account balance originates from the tax 99141
administered under sections 718.80 to 718.95 of the Revised 99142
Code, it may be applied only against the taxpayer's certified 99143
tax debt or tax liability due under those sections. 99144

~~(E) The tax commissioner may adopt rules to administer 99145
this section. 99146~~

Sec. 5703.94. (A) As used in this section: 99147

(1) "Declared disaster" means an event for which a 99148
disaster declaration has been issued. 99149

(2) "Disaster declaration" means a declaration issued by 99150
the president of the United States or the governor of this state 99151
that an emergency exists. 99152

(3) "Disaster response period" means the period that 99153
begins on the tenth day preceding the day on which a disaster 99154
declaration is issued through the sixtieth day following the day 99155
that the disaster declaration expires or is rescinded. 99156

(4) "Disaster work" means both of the following: 99157

(a) Repairing, renovating, installing, or constructing 99158
critical infrastructure damaged or destroyed by the declared 99159
disaster, or other business activities related to that critical 99160
infrastructure; 99161

(b) Activities conducted in preparation for any activity 99162
described in division (A) (4) (a) of this section. 99163

(5) "Critical infrastructure" means property and equipment 99164

owned or used by a qualifying owner or user to provide service 99165
to more than one customer, including related support facilities 99166
such as buildings, offices, power lines, cable lines, poles, 99167
communication lines, and structures. 99168

(6) "Qualifying owner or user" means a public utility, 99169
commercial mobile radio service provider, cable service 99170
provider, or video service provider. 99171

(7) "Public utility" has the same meaning as in section 99172
4905.02 of the Revised Code, without regard to the exclusions 99173
from that definition prescribed in divisions (A)(1) to (5) of 99174
that section. 99175

(8) "Commercial mobile radio service provider" means a 99176
person providing commercial mobile service as defined in 47 99177
U.S.C. 332(d). 99178

(9) "Cable service provider" and "video service provider" 99179
have the same meanings as in section 1332.21 of the Revised 99180
Code. 99181

(10) "Out-of-state disaster business" means a person that 99182
does all of the following or to which apply all of the 99183
following: 99184

(a) Receives a qualifying solicitation; 99185

(b) Conducts disaster work in this state during a disaster 99186
response period; 99187

(c) Is not subject to taxation under Chapter 5747. or 99188
5751. of the Revised Code on any basis other than such disaster 99189
work during the calendar year preceding the year in which the 99190
disaster response period begins or is subject to such taxation 99191
during that year solely because the person is a related member 99192

of another person. 99193

(11) "Out-of-state employee" means an individual who 99194
performs no work in this state, except disaster work during a 99195
disaster response period, from the first day of the preceding 99196
calendar year to the date on which the disaster response period 99197
begins. 99198

(12) "Related member" has the same meaning as in section 99199
5733.042 of the Revised Code without regard to division (B) of 99200
that section. 99201

(13) "Qualifying solicitation" means a written 99202
solicitation or request from the state, a county, municipal 99203
corporation, or township, or a qualifying user or owner of 99204
critical infrastructure soliciting or requesting the assistance 99205
of a person to perform disaster work in this state. 99206

(14) "Qualifying employee" means one of the following: 99207

(a) An out-of-state employee performing disaster work in 99208
this state during a disaster response period whose employer 99209
receives a qualifying solicitation to perform such work; 99210

(b) An out-of-state employee performing disaster work in 99211
this state on critical infrastructure owned or used by the 99212
employee's employer during a disaster response period, provided 99213
that employer is a qualifying user or owner. 99214

(B) An out-of-state disaster business or qualifying 99215
employee shall qualify for all of the following, as applicable: 99216

(1) The exemption authorized in division (C) (20) of 99217
section 718.01, the exemption authorized in division (C) (10) of 99218
section 5741.02, the deduction authorized in division (A) (30) of 99219
section 5747.01, and the exclusion authorized in division (F) (2) 99220

- (11) of section 5751.01 of the Revised Code; 99221
- (2) An exemption from any requirement to file a document 99222
or application with or to remit a fee to the secretary of state 99223
as a condition precedent to engaging in business in this state, 99224
in accordance with section 1701.041 of the Revised Code; 99225
- (3) An exemption from the requirements of Chapters 4121., 99226
4123., and 4141. of the Revised Code, in accordance with 99227
division (A) (2) of section 4123.01 and section 4141.42 of the 99228
Revised Code; 99229
- (4) An exemption from the requirement to obtain a state or 99230
local occupational license or other authorization, in accordance 99231
with section 4799.04 of the Revised Code. 99232
- (C) (1) Upon the request of the tax commissioner, an out- 99233
of-state disaster business shall provide the following 99234
information to the commissioner: 99235
- (a) The name of the out-of-state disaster business and the 99236
address of its principal place of business; 99237
- (b) The business' federal tax identification number; 99238
- (c) A copy of the qualifying solicitation received by the 99239
business; 99240
- (d) The dates that the out-of-state disaster business and 99241
each of the business' out-of-state employees performing disaster 99242
work in this state during a disaster response period began 99243
performing disaster work in this state during that period; 99244
- (e) The name and social security number of each of the 99245
out-of-state disaster business' out-of-state employees 99246
performing disaster work in this state during a disaster 99247
response period; 99248

(f) The name of any person of which the out-of-state disaster business is a related member, provided that person is subject to taxation under Chapter 5747. or 5751. of the Revised Code during the calendar year preceding the year in which the disaster response period begins;

(g) Any other information required by the tax commissioner.

(2) Upon the request of the tax commissioner, the employer of a qualifying employee shall provide the following information to the commissioner:

(a) The employer's name and the address of its principal place of business;

(b) The employer's federal tax identification number;

(c) For the employer of a qualifying employee described in division (A)(14)(a) of this section, a copy of the qualifying solicitation received by the employer;

(d) The date each of the employer's out-of-state employees performing disaster work in this state during a disaster response period began performing disaster work in this state during that period;

(e) The name and social security number of each of the employer's out-of-state employees performing disaster work in this state during a disaster response period;

(f) Any other information required by the tax commissioner.

(3) If the commissioner makes a request under division (C)(1) or (2) of this section, the out-of-state disaster business or employer shall submit information described in that division

to the commissioner not later than thirty days from the date the 99277
disaster response period terminates or thirty days after the 99278
business or employer receives the request, whichever is later. 99279

~~(D) The department of taxation may adopt rules necessary 99280
to administer this section. 99281~~

Sec. 5705.341. Any person required to pay taxes on real, 99282
public utility, or tangible personal property in any taxing 99283
district or other political subdivision of this state may appeal 99284
to the board of tax appeals from the action of the county budget 99285
commission of any county which relates to the fixing of uniform 99286
rates of taxation and the rate necessary to be levied by each 99287
taxing authority within a subdivision, taxing unit, library 99288
district, or association library district and which action has 99289
been certified by the county budget commission to the taxing 99290
authority of any political subdivision or other taxing district 99291
within the county. 99292

Such appeal shall be in writing and shall set forth the 99293
tax rate complained of and the reason that such a tax rate is 99294
not necessary to produce the revenue needed by the taxing 99295
district or political subdivision for the ensuing fiscal year as 99296
those needs are set out in the tax budget of said taxing unit 99297
or, if adoption of a tax budget was waived under section 99298
5705.281 of the Revised Code, as set out in such other 99299
information the district or subdivision was required to provide 99300
under that section, or that the action of the budget commission 99301
appealed from does not otherwise comply with sections 5705.01 to 99302
5705.47 of the Revised Code. The notice of appeal shall be filed 99303
with the board of tax appeals, and a true copy thereof shall be 99304
filed with the tax commissioner, the county auditor, and with 99305
the fiscal officer of each taxing district or political 99306

subdivision authorized to levy the tax complained of, and such 99307
notice of appeal and copies thereof must be filed within thirty 99308
days after the budget commission has certified its action as 99309
provided by section 5705.34 of the Revised Code. Such notice of 99310
appeal and the copies thereof may be filed either in person or 99311
by certified mail. If filed by certified mail, the date of the 99312
United States postmark placed on the sender's receipt by the 99313
postal employee to whom the notice of appeal is presented shall 99314
be treated as the date of filing. 99315

Prior to filing the appeal provided by this section, the 99316
appellant shall deposit with the county auditor of the county 99317
or, in the event the appeal concerns joint taxing districts in 99318
two or more counties, with the county auditor of the county with 99319
the greatest valuation of taxable property the sum of five 99320
hundred dollars to cover the costs of the proceeding. The county 99321
auditor shall forthwith issue a pay-in order and pay such money 99322
into the county treasury to the credit of the general fund. The 99323
appellant shall produce the receipt of the county treasurer for 99324
such deposit and shall file such receipt with the notice of 99325
appeal. 99326

The board of tax appeals shall forthwith consider the 99327
matter presented on appeal from the action of the county budget 99328
commission and may modify any action of the commission with 99329
reference to the fixing of tax rates, to the end that no tax 99330
rate shall be levied above that necessary to produce the revenue 99331
needed by the taxing district or political subdivision for the 99332
ensuing fiscal year and to the end that the action of the budget 99333
commission appealed from shall otherwise be in conformity with 99334
sections 5705.01 to 5705.47 of the Revised Code. The findings of 99335
the board of tax appeals shall be substituted for the findings 99336
of the budget commission and shall be sent to the county auditor 99337

and the taxing authority of the taxing district or political subdivision affected as the action of such budget commission under sections 5705.01 to 5705.47 of the Revised Code and to the tax commissioner. At the request of an appellant, the findings of the board of tax appeals shall be sent by certified mail at the appellant's expense.

The board of tax appeals shall promptly prepare a cost bill listing the expenses incurred by the board in conducting any hearing on the appeal and certify the cost bill to the county auditor of the county receiving the deposit for costs, who shall forthwith draw a warrant on the general fund of the county in favor of the person or persons named in the bill of costs certified by the board of tax appeals.

In the event the appellant prevails, the board of tax appeals promptly shall direct the county auditor to refund the deposit to the appellant and the costs shall be taxed to the taxing district or political subdivision involved in the appeal. The county auditor shall withhold from any funds then or thereafter in the auditor's possession belonging to the taxing district or political subdivision named in the order of the board of tax appeals and shall reimburse the general fund of the county.

If the appellant fails, the costs shall be deducted from the deposit provided for in this section and any balance which remains shall be refunded promptly to the appellant by warrant of the county auditor drawn on the general fund of the county.

Nothing in this section or any section of the Revised Code shall permit or require the levying of any rate of taxation, whether within the ten-mill limitation or whether the levy has been approved by the electors of a taxing district, political

subdivision, library district, or association library district, 99368
or by the charter of a municipal corporation in excess of such 99369
ten-mill limitation, unless such rate of taxation for the 99370
ensuing fiscal year is clearly required by a budget of the 99371
taxing district or political subdivision properly and lawfully 99372
adopted under this chapter, or by other information that must be 99373
provided under section 5705.281 of the Revised Code if a tax 99374
budget was waived. 99375

In the event more than one appeal is filed involving the 99376
same taxing district or political subdivision, all such appeals 99377
may be consolidated by the board of tax appeals and heard at the 99378
same time. 99379

Nothing herein contained shall be construed to bar or 99380
prohibit the tax commissioner from initiating an investigation 99381
or hearing on the commissioner's own motion. 99382

The tax commissioner shall adopt and issue such orders,~~—~~ 99383
~~rules,~~ and instructions, not inconsistent with law, as the 99384
commissioner deems necessary, as to the exercise of the powers 99385
and the discharge of the duties of any particular county budget 99386
commission, county auditor, or other officer which relate to the 99387
budget, the assessment of property, or the levy and collection 99388
of taxes. The commissioner shall cause the orders and 99389
instructions issued by the commissioner to be obeyed. 99390

Sec. 5709.112. For tax year 2006 and each tax year 99391
thereafter, all tangible personal property used in the recovery 99392
of oil or gas, when installed and located on the premises or 99393
leased premises of the owner, shall be exempt from taxation. 99394
Such tangible personal property shall be subject to taxation if 99395
it is not installed on the premises or leased premises of the 99396
owner, or if it is used for the transmission, transportation, or 99397

distribution of oil or gas, as provided in section 5711.22 of 99398
the Revised Code. ~~The tax commissioner may adopt rules governing~~ 99399
~~the administration of the exemption provided by this section.~~ 99400

This section does not apply to any taxpayer that is 99401
required to file a report under section 5727.08 of the Revised 99402
Code. 99403

Sec. 5709.67. (A) Except as otherwise provided in sections 99404
5709.61 to 5709.69 of the Revised Code, the director of 99405
development shall administer those sections ~~and shall adopt~~ 99406
~~rules necessary to implement and administer the enterprise zone~~ 99407
~~program.~~ The director shall assign to each zone currently 99408
certified a unique designation by which the zone shall be 99409
identified for purposes of administering sections 5709.61 to 99410
5709.69 of the Revised Code. The tax commissioner shall 99411
administer all other tax incentives provided under sections 99412
5709.61 to 5709.69 of the Revised Code ~~and shall adopt rules~~ 99413
~~necessary to carry out that duty. No tax incentive qualification~~ 99414
~~certificate or employee tax credit certificate shall be issued~~ 99415
~~or remain in effect unless the enterprise applying for or~~ 99416
~~holding the certificate complies with all such rules.~~ The 99417
director of job and family services shall administer the 99418
incentive provided under division (B) (1) of section 5709.66 of 99419
the Revised Code ~~and shall adopt rules necessary to carry out~~ 99420
~~that duty. No extension of benefits certificate shall be issued~~ 99421
~~or remain in effect unless the enterprise applying for or~~ 99422
~~holding the certificate complies with all such rules.~~ 99423

(B) Not later than the first day of August each year, the 99424
director of development shall report to the general assembly on 99425
all of the following for the preceding calendar year: 99426

(1) The cost to the state of the tax and other incentives 99427

provided under sections 5709.61 to 5709.69 of the Revised Code;	99428
(2) The number of tax incentive qualification certificates, employee tax credit certificates, and extension of benefits certificates issued;	99429 99430 99431
(3) The names of the municipal corporations and counties that have entered agreements under sections 5709.62, 5709.63, and 5709.632 of the Revised Code;	99432 99433 99434
(4) The number of new employees hired as a result of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code;	99435 99436 99437
(5) Information on agreement terms concerning school district revenue that are not provided for in section 5709.631 of the Revised Code and that are forwarded to the director under division (H) of section 5709.62, division (H) of section 5709.63, or division (G) of section 5709.632 of the Revised Code.	99438 99439 99440 99441 99442 99443
The report shall include a finding by the director as to whether the incentives provided under sections 5709.61 to 5709.69 of the Revised Code have resulted in the creation of more positions in the state than would have been created without the incentives. The director shall send a copy of the report to each member of the general assembly and to the director of the legislative service commission.	99444 99445 99446 99447 99448 99449 99450
Sec. 5713.012. (A) For purposes of this section:	99451
(1) "Mass appraisal project" means any sexennial reappraisal, triennial update, or other revaluation of all real property or the valuation of newly constructed real property in accordance with section 5713.01 of the Revised Code.	99452 99453 99454 99455

(2) "Qualified project manager" means a person who plans, manages, coordinates, and controls the execution of a mass appraisal project under the direction of the county auditor and who has all of the following qualifications:

(a) Has passed a comprehensive final examination that corresponds to a course, approved by the superintendent of real estate and professional licensing, that consists of at least thirty hours of instruction, quizzes, and learning aids. The superintendent shall not approve a course under this division that does not address the following topics in both the instruction and the examination:

(i) Concepts and principles of mass appraisal as they relate to the assessment of real property for the purposes of ad valorem taxation;

(ii) Methods of data collection and data management relative to parcels of real property, including modern alternative data collection methods and currently utilized computer-assisted mass appraisal systems;

(iii) Assessment sales-ratio study including various measures of central tendency, the various measures of dispersion of data about the mean, median, and dollar-weighted mean, and the advantages and disadvantages of various analysis techniques;

(iv) Traditional approaches of property valuation, including the cost approach, the sales comparison approach, and the income approach, as they are implemented in a mass appraisal project;

(v) Methods and systems for model building and model calibration as related to mass appraisal of real property;

(vi) Methods of production management and project analysis

such as Gantt charts, program evaluation and review technique 99485
(PERT) charts, frequency distribution charts, line graphs, bar 99486
charts, and scatter diagrams, as they are utilized in the mass 99487
appraisal area. 99488

(b) Has completed at least seven hours of continuing 99489
education courses in real property or mass appraisal during the 99490
two-year period immediately succeeding the year in which the 99491
person passed the examination required in division (A) (2) (a) of 99492
this section, and during each two-year period thereafter. 99493

(B) (1) The county auditor, in acting as the assessor of 99494
all real property in the auditor's county for taxation purposes 99495
in accordance with section 5713.01 of the Revised Code, shall 99496
involve at least one qualified project manager in each mass 99497
appraisal project that originates more than two years after the 99498
effective date of the enactment of this section by H.B. 487 of 99499
the 129th general assembly, September 10, 2012. 99500

(2) The tax commissioner, beginning two years after the 99501
effective date of the enactment of this section by H.B. 487 of 99502
the 129th general assembly, September 10, 2012, shall not 99503
approve any contract entered into by the auditor under division 99504
(E) of section 5713.01 of the Revised Code with a person to do 99505
all or any part of the work necessary to the performance of the 99506
auditor's duties as assessor unless that person designates an 99507
officer or employee of that person, with the appropriate 99508
credentials, to act as a qualified project manager. 99509

(3) The tax commissioner, beginning two years after the 99510
effective date of the enactment of this section by H.B. 487 of 99511
the 129th general assembly, September 10, 2012, shall not 99512
include any person that has not designated an officer or 99513
employee, with the appropriate credentials, to act as a 99514

qualified project manager on a list generated by the 99515
commissioner for either of the following purposes: 99516

(a) To assist county auditors in selecting a person to do 99517
all or any part of the work necessary to the performance of the 99518
auditor's duties as assessor of all real property under section 99519
5713.01 of the Revised Code; 99520

(b) To assist the commissioner in the consideration of 99521
whether to approve or disapprove the auditor's application 99522
requesting authority to employ an appraisal firm or individual 99523
appraiser. 99524

(c) The superintendent of real estate and professional 99525
licensing shall adopt ~~reasonable~~ rules in accordance with 99526
Chapter 119. of the Revised Code ~~necessary for the~~ 99527
~~implementation of this section, including rules establishing~~ 99528
both of the following: 99529

(1) The form and manner by which persons may apply to the 99530
superintendent to offer a thirty-hour course or continuing 99531
education course as described in division (A) (2) of this 99532
section; 99533

(2) Standards to be used by the superintendent in 99534
approving a thirty-hour course or continuing education course 99535
described in division (A) (2) of this section. 99536

Sec. 5715.29. The tax commissioner shall ~~prescribe such~~ 99537
~~general and uniform rules and issue~~ such orders and 99538
instructions, not inconsistent with law, as he the commissioner 99539
deems necessary, as to the exercise of the powers and the 99540
discharge of the duties of all officers which relate to the 99541
assessment of property and the levy and collection of taxes. The 99542
commissioner shall cause ~~the rules prescribed by him to be~~ 99543

~~observed,~~ the orders and instructions issued ~~by him~~ under this 99544
section to be obeyed~~,~~ and the forms prescribed ~~by him~~ under this 99545
section to be observed and used. 99546

Sec. 5725.33. (A) Except as otherwise provided in this 99547
section, terms used in this section have the same meaning as 99548
section 45D of the Internal Revenue Code, any related proposed, 99549
temporary, or final regulations promulgated under the Internal 99550
Revenue Code, any rules or guidance of the internal revenue 99551
service or the United States department of the treasury, and any 99552
related rules or guidance issued by the community development 99553
financial institutions fund of the United States department of 99554
the treasury, as such law, regulations, rules, and guidance 99555
exist on October 16, 2009. 99556

As used in this section: 99557

(1) "Adjusted purchase price" means the amount paid for 99558
the portion of a qualified equity investment approved or 99559
certified by the director of development ~~services~~ for a 99560
qualified community development entity ~~in accordance with rules~~ 99561
~~adopted under division (E) of this section.~~ 99562

(2) "Applicable percentage" means zero per cent for each 99563
of the first two credit allowance dates, seven per cent for the 99564
third credit allowance date, and eight per cent for the four 99565
following credit allowance dates. 99566

(3) "Credit allowance date" means the date, on or after 99567
January 1, 2010, a qualified equity investment is made and each 99568
of the six anniversary dates thereafter. For qualified equity 99569
investments made after October 16, 2009, but before January 1, 99570
2010, the initial credit allowance date is January 1, 2010, and 99571
each of the six anniversary dates thereafter is on the first day 99572

of January of each year. 99573

(4) "Qualified community development entity" includes only 99574
entities: 99575

(a) That have entered into an allocation agreement with 99576
the community development financial institutions fund of the 99577
United States department of the treasury with respect to credits 99578
authorized by section 45D of the Internal Revenue Code; 99579

(b) Whose service area includes any portion of this state; 99580
and 99581

(c) That will designate an equity investment in such 99582
entities as a qualified equity investment for purposes of both 99583
section 45D of the Internal Revenue Code and this section. 99584

(5) "Qualified equity investment" is limited to an equity 99585
investment in a qualified community development entity that: 99586

(a) Is acquired after October 16, 2009, at its original 99587
issuance solely in exchange for cash; 99588

(b) Has at least eighty-five per cent of its cash purchase 99589
price used by the qualified community development entity to make 99590
qualified low-income community investments in qualified active 99591
low-income community businesses in this state, provided that in 99592
the seventh year after a qualified equity investment is made, 99593
only seventy-five per cent of such cash purchase price must be 99594
used by the qualified community development entity to make 99595
qualified low-income community investments in those businesses; 99596
and 99597

(c) Is designated by the issuer as a qualified equity 99598
investment. 99599

"Qualified equity investment" includes any equity 99600

investment that would, but for division (A) (5) (a) of this 99601
section, be a qualified equity investment in the hands of the 99602
taxpayer if such investment was a qualified equity investment in 99603
the hands of a prior holder. 99604

(B) There is hereby allowed a nonrefundable credit against 99605
the tax imposed by section 5725.18 of the Revised Code for an 99606
insurance company holding a qualified equity investment on the 99607
credit allowance date occurring in the calendar year for which 99608
the tax is due. The credit shall equal the applicable percentage 99609
of the adjusted purchase price, subject to divisions (B) (1) and 99610
(2) of this section: 99611

(1) For the purpose of calculating the amount of qualified 99612
low-income community investments held by a qualified community 99613
development entity, an investment shall be considered held by a 99614
qualified community development entity even if the investment 99615
has been sold or repaid, provided that, at any time before the 99616
seventh anniversary of the issuance of the qualified equity 99617
investment, the qualified community development entity reinvests 99618
an amount equal to the capital returned to or received or 99619
recovered by the qualified community development entity from the 99620
original investment, exclusive of any profits realized and costs 99621
incurred in the sale or repayment, in another qualified low- 99622
income community investment in this state within twelve months 99623
of the receipt of such capital. If the qualified low-income 99624
community investment is sold or repaid after the sixth 99625
anniversary of the issuance of the qualified equity investment, 99626
the qualified low-income community investment shall be 99627
considered held by the qualified community development entity 99628
through the seventh anniversary of the qualified equity 99629
investment's issuance. 99630

(2) The qualified low-income community investment made in this state shall equal the sum of the qualified low-income community investments in each qualified active low-income community business in this state, not to exceed two million five hundred sixty-four thousand dollars, in which the qualified community development entity invests, including such investments in any such businesses in this state related to that qualified active low-income community business through majority ownership or control.

The credit shall be claimed in the order prescribed by section 5725.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years.

By claiming a tax credit under this section, an insurance company waives its rights under section 5725.222 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (E) of this section.

(C) The aggregate amount of credit allocations made by the director of development ~~services~~ under this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code each fiscal year shall not exceed ten million dollars.

(D) If any amount of the federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development ~~services~~ determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is

claimed under this section are used to make qualified low-income 99661
community investments other than in a qualified active low- 99662
income community business in this state, all or a portion of the 99663
credit received on account of that investment shall be paid by 99664
the insurance company that received the credit to the 99665
superintendent of insurance. The amount to be recovered shall be 99666
determined by the director of development ~~services~~ pursuant to 99667
rules adopted under division (E) of this section. The director 99668
shall certify any amount due under this division to the 99669
superintendent of insurance, and the superintendent shall notify 99670
the treasurer of state of the amount due. Upon notification, the 99671
treasurer shall invoice the insurance company for the amount 99672
due. The amount due is payable not later than thirty days after 99673
the date the treasurer invoices the insurance company. The 99674
amount due shall be considered to be tax due under section 99675
5725.18 of the Revised Code, and may be collected by assessment 99676
without regard to the time limitations imposed under section 99677
5725.222 of the Revised Code for the assessment of taxes by the 99678
superintendent. All amounts collected under this division shall 99679
be credited as revenue from the tax levied under section 5725.18 99680
of the Revised Code. 99681

(E) The tax credits authorized under this section and 99682
sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall 99683
be administered by the department of development ~~services~~ 99684
~~agency~~. The director of development ~~services~~, in consultation 99685
with the tax commissioner and the superintendent of insurance, 99686
pursuant to Chapter 119. of the Revised Code, shall adopt rules 99687
~~for the administration of this section and sections 5726.54,~~ 99688
~~5729.16, and 5733.58 of the Revised Code. The rules shall~~ 99689
~~provide~~ providing for determining the recovery of credits under 99690
division (D) of this section and under sections 5726.54, 99691

5729.16, and 5733.58 of the Revised Code, including prorating 99692
the amount of the credit to be recovered on any reasonable 99693
basis, the manner in which credits may be allocated among 99694
claimants, and the amount of any application or other fees to be 99695
charged in connection with a recovery. 99696

(F) The director of development ~~services~~ is authorized to 99697
charge reasonable application and other fees in connection with 99698
the administration of tax credits authorized by this section and 99699
sections 5726.54, 5729.16, and 5733.58 of the Revised Code. Any 99700
such fees collected shall be credited to the tax incentives 99701
operating fund created in section 122.174 of the Revised Code. 99702

(G) Tax credits earned or allocated to a pass-through 99703
entity, as that term is defined in section 5733.04 of the 99704
Revised Code, under section 5725.33, 5726.54, 5729.16, or 99705
5733.58 of the Revised Code may be allocated to persons having a 99706
direct or indirect ownership interest in the pass-through entity 99707
for such persons' direct use in accordance with the provisions 99708
of any mutual agreement between such persons. 99709

Sec. 5725.36. (A) Terms used in this section have the same 99710
meanings as in section 175.16 of the Revised Code. 99711

(B) There is allowed a nonrefundable tax credit against 99712
the tax imposed by section 5725.18 of the Revised Code for a 99713
domestic insurance company that is allocated a credit issued by 99714
the executive director of the Ohio housing finance agency under 99715
section 175.16 of the Revised Code. The credit equals the amount 99716
allocated to such company for the calendar year and reported by 99717
the designated reporter on the form prescribed by division ~~(I)~~ 99718
(H) of section 175.16 of the Revised Code. 99719

The credit authorized in this section shall be claimed in 99720

the order required under section 5725.98 of the Revised Code. If 99721
the amount of a credit exceeds the tax otherwise due under 99722
section 5725.18 of the Revised Code after deducting all other 99723
credits preceding the credit in the order prescribed in section 99724
5725.98 of the Revised Code, the excess may be carried forward 99725
for not more than five ensuing calendar years. The amount of the 99726
excess credit claimed in any such year shall be deducted from 99727
the balance carried forward to the next calendar year. 99728

No credit shall be claimed under this section to the 99729
extent the credit was claimed under section 5726.58, 5729.19, or 99730
5747.83 of the Revised Code. 99731

Sec. 5726.10. The tax commissioner shall enforce and 99732
administer this chapter. In addition to any other powers 99733
conferred upon the commissioner by law, the commissioner may do 99734
~~any~~ both of the following: 99735

(A) Prescribe all forms required to be filed pursuant to 99736
this chapter; 99737

~~(B) Promulgate such rules and regulations as the~~ 99738
~~commissioner finds necessary to carry out this chapter;~~ 99739

~~(C) Appoint and employ such personnel as are necessary to~~ 99740
carry out the duties imposed upon the commissioner by this 99741
chapter. 99742

Sec. 5726.31. As used in this section, "debt to this 99743
state" means unpaid taxes due the state, unpaid workers' 99744
compensation premiums due under section 4123.35 of the Revised 99745
Code, unpaid unemployment compensation contributions due under 99746
section 4141.25 of the Revised Code, unpaid unemployment 99747
compensation payments in lieu of contributions due under section 99748
4141.241 of the Revised Code, unpaid claims certified under 99749

section 131.02 or 131.021 of the Revised Code, unpaid fees 99750
payable to the state or to the clerk of courts pursuant to 99751
section 4505.06 of the Revised Code or any unpaid charge, 99752
penalty, or interest arising from any of the foregoing. 99753

If a person entitled to a refund under section 5726.30 of 99754
the Revised Code owes any debt to this state, the amount 99755
refundable may be applied in satisfaction of the debt. If the 99756
amount refundable is less than the amount of the debt, it may be 99757
applied in partial satisfaction of the debt. If the amount 99758
refundable is greater than the amount of the debt, the amount 99759
remaining after satisfaction of the debt shall be refunded. If 99760
the taxpayer has more than one such debt, any debt subject to 99761
section 5739.33 or division (G) of section 5747.07 of the 99762
Revised Code shall be satisfied first. 99763

Except as provided in section 131.021 of the Revised Code, 99764
this section applies only to debts that have become final. For 99765
the purposes of this section, a debt becomes final when, under 99766
the applicable law, any time provided for petition for 99767
reassessment, request for reconsideration, or other appeal of 99768
the legality or validity of the amount giving rise to the debt 99769
expires without an appeal having been filed in the manner 99770
provided by law. 99771

The tax commissioner may charge each respective agency of 99772
the state for the commissioner's cost in applying refunds to 99773
debts due to the state and may charge the attorney general for 99774
the commissioner's cost in applying refunds to certified claims. 99775
~~The commissioner may promulgate rules to implement this section.~~ 99776

The commissioner may, with the consent of the reporting 99777
person for a taxpayer, provide for the crediting of the amount 99778
of any refund due to the taxpayer under this chapter for a tax 99779

year against the tax due for any succeeding tax year. 99780

Sec. 5726.58. (A) Terms used in this section have the same 99781
meanings as in section 175.16 of the Revised Code. 99782

(B) A taxpayer may claim a nonrefundable tax credit 99783
against the tax imposed under section 5726.02 of the Revised 99784
Code for each person included in the annual report of the 99785
taxpayer that is allocated a credit issued by the executive 99786
director of the Ohio housing finance agency under section 175.16 99787
of the Revised Code. The credit equals the amount allocated to 99788
such person for the taxable year and reported by the designated 99789
reporter on the form prescribed by division ~~(I)~~ (H) of section 99790
175.16 of the Revised Code. 99791

The credit authorized in this section shall be claimed in 99792
the order required under section 5726.98 of the Revised Code. If 99793
the amount of a credit exceeds the tax otherwise due under 99794
section 5726.02 of the Revised Code after deducting all other 99795
credits preceding the credit in the order prescribed in section 99796
5726.98 of the Revised Code, the excess may be carried forward 99797
for not more than five ensuing tax years. The amount of the 99798
excess credit claimed in any such year shall be deducted from 99799
the balance carried forward to the next tax year. 99800

No credit shall be claimed under this section to the 99801
extent the credit was claimed under section 5725.36, 5729.19, or 99802
5747.83 of the Revised Code. 99803

Sec. 5727.88. The tax commissioner shall administer 99804
sections 5727.80 to 5727.95 of the Revised Code ~~and may adopt~~ 99805
~~such rules as are necessary to administer those sections.~~ Upon 99806
request of the tax commissioner, the public utilities commission 99807
shall assist the tax commissioner by providing information 99808

regarding any natural gas distribution company or electric 99809
distribution company that is subject to regulation by the 99810
commission. 99811

Sec. 5728.06. (A) For the following purposes, an excise 99812
tax is hereby imposed on the use of motor fuel to operate on the 99813
public highways of this state a commercial car with three or 99814
more axles, regardless of weight, operated alone or as part of a 99815
commercial tandem, a commercial car with two axles having a 99816
gross vehicle weight or registered gross vehicle weight 99817
exceeding twenty-six thousand pounds operated alone or as part 99818
of a commercial tandem, or a commercial tractor operated alone 99819
or as part of a commercial tractor combination or commercial 99820
tandem: to provide revenue for maintaining the state highway 99821
system, to widen existing surfaces on such highways, to 99822
resurface such highways, to enable the counties of the state 99823
properly to plan for, maintain, and repair their roads, to 99824
enable the municipal corporations to plan, construct, 99825
reconstruct, repave, widen, maintain, repair, clear, and clean 99826
public highways, roads, and streets; to pay that portion of the 99827
construction cost of a highway project that a county, township, 99828
or municipal corporation normally would be required to pay, but 99829
that the director of transportation, pursuant to division (B) of 99830
section 5531.08 of the Revised Code, determines instead will be 99831
paid from moneys in the highway operating fund; to maintain and 99832
repair bridges and viaducts; to purchase, erect, and maintain 99833
street and traffic signs and markers; to purchase, erect, and 99834
maintain traffic lights and signals; to pay the costs 99835
apportioned to the public under section 4907.47 of the Revised 99836
Code; and to supplement revenue already available for such 99837
purposes, to distribute equitably among those persons using the 99838
privilege of driving motor vehicles upon such highways and 99839

streets the cost of maintaining and repairing the same, and to 99840
pay the interest, principal, and charges on bonds and other 99841
obligations issued pursuant to Section 2i of Article VIII, Ohio 99842
Constitution, and sections 5528.30 and 5528.31 of the Revised 99843
Code. The tax is imposed in the same amount as the motor fuel 99844
tax imposed under Chapter 5735. of the Revised Code. Payment of 99845
the fuel use tax shall be made by the purchase within Ohio of 99846
such gallons of motor fuel, for which the tax imposed under 99847
Chapter 5735. of the Revised Code has been paid, as is 99848
equivalent to the gallons consumed while operating such a motor 99849
vehicle on the public highways of this state, or by direct 99850
remittance to the treasurer of state with the fuel use tax 99851
return filed pursuant to section 5728.08 of the Revised Code. 99852

Any person subject to the tax imposed under this section 99853
who purchases motor fuel in this state for use in another state 99854
in excess of the amount consumed while operating such motor 99855
vehicle on the public highways of this state shall be allowed a 99856
credit against the tax imposed by this section or a refund equal 99857
to the motor fuel tax paid to this state on such excess. No such 99858
credit or refund shall be allowed for taxes paid to any state 99859
that imposes a tax on motor fuel purchased or obtained in this 99860
state and used on the highways of such other state but does not 99861
allow a similar credit or refund for the tax paid to this state 99862
on motor fuel purchased or acquired in the other state and used 99863
on the public highways of this state. 99864

The tax commissioner is authorized to determine whether 99865
such credits or refunds are available ~~and to prescribe such~~ 99866
~~rules as are required for the purpose of administering this~~ 99867
~~chapter.~~ 99868

(B) Within sixty days after the last day of each month, 99869

the tax commissioner shall determine the amount of motor fuel 99870
tax allowed as a credit against the tax imposed by this section. 99871
The commissioner shall certify the amount to the director of 99872
budget and management and the treasurer of state, who shall 99873
credit the amount in accordance with section 5728.08 of the 99874
Revised Code from current revenue described under division (A) 99875
(1) of section 5735.05 of the Revised Code. 99876

(C) The owner of each commercial car and commercial 99877
tractor subject to sections 5728.01 to 5728.14 of the Revised 99878
Code is liable for the payment of the full amount of the taxes 99879
imposed by this section. 99880

An owner who is a person regularly engaged, for 99881
compensation, in the business of leasing or renting motor 99882
vehicles without furnishing drivers may designate that the 99883
lessee of a motor vehicle leased for a period of thirty days or 99884
more shall report and pay the tax incurred during the duration 99885
of the lease. An owner who is an independent contractor that 99886
furnishes both the driver and motor vehicle, may designate that 99887
the person so furnished with the driver and motor vehicle for a 99888
period of thirty days or more shall report and pay the tax 99889
incurred during that period. An independent contractor that is 99890
not an owner, but that furnishes both the driver and motor 99891
vehicle and that has been designated by the owner of the motor 99892
vehicle to report and pay the tax, may designate that the person 99893
so furnished with driver and motor vehicle for a period of 99894
thirty days or more shall report and pay the tax incurred during 99895
that period. 99896

Sec. 5729.19. (A) Terms used in this section have the same 99897
meanings as in section 175.16 of the Revised Code. 99898

(B) There is allowed a nonrefundable tax credit against 99899

the tax imposed by section 5729.03 or 5729.06 of the Revised Code for a foreign insurance company that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.16 of the Revised Code. The credit equals the amount allocated to such company for the calendar year and reported by the designated reporter on the form prescribed by division ~~(I)~~(H) of section 175.16 of the Revised Code.

The credit authorized in this section shall be claimed in the order required under section 5729.98 of the Revised Code. If the amount of a credit exceeds the tax otherwise due under section 5729.03 or 5729.06 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5725.98 of the Revised Code, the excess may be carried forward for not more than five ensuing calendar years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next calendar year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5725.36, 5726.58, or 5747.83 of the Revised Code.

A foreign insurance company shall not be required to pay any additional tax levied under section 5729.06 of the Revised Code as a result of claiming the tax credit authorized by this section.

Sec. 5731.011. (A) As used in this section:

(1) "Adjusted value" means:

(a) In the case of the gross estate, the value of the gross estate as determined pursuant to section 5731.01 of the

Revised Code and without regard to this section, reduced by any 99929
amounts allowable as a deduction under division (A) (4) of 99930
section 5731.16 of the Revised Code; 99931

(b) In the case of any real or personal property, the 99932
value of the property as determined pursuant to section 5731.01 99933
of the Revised Code and without regard to this section, reduced 99934
by any amounts allowable as a deduction in respect to such 99935
property under division (A) (4) of section 5731.16 of the Revised 99936
Code. 99937

(2) "Member of the decedent's family" means, with respect 99938
to any decedent, only his the decedent's ancestor or lineal 99939
descendant, a lineal descendant of any of his the decedent's 99940
grandparents, his the decedent's spouse, the spouse of any such 99941
descendant, or a ~~step-child~~ stepchild or foster child of the 99942
decedent. 99943

(3) "Qualified farm property" means real property that is 99944
located in this state, that is included in the gross estate of 99945
the decedent under this chapter, and that was acquired by, or 99946
passed to, a qualified heir, but only if both of the following 99947
apply: 99948

(a) Fifty per cent or more of the adjusted value of the 99949
gross estate consists of the adjusted value of real or personal 99950
property which, on the date of the decedent's death, was being 99951
used for a qualified use; 99952

(b) Twenty-five per cent or more of the adjusted value of 99953
the gross estate consists of the adjusted value of real property 99954
which, on the date of the decedent's death, was being used for a 99955
qualified use. 99956

(4) "Qualified heir" means a member of the decedent's 99957

family who acquired qualified farm property, or to whom such 99958
property passed. If a qualified heir disposes of any interest in 99959
qualified farm property to any member of the decedent's family, 99960
that member shall thereafter be treated as the qualified heir 99961
with respect to the interest. 99962

(5) "Qualified use" means the devotion of real property 99963
exclusively to agricultural use as described in the definition 99964
of "land devoted exclusively to agricultural use" contained in 99965
division (A) of section 5713.30 of the Revised Code, whether or 99966
not an application has been filed by the decedent or a qualified 99967
heir pursuant to section 5713.31 of the Revised Code. 99968

(B) (1) For purposes of determining the value of property 99969
included in the gross estate, the value of qualified farm 99970
property is, subject to division (D) of this section, whichever 99971
of the following the person filing the estate tax return elects: 99972

(a) Its fair market value, as determined pursuant to 99973
division (B) of section 5731.01 of the Revised Code; 99974

(b) Its value for its actual qualified use, on the date of 99975
the decedent's death or on an alternate valuation date 99976
prescribed by division (D) of section 5731.01 of the Revised 99977
Code; 99978

(c) Its value for its actual qualified use, as determined 99979
under section 5713.31 of the Revised Code. 99980

(2) The election shall be made on or before the date by 99981
which the return is required to be filed, determined with regard 99982
to any extension of time granted pursuant to law for filing the 99983
return. 99984

(C) (1) For purposes of this section, the existence of a 99985
qualified use may be established, but is not required to be 99986

established, by the filing of an application pursuant to section 99987
5713.31 of the Revised Code and its approval by the county 99988
auditor. 99989

(2) This section applies to any interest in qualified farm 99990
property that is held in a partnership, corporation, or trust, 99991
if the interest would qualify under this section if it were held 99992
directly by the decedent. 99993

(D) If the person filing the estate tax return elects 99994
pursuant to division (B)(1)(b) or (c) of this section, to have 99995
qualified farm property valued at its value for its actual 99996
qualified use, and if the difference between the fair market 99997
value of the property as determined pursuant to division (B) of 99998
section 5731.01 of the Revised Code and the value for its actual 99999
qualified use under division (B)(1)(b) or (c) of this section, 100000
whichever was elected, exceeds five hundred thousand dollars, 100001
the property shall be valued at the amount that is five hundred 100002
thousand dollars less than the fair market value. 100003

(E) If an election is made, pursuant to division (B)(1)(b) 100004
or (c) of this section, to have qualified farm property valued 100005
at its value for its actual qualified use, and if, within four 100006
years after the date of the decedent's death and before the 100007
death of the qualified heir, the qualified heir disposes of any 100008
interest in the property to a person other than a member of the 100009
decedent's family, or ceases to use any part of the property for 100010
a qualified use, a recapture tax shall be imposed. The recapture 100011
tax shall be equivalent to the estate tax savings realized in 100012
the decedent's estate by valuating the interest disposed of, or 100013
the part of the property that has ceased to be used for a 100014
qualified use, at its value for its actual qualified use, 100015
instead of at its fair market value pursuant to division (B) of 100016

section 5731.01 of the Revised Code. The recapture tax, plus 100017
interest computed at the rate per annum determined under section 100018
5703.47 of the Revised Code, from nine months after the date of 100019
the decedent's death, is due and payable on the day that is nine 100020
months after the date of the disposition or cessation of use, 100021
and shall be paid by the qualified heir who disposed of the 100022
interest or ceased use of the part of the property for a 100023
qualified use. 100024

(F) The tax commissioner shall prescribe ~~rules and forms~~ 100025
to implement this section. The commissioner may adopt rules ~~may~~ 100026
~~require~~requiring, for purposes of division (E) of this section, 100027
that a qualified heir file an annual report with the 100028
commissioner, establishing that the qualified farm property has 100029
not been disposed of to a person other than a member of the 100030
decedent's family and that no part of it has ceased to be used 100031
for a qualified use. 100032

Sec. 5733.07. The tax commissioner shall enforce and 100033
administer this chapter. In addition to any other powers 100034
conferred upon ~~him~~ the commissioner by law, the commissioner 100035
may: 100036

(A) Prescribe all forms required to be filed pursuant to 100037
this chapter; 100038

~~(B) Promulgate such rules and regulations as he finds~~ 100039
~~necessary to carry out this chapter;~~ 100040

~~(C) Appoint and employ such personnel as are necessary to~~ 100041
carry out the duties imposed upon ~~him~~ the commissioner by this 100042
chapter. 100043

Sec. 5733.121. If a corporation entitled to a refund under 100044
section 5733.11 or 5733.12 of the Revised Code is indebted to 100045

this state for any tax, workers' compensation premium due under 100046
section 4123.35 of the Revised Code, unemployment compensation 100047
contribution due under section 4141.25 of the Revised Code, 100048
unemployment compensation payment in lieu of contribution under 100049
section 4141.241 of the Revised Code, certified claim under 100050
section 131.02 or 131.021 of the Revised Code, or fee that is 100051
paid to the state or to the clerk of courts pursuant to section 100052
4505.06 of the Revised Code, or any charge, penalty, or interest 100053
arising from such a tax, workers' compensation premium, 100054
unemployment compensation contribution, unemployment 100055
compensation payment in lieu of contribution under section 100056
4141.241 of the Revised Code, certified claim, or fee, the 100057
amount refundable may be applied in satisfaction of the debt. If 100058
the amount refundable is less than the amount of the debt, it 100059
may be applied in partial satisfaction of the debt. If the 100060
amount refundable is greater than the amount of the debt, the 100061
amount remaining after satisfaction of the debt shall be 100062
refunded. If the corporation has more than one such debt, any 100063
debt subject to section 5739.33 or division (G) of section 100064
5747.07 of the Revised Code shall be satisfied first. Except as 100065
provided in section 131.021 of the Revised Code, this section 100066
applies only to debts that have become final. 100067

The tax commissioner may charge each respective agency of 100068
the state for the commissioner's cost in applying refunds to 100069
debts due to the state and may charge the attorney general for 100070
the commissioner's cost in applying refunds to certified claims. 100071
~~The commissioner may promulgate rules to implement this section.~~ 100072

The tax commissioner may, with the consent of the 100073
taxpayer, provide for the crediting, against tax due for any tax 100074
year, of the amount of any refund due the taxpayer under this 100075
chapter for a preceding tax year. 100076

Sec. 5733.42. (A) As used in this section:	100077
(1) "Eligible training program" means a program to provide	100078
job skills to eligible employees who are unable effectively to	100079
function on the job due to skill deficiencies or who would	100080
otherwise be displaced because of their skill deficiencies or	100081
inability to use new technology, or to provide job skills to	100082
eligible employees that enable them to perform other job duties	100083
for the taxpayer. Eligible training programs do not include	100084
executive, management, or personal enrichment training programs,	100085
or training programs intended exclusively for personal career	100086
development.	100087
(2) "Eligible employee" means an individual who is	100088
employed in this state by a taxpayer and has been so employed by	100089
the same taxpayer for at least one hundred eighty consecutive	100090
days before the day an application for the credit is filed under	100091
this section. "Eligible employee" does not include any employee	100092
for which a credit is claimed pursuant to division (A) (5) of	100093
section 5709.65 of the Revised Code for all or any part of the	100094
same year, an employee who is not a full-time employee, or	100095
executive or managerial personnel, except for the immediate	100096
supervisors of nonexecutive, nonmanagerial personnel.	100097
(3) "Eligible training costs" means:	100098
(a) Direct instructional costs, such as instructor	100099
salaries, materials and supplies, textbooks and manuals,	100100
videotapes, and other instructional media and training equipment	100101
used exclusively for the purpose of training eligible employees;	100102
(b) Wages paid to eligible employees for time devoted	100103
exclusively to an eligible training program during normal paid	100104
working hours.	100105

(4) "Full-time employee" means an individual who is 100106
employed for consideration for at least thirty-five hours per 100107
week, or who renders any other standard of service generally 100108
accepted by custom or specified by contract as full-time 100109
employment. 100110

(5) "Partnership" includes a limited liability company 100111
formed under former Chapter 1705. ~~or of the Revised Code as that~~ 100112
chapter existed prior to February 11, 2022, Chapter 1706. of the 100113
Revised Code, or under the laws of another state, provided that 100114
the company is not classified for federal income tax purposes as 100115
an association taxable as a corporation. 100116

(B) There is hereby allowed a nonrefundable credit against 100117
the tax imposed by section 5733.06 of the Revised Code for 100118
taxpayers for which a tax credit certificate is issued under 100119
division (C) of this section. The credit may be claimed for tax 100120
years 2004, 2005, 2006, 2007, and 2008. The amount of the credit 100121
for tax year 2004 shall equal one-half of the average of the 100122
eligible training costs paid or incurred by the taxpayer during 100123
calendar years 1999, 2000, and 2001, not to exceed one thousand 100124
dollars for each eligible employee on account of whom eligible 100125
training costs were paid or incurred by the taxpayer during 100126
those calendar years. The amount of the credit for tax year 2005 100127
shall equal one-half of the average of the eligible training 100128
costs paid or incurred by the taxpayer during calendar years 100129
2002, 2003, and 2004, not to exceed one thousand dollars for 100130
each eligible employee on account of whom eligible training 100131
costs were paid or incurred by the taxpayer during those 100132
calendar years. The amount of the credit for tax year 2006 shall 100133
equal one-half of the average of the eligible training costs 100134
paid or incurred by the taxpayer during calendar years 2003, 100135
2004, and 2005, not to exceed one thousand dollars for each 100136

eligible employee on account of whom eligible training costs 100137
were paid or incurred by the taxpayer during those calendar 100138
years. The amount of the credit for tax year 2007 shall equal 100139
one-half of the average of the eligible training costs paid or 100140
incurred by the taxpayer during calendar years 2004, 2005, and 100141
2006, not to exceed one thousand dollars for each eligible 100142
employee on account of whom eligible training costs were paid or 100143
incurred by the taxpayer during those calendar years. The amount 100144
of the credit for tax year 2008 shall equal one-half of the 100145
average of the eligible training costs paid or incurred by the 100146
taxpayer during calendar years 2005, 2006, and 2007, not to 100147
exceed one thousand dollars for each eligible employee on 100148
account of whom eligible training costs were paid or incurred by 100149
the taxpayer during those calendar years. 100150

The credit claimed by a taxpayer each tax year shall not 100151
exceed one hundred thousand dollars. 100152

(C) A taxpayer who proposes to conduct an eligible 100153
training program may apply to the director of job and family 100154
services for a tax credit certificate under this section. The 100155
taxpayer may apply for such a certificate for tax years 2004, 100156
2005, 2006, 2007, and 2008 subject to division (L) of this 100157
section. The director shall prescribe the form of the 100158
application, which shall require a detailed description of the 100159
proposed training program. The director may require applicants 100160
to remit an application fee with each application filed with the 100161
director. The fee shall not exceed the reasonable and necessary 100162
expenses incurred by the director in receiving, reviewing, and 100163
approving such applications and issuing tax credit certificates. 100164
Proceeds from fees shall be used solely for the purpose of 100165
receiving, reviewing, and approving such applications and 100166
issuing such certificates. 100167

After receipt of an application, the director shall 100168
authorize a credit under this section by issuing a tax credit 100169
certificate, in the form prescribed by the director, if the 100170
director determines all of the following: 100171

(1) The proposed training program is an eligible training 100172
program under this section; 100173

(2) The proposed training program is economically sound 100174
and will benefit the people of this state by improving workforce 100175
skills and strengthening the economy of this state; 100176

(3) Receiving the tax credit is a major factor in the 100177
taxpayer's decision to go forward with the training program; 100178

(4) Authorization of the credit is consistent with 100179
division (H) of this section. 100180

The credit also is allowed for a taxpayer that is a 100181
partner in a partnership that pays or incurs eligible training 100182
costs. Such a taxpayer shall determine the taxpayer's credit 100183
amount in the manner prescribed by division (K) of this section. 100184

(D) If the director of job and family services denies an 100185
application for a tax credit certificate, the director shall 100186
send notice of the denial and the reason for denial to the 100187
applicant by certified mail, return receipt requested. If the 100188
director determines that an authorized training program, as 100189
actually conducted, fails to meet the requirements of this 100190
section or to comply with any condition set forth in the 100191
authorization, the director may reduce the amount of the tax 100192
credit previously granted. If the director reduces a tax credit, 100193
the director shall send notice of the reduction and the reason 100194
for the reduction to the taxpayer by certified mail, return 100195
receipt requested, and shall certify the reduction to the tax 100196

commissioner or, in the case of the reduction of a credit 100197
claimed by an insurance company, the superintendent of 100198
insurance. The tax commissioner or superintendent of insurance 100199
shall reduce the credit that may be claimed by the taxpayer 100200
accordingly. Within sixty days after receiving a notice of 100201
denial or notice of reduction of the tax credit, an applicant or 100202
taxpayer may request, in writing, a hearing before the director 100203
to review the denial or reduction. Within sixty days after 100204
receiving a request that is filed within the prescribed time, 100205
the director shall hold such a hearing at a location to be 100206
determined by the director. Within thirty days after the hearing 100207
is adjourned, the director shall issue a redetermination 100208
affirming, reversing, or modifying the denial or reduction of 100209
the tax credit and send notice of the redetermination to the 100210
applicant or taxpayer by certified mail, return receipt 100211
requested, and shall issue a notice of the redetermination to 100212
the tax commissioner or superintendent of insurance. If an 100213
applicant or taxpayer is aggrieved by the director's 100214
redetermination, the applicant or taxpayer may appeal the 100215
redetermination to the board of tax appeals in the manner 100216
prescribed by section 5717.02 of the Revised Code. 100217

(E) A taxpayer to which a tax credit certificate is issued 100218
shall retain records indicating the eligible training costs it 100219
pays or incurs for the eligible training program for which the 100220
certificate is issued for four years following the end of the 100221
tax year for which the credit is claimed. Such records shall be 100222
open to inspection by the director of job and family services 100223
upon the director's request during business hours. 100224

Financial statements and other information submitted by an 100225
applicant to the director of job and family services for a tax 100226
credit under this section, and any information taken for any 100227

purpose from such statements or information, are not public 100228
records subject to section 149.43 of the Revised Code. However, 100229
the director of job and family services, the tax commissioner, 100230
or superintendent of insurance may make use of the statements 100231
and other information for purposes of issuing public reports or 100232
in connection with court proceedings concerning tax credits 100233
allowed under this section and sections 5725.31 and 5729.07 of 100234
the Revised Code. 100235

(F) The director of job and family services, in accordance 100236
with Chapter 119. of the Revised Code, shall adopt rules 100237
~~necessary to implement this section and sections 5725.31 and~~ 100238
~~5729.07 of the Revised Code. The rules shall be adopted,~~ after 100239
consultation with the tax commissioner and the superintendent of 100240
insurance. ~~The rules shall require,~~ requiring that if a 100241
taxpayer to which a tax credit certificate is issued under ~~any~~ 100242
~~of those sections~~ section 5725.31 or 5729.07 of the Revised Code 100243
permanently relocates or transfers employees trained under the 100244
tax credit certificate to another state or country within two 100245
years of receiving the certificate, the taxpayer shall repay the 100246
total amount of the tax credit received by the taxpayer for any 100247
employees permanently relocated or transferred. At the time the 100248
director gives public notice under division (A) of section 100249
119.03 of the Revised Code of the adoption of the rules, the 100250
director shall submit copies of the proposed rules to the 100251
chairpersons and ranking minority members of the standing 100252
committees in the senate and the house of representatives to 100253
which legislation on economic development matters are 100254
customarily referred. 100255

(G) On or before the thirtieth day of September of 2001, 100256
2003, 2004, 2005, 2006, 2007, and 2008 the director of job and 100257
family services shall submit a report to the governor, the 100258

president of the senate, and the speaker of the house of 100259
representatives on the tax credit program under this section and 100260
sections 5725.31 and 5729.07 of the Revised Code. The report 100261
shall include information on the number of training programs 100262
that were authorized under those sections during the preceding 100263
calendar year, a description of each authorized training 100264
program, the dollar amounts of the credits granted, and an 100265
estimate of the impact of the credits on the economy of this 100266
state. 100267

(H) The aggregate amount of credits authorized under this 100268
section and sections 5725.31 and 5729.07 of the Revised Code 100269
shall not exceed twenty million dollars per calendar year. No 100270
more than ten million dollars in credits per calendar year shall 100271
be authorized for persons engaged primarily in manufacturing. No 100272
less than five million dollars in credits per calendar year 100273
shall be set aside for persons engaged primarily in activities 100274
other than manufacturing and having fewer than five hundred 100275
employees. Subject to such limits, the director of job and 100276
family services shall adopt a rule under ~~division (F) of this~~ 100277
~~section~~ Chapter 119. of the Revised Code that establishes 100278
criteria and procedures for distribution of the credits. 100279

(I) A nonrefundable credit allowed under this section 100280
shall be claimed in the order required under section 5733.98 of 100281
the Revised Code. 100282

(J) The taxpayer may carry forward any credit amount in 100283
excess of its tax due after allowing for any other credits that 100284
precede the credit under this section in the order required 100285
under section 5733.98 of the Revised Code. The excess credit may 100286
be carried forward for three years following the tax year for 100287
which it is first claimed under this section. 100288

(K) A taxpayer that is a partner in a partnership on the 100289
last day of the third calendar year of the three-year period 100290
during which the partnership pays or incurs eligible training 100291
costs may claim a credit under this section for the tax year 100292
immediately following that calendar year. The amount of a 100293
partner's credit equals the partner's interest in the 100294
partnership on the last day of such calendar year multiplied by 100295
the credit available to the partnership as computed by the 100296
partnership. 100297

(L) The director of job and family services shall not 100298
authorize any credits under this section and sections 5725.31 100299
and 5729.07 of the Revised Code for eligible training costs paid 100300
or incurred after December 31, 2007. 100301

Sec. 5735.05. (A) There is hereby levied a motor fuel 100302
excise tax on each motor fuel dealer, measured by gross gallons, 100303
upon the receipt of motor fuel within this state. 100304

The tax is levied at the rates prescribed by divisions (E) 100305
and (F) of this section. 100306

The revenue derived from twenty-eight cents per gallon of 100307
such tax rates shall be distributed under divisions (A), (B), 100308
(C), and (D) of section 5735.051 of the Revised Code to fund the 100309
following purposes in the following amounts: 100310

(1) Seventeen twenty-eighths of the revenue shall be used 100311
solely to provide revenue for maintaining the state highway 100312
system; to widen existing surfaces on such highways; to 100313
resurface such highways; to pay that portion of the construction 100314
cost of a highway project which a county, township, or municipal 100315
corporation normally would be required to pay, but which the 100316
director of transportation, pursuant to division (B) of section 100317

5531.08 of the Revised Code, determines instead will be paid 100318
from moneys in the highway operating fund; to enable the 100319
counties of the state properly to plan, maintain, and repair 100320
their roads and to pay principal, interest, and charges on bonds 100321
and other obligations issued pursuant to Chapter 133. of the 100322
Revised Code or incurred pursuant to section 5531.09 of the 100323
Revised Code for highway improvements; to enable the municipal 100324
corporations to plan, construct, reconstruct, repave, widen, 100325
maintain, repair, clear, and clean public highways, roads, and 100326
streets, and to pay the principal, interest, and charges on 100327
bonds and other obligations issued pursuant to Chapter 133. of 100328
the Revised Code or incurred pursuant to section 5531.09 of the 100329
Revised Code for highway improvements; to enable the Ohio 100330
turnpike and infrastructure commission to construct, 100331
reconstruct, maintain, and repair turnpike projects; to maintain 100332
and repair bridges and viaducts; to purchase, erect, and 100333
maintain street and traffic signs and markers; to purchase, 100334
erect, and maintain traffic lights and signals; to pay the costs 100335
apportioned to the public under sections 4907.47 and 4907.471 of 100336
the Revised Code and to supplement revenue already available for 100337
such purposes; to pay the costs incurred by the public utilities 100338
commission in administering sections 4907.47 to 4907.476 of the 100339
Revised Code; to distribute equitably among those persons using 100340
the privilege of driving motor vehicles upon such highways and 100341
streets the cost of maintaining and repairing them; to pay the 100342
interest, principal, and charges on highway capital improvements 100343
bonds and other obligations issued pursuant to Section 2m of 100344
Article VIII, Ohio Constitution, and section 151.06 of the 100345
Revised Code; to pay the interest, principal, and charges on 100346
highway obligations issued pursuant to Section 2i of Article 100347
VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the 100348
Revised Code; to pay the interest, principal, and charges on 100349

major new state infrastructure bonds and other obligations of 100350
the state issued pursuant to Section 13 of Article VIII, Ohio 100351
Constitution, and section 5531.10 of the Revised Code; to 100352
provide revenue for the purposes of sections 1547.71 to 1547.77 100353
of the Revised Code; and to pay the expenses of the department 100354
of taxation incident to the administration of the motor fuel 100355
laws. 100356

(2) Two twenty-eighths of the revenue shall be used solely 100357
to pay the expenses of administering and enforcing the state law 100358
relating to the registration and operation of motor vehicles; to 100359
supply the state's share of the cost of planning, constructing, 100360
widening, and reconstructing the state highways; to supply the 100361
state's share of the cost of eliminating railway grade crossings 100362
upon such highways; to pay that portion of the construction cost 100363
of a highway project that a county, township, or municipal 100364
corporation normally would be required to pay, but that the 100365
director of transportation, pursuant to division (B) of section 100366
5531.08 of the Revised Code, determines instead will be paid 100367
from moneys in the highway operating fund; to enable counties 100368
and townships to properly plan, construct, widen, reconstruct, 100369
and maintain their public highways, roads, and streets; to 100370
enable counties to pay principal, interest, and charges on bonds 100371
and other obligations issued pursuant to Chapter 133. of the 100372
Revised Code or incurred pursuant to section 5531.09 of the 100373
Revised Code for highway improvements; to enable municipal 100374
corporations to plan, construct, reconstruct, repave, widen, 100375
maintain, repair, clear, and clean public highways, roads, and 100376
streets; to enable municipal corporations to pay the principal, 100377
interest, and charges on bonds and other obligations issued 100378
pursuant to Chapter 133. of the Revised Code or incurred 100379
pursuant to section 5531.09 of the Revised Code for highway 100380

improvements; to maintain and repair bridges and viaducts; to 100381
purchase, erect, and maintain street and traffic signs and 100382
markers; to purchase, erect, and maintain traffic lights and 100383
signals; to pay the costs apportioned to the public under 100384
section 4907.47 of the Revised Code; to provide revenue for the 100385
purposes of sections 1547.71 to 1547.77 of the Revised Code and 100386
to supplement revenue already available for such purposes; to 100387
pay the expenses of the department of taxation incident to the 100388
administration of the motor fuel laws and to supplement revenue 100389
already available for such purposes; to pay the interest, 100390
principal, and charges on bonds and other obligations issued 100391
pursuant to Section 2g of Article VIII, Ohio Constitution, and 100392
sections 5528.10 and 5528.11 of the Revised Code; and to pay the 100393
interest, principal, and charges on highway obligations issued 100394
pursuant to Section 2i of Article VIII, Ohio Constitution, and 100395
sections 5528.30 and 5528.31 of the Revised Code. 100396

(3) Eight twenty-eighths of the revenue shall be used 100397
solely to supply the state's share of the cost of constructing, 100398
widening, maintaining, and reconstructing the state highways; to 100399
maintain and repair bridges and viaducts; to purchase, erect, 100400
and maintain street and traffic signs and markers; to purchase, 100401
erect, and maintain traffic lights and signals; to pay the 100402
expense of administering and enforcing the state law relative to 100403
the registration and operation of motor vehicles; to make road 100404
improvements associated with retaining or attracting business 100405
for this state; to pay that portion of the construction cost of 100406
a highway project that a county, township, or municipal 100407
corporation normally would be required to pay, but that the 100408
director of transportation, pursuant to division (B) of section 100409
5531.08 of the Revised Code, determines instead will be paid 100410
from moneys in the highway operating fund; to provide revenue 100411

for the purposes of sections 1547.71 to 1547.77 of the Revised Code and to supplement revenue already available for such purposes; to pay the expenses of the department of taxation incident to the administration of the motor fuel laws and to supplement revenue already available for such purposes; to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code; to enable counties and townships to properly plan, construct, widen, reconstruct, and maintain their public highways, roads, and streets; to enable counties to pay principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to enable municipal corporations to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; and to pay the costs apportioned to the public under section 4907.47 of the Revised Code.

(4) One twenty-eighth of the revenue shall be used solely to pay the state's share of the cost of constructing and reconstructing highways and eliminating railway grade crossings on the major thoroughfares of the state highway system and urban extensions thereof; to pay that portion of the construction cost of a highway project that a county, township, or municipal corporation normally would be required to pay, but that the director of transportation, pursuant to division (B) of section

5531.08 of the Revised Code, determines instead will be paid 100443
from moneys in the highway operating fund; to pay the interest, 100444
principal, and charges on bonds and other obligations issued 100445
pursuant to Section 2g of Article VIII, Ohio Constitution, and 100446
sections 5528.10 and 5528.11 of the Revised Code; to pay the 100447
interest, principal, and charges on highway obligations issued 100448
pursuant to Section 2i of Article VIII, Ohio Constitution, and 100449
sections 5528.30 and 5528.31 of the Revised Code; to provide 100450
revenues for the purposes of sections 1547.71 to 1547.77 of the 100451
Revised Code; and to pay the expenses of the department of 100452
taxation incident to the administration of the motor fuel laws. 100453

(B) The revenue derived from any portion of the tax rates 100454
that exceeds twenty-eight cents per gallon of motor fuel shall 100455
be distributed under division (E) of section 5735.051 of the 100456
Revised Code to fund the purposes described in divisions (A) and 100457
(D) of this section, as provided in divisions (A) and (B) of 100458
section 5735.27 of the Revised Code. 100459

(C) The tax imposed by this section does not apply to the 100460
following transactions: 100461

(1) The sale of dyed diesel fuel by a licensed motor fuel 100462
dealer from a location other than a retail service station 100463
provided the licensed motor fuel dealer places on the face of 100464
the delivery document or invoice, or both if both are used, a 100465
conspicuous notice stating that the fuel is dyed and is not for 100466
taxable use, and that taxable use of that fuel is subject to a 100467
penalty. The tax commissioner, by rule, may provide that any 100468
notice conforming to rules or regulations issued by the United 100469
States department of the treasury or the Internal Revenue 100470
Service is sufficient notice for the purposes of division (C) (1) 100471
of this section. 100472

- (2) The sale of K-1 kerosene to a retail service station, 100473
except when placed directly in the fuel supply tank of a motor 100474
vehicle. Such sale shall be rebuttably presumed to not be 100475
distributed or sold for use or used to generate power for the 100476
operation of motor vehicles upon the public highways or upon the 100477
waters within the boundaries of this state. 100478
- (3) The sale of motor fuel by a licensed motor fuel dealer 100479
to another licensed motor fuel dealer; 100480
- (4) The exportation of motor fuel by a licensed motor fuel 100481
dealer from this state to any other state or foreign country; 100482
- (5) The sale of motor fuel to the United States government 100483
or any of its agencies, except such tax as is permitted by it, 100484
where such sale is evidenced by an exemption certificate, in a 100485
form approved by the tax commissioner, executed by the United 100486
States government or an agency thereof certifying that the motor 100487
fuel therein identified has been purchased for the exclusive use 100488
of the United States government or its agency; 100489
- (6) The sale of motor fuel that is in the process of 100490
transportation in foreign or interstate commerce, except insofar 100491
as it may be taxable under the Constitution and statutes of the 100492
United States, and except as may be agreed upon in writing by 100493
the dealer and the commissioner; 100494
- (7) The sale of motor fuel when sold exclusively for use 100495
in the operation of aircraft, where such sale is evidenced by an 100496
exemption certificate prescribed by the commissioner and 100497
executed by the purchaser certifying that the motor fuel 100498
purchased has been purchased for exclusive use in the operation 100499
of aircraft; 100500
- (8) The sale for exportation of motor fuel by a licensed 100501

motor fuel dealer to a licensed exporter described in division 100502
(DD) (1) of section 5735.01 of the Revised Code; 100503

(9) The sale for exportation of motor fuel by a licensed 100504
motor fuel dealer to a licensed exporter described in division 100505
(DD) (2) of section 5735.01 of the Revised Code, provided that 100506
the destination state motor fuel tax has been paid or will be 100507
accrued and paid by the licensed motor fuel dealer. 100508

(10) The sale to a consumer of diesel fuel, by a motor 100509
fuel dealer for delivery from a bulk lot vehicle, for 100510
consumption in operating a vessel when the use of such fuel in a 100511
vessel would otherwise qualify for a refund under section 100512
5735.14 of the Revised Code. 100513

Division (C) (1) of this section does not apply to the sale 100514
or distribution of dyed diesel fuel used to operate a motor 100515
vehicle on the public highways or upon water within the 100516
boundaries of this state by persons permitted under regulations 100517
of the United States department of the treasury or of the 100518
Internal Revenue Service to so use dyed diesel fuel. 100519

(D) The use of any revenue from the tax levied under this 100520
section shall be used for construction, maintenance, and repair 100521
of roads and bridges, the operational costs of applicable state 100522
agencies, or used to match other revenue for these purposes. 100523

(E) Except as otherwise provided by division (F) of this 100524
section, the rates of tax imposed by this section on each gallon 100525
of motor fuel on and after July 1, 2019, shall be as follows: 100526

(1) Thirty-eight and one-half cents on each gallon of 100527
gasoline; 100528

(2) Forty-seven cents on each gallon of motor fuel other 100529
than gasoline. 100530

(F) The tax on each gallon equivalent of compressed natural gas shall be:	100531
	100532
(1) Ten cents on and after July 1, 2019, and before July 1, 2020;	100533
	100534
(2) Twenty cents on and after July 1, 2020, and before July 1, 2021;	100535
	100536
(3) Thirty cents on and after July 1, 2021, and before July 1, 2022;	100537
	100538
(4) Forty cents on and after July 1, 2022, and before July 1, 2023;	100539
	100540
(5) Forty-seven cents on and after July 1, 2023.	100541
(G) The tax commissioner may adopt rules as necessary to administer this section.	100542
	100543
Sec. 5735.062. (A) If the tax commissioner so requires, the dealer shall remit each monthly tax payment electronically as prescribed by division (B) of this section.	100544
	100545
	100546
The commissioner shall notify each dealer required to remit taxes electronically of the dealer's obligation to do so. Failure by the commissioner to notify a dealer subject to this section to remit taxes electronically does not relieve the dealer of its obligation to remit taxes electronically.	100547
	100548
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(B) Dealers required by division (A) of this section to remit payments electronically shall remit such payments through the Ohio business gateway, as defined in section 718.01 of the Revised Code, or in another manner as prescribed by the commissioner. Required payments shall be remitted on or before the dates specified under section 5735.06 of the Revised Code. The payment of taxes electronically does not affect a dealer's	100552
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obligation to file the monthly return as required under section 100559
5735.06 of the Revised Code. 100560

A dealer required by this section to remit taxes 100561
electronically may apply to the commissioner to be excused from 100562
that requirement. The commissioner may excuse the dealer from 100563
the electronic remittance requirement for good cause shown for 100564
the period of time requested by the dealer or for a portion of 100565
that period. 100566

(C) If a dealer required by this section to remit taxes 100567
electronically fails to do so, the commissioner may impose a 100568
penalty on the dealer not to exceed one of the following: 100569

(1) For the first return period the dealer fails to remit 100570
taxes electronically, the greater of twenty-five dollars or five 100571
per cent of the amount of the payment required to be remitted; 100572

(2) For the second or any subsequent return period the 100573
dealer fails to remit taxes electronically, the greater of fifty 100574
dollars or ten per cent of the amount of the payment required to 100575
be remitted. 100576

The penalty imposed under division (C) of this section is 100577
in addition to any other penalty imposed under this chapter and 100578
shall be considered as revenue arising from the taxes imposed 100579
under this chapter. A penalty may be collected by assessment in 100580
the manner prescribed by section 5735.12 of the Revised Code. 100581
The commissioner may abate all or a portion of a penalty. 100582

~~(D) The commissioner may adopt rules necessary to 100583
administer this section. 100584~~

Sec. 5736.03. (A) No person shall avoid the tax imposed by 100585
this chapter by receiving motor fuel outside of this state and 100586
transferring the motor fuel into this state within one year. Any 100587

such person shall be considered to have received the fuel in 100588
this state and shall include, in the calculation of calculated 100589
gross receipts, the number of gallons of motor fuel the person 100590
transfers into this state within one year after the person 100591
receives the property outside of this state. 100592

(B) Any person that knowingly receives motor fuel from a 100593
supplier that is not licensed as required by section 5736.06 of 100594
the Revised Code shall include in the calculation of the 100595
person's calculated gross receipts the number of gallons of 100596
motor fuel the person received in this state or transported into 100597
this state from the unlicensed supplier. 100598

~~(C) The tax commissioner may adopt rules necessary to 100599
administer this section. 100600~~

Sec. 5739.05. (A) (1) The tax commissioner shall enforce 100601
and administer sections 5739.01 to 5739.31 of the Revised Code, 100602
which are hereby declared to be sections which the commissioner 100603
is required to administer within the meaning of sections 5703.17 100604
to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. 100605
~~The commissioner may adopt and promulgate, in accordance with 100606
sections 119.01 to 119.13 of the Revised Code, such rules as the 100607
commissioner deems necessary to administer sections 5739.01 to 100608
5739.31 of the Revised Code. 100609~~

(2) On or before the first day of May of each year, the 100610
commissioner shall make available to vendors a notice explaining 100611
the three-day exemption period required under division (B) (55) 100612
of section 5739.02 of the Revised Code. 100613

(B) Upon application, the commissioner may authorize a 100614
vendor to pay on a predetermined basis the tax levied by or 100615
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 100616

the Revised Code upon sales of things produced or distributed or 100617
services provided by such vendor, and the commissioner may waive 100618
the collection of the tax from the consumer. The commissioner 100619
shall not grant such authority unless the commissioner finds 100620
that the granting of the authority would improve compliance and 100621
increase the efficiency of the administration of the tax. The 100622
person to whom such authority is granted shall post a notice, if 100623
required by the commissioner, at the location where the product 100624
is offered for sale that the tax is included in the selling 100625
price. ~~The commissioner may adopt rules to administer this~~ 100626
~~division.~~ 100627

(C) Upon application, the commissioner may authorize a 100628
vendor to remit, on the basis of a prearranged agreement under 100629
this division, the tax levied by section 5739.02 or pursuant to 100630
section 5739.021, 5739.023, or 5739.026 of the Revised Code. The 100631
proportions and ratios in a prearranged agreement shall be 100632
determined either by a test check conducted by the commissioner 100633
under terms and conditions agreed to by the commissioner and the 100634
vendor or by any other method agreed upon by the vendor and the 100635
commissioner. If the parties are unable to agree to the terms 100636
and conditions of the test check or other method, the 100637
application shall be denied. 100638

If used, the test check shall determine the proportion 100639
that taxable retail sales bear to all of the vendor's retail 100640
sales and the ratio which the tax required to be collected under 100641
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the 100642
Revised Code bears to the receipts from the vendor's taxable 100643
retail sales. 100644

The vendor's liability for remitting the tax shall be 100645
based solely upon the proportions and ratios established in the 100646

agreement until such time that the vendor or the commissioner 100647
believes that the nature of the vendor's business has so changed 100648
as to make the agreement no longer representative. The 100649
commissioner may give notice to the vendor at any time that the 100650
authorization is revoked or the vendor may notify the 100651
commissioner that the vendor no longer elects to report under 100652
the authorization. Such notice shall be delivered to the other 100653
party in the manner provided in section 5703.37 of the Revised 100654
Code. The revocation or cancellation is effective the last day 100655
of the month in which the vendor or the commissioner receives 100656
the notice. 100657

Sec. 5739.121. (A) As used in this section: 100658

(1) "Bad debt" means any debt that has become worthless or 100659
uncollectible in the time period between a vendor's preceding 100660
return and the present return, has been uncollected for at least 100661
six months, and that may be claimed as a deduction pursuant to 100662
the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 100663
166, as amended, and regulations adopted pursuant thereto, or 100664
that could be claimed as such a deduction if the vendor kept 100665
accounts on an accrual basis. "Bad debt" does not include any 100666
interest or sales tax on the purchase price, uncollectible 100667
amounts on property that remains in the possession of the vendor 100668
until the full purchase price is paid, expenses incurred in 100669
attempting to collect any account receivable or for any portion 100670
of the debt recovered, and repossessed property. 100671

(2) "Lender" means a person or an affiliate, assignee, or 100672
transferee of a person that owns a private label credit account, 100673
or an interest in a private label credit account receivable, 100674
provided that interest was any of the following: 100675

(a) Transferred from a third party; 100676

(b) Purchased directly from a vendor that remitted tax 100677
imposed under this chapter or from an affiliate of the vendor; 100678

(c) Originated according to a written agreement between 100679
the person and a vendor that remitted tax imposed under this 100680
chapter or an affiliate of the vendor. 100681

(3) "Private label credit account" means a credit account 100682
that carries, refers to, or is branded with the name of a vendor 100683
and for which the lender, when establishing the consumer's 100684
credit limit, complied with all applicable Ohio and federal laws 100685
that are intended to protect consumers, including all of the 100686
following: 100687

(a) The "Credit Card Accountability Responsibility and 100688
Disclosure Act of 2009," 15 U.S.C. 1601 et seq.; 100689

(b) The "Equal Credit Opportunity Act," 15 U.S.C. 1691 et 100690
seq.; 100691

(c) The "Fair Credit Reporting Act," 15 U.S.C. 1681. 100692

(4) "Accounts or receivables bad debt" means the unpaid 100693
balance on private label credit accounts or private label credit 100694
account receivables that are bad debt and are charged off as 100695
uncollectible on the books of a lender on or after July 1, 2023, 100696
and against which a deduction has not previously been taken 100697
under this section. For the purposes of division (A) (4) of this 100698
section only, "bad debt" shall be determined without regard to 100699
when the debt has become worthless or uncollectible relative to 100700
the period between a vendor's returns, and the deductibility of 100701
the debt for federal income tax purposes shall be determined 100702
with respect to the lender instead of the vendor. 100703

(5) "Affiliate" means any person that is a member of an 100704
affiliated group or that would be a member of an affiliated 100705

group if the person was a corporation. 100706

(6) "Affiliated group" has the same meaning as in section 100707
1504 of the Internal Revenue Code. 100708

(B) In computing taxable receipts for purposes of this 100709
chapter, a vendor may deduct the amount of bad debts. Except as 100710
provided in division (F) of this section, the amount deducted 100711
must be charged off as uncollectible on the books of the vendor. 100712
A deduction may be claimed only with respect to bad debts on 100713
which the taxes pursuant to sections 5739.10 and 5739.12 of the 100714
Revised Code were paid in a preceding tax period. If the 100715
vendor's business consists of taxable and nontaxable 100716
transactions, the deduction shall equal the full amount of the 100717
debt if the debt is documented as a taxable transaction in the 100718
vendor's records. If no such documentation is available, the 100719
maximum deduction on any bad debt shall equal the amount of the 100720
bad debt multiplied by the quotient obtained by dividing the 100721
sales taxed pursuant to this chapter during the preceding 100722
calendar year by all sales during the preceding calendar year, 100723
whether taxed or not. If a consumer or other person pays all or 100724
part of a bad debt with respect to which a vendor claimed a 100725
deduction under this section, the vendor shall be liable for the 100726
amount of taxes deducted in connection with that portion of the 100727
debt for which payment is received and shall remit such taxes in 100728
the vendor's next payment to the tax commissioner. 100729

(C) Any claim for a bad debt deduction under this section 100730
shall be supported by such evidence as the tax commissioner by 100731
rule requires. The commissioner shall review any change in the 100732
rate of taxation applicable to any taxable sales by a vendor 100733
claiming a deduction pursuant to this section and adopt rules 100734
for altering the deduction in the event of such a change in 100735

order to ensure that the deduction on any bad debt does not 100736
result in the vendor claiming the deduction recovering any more 100737
or less than the taxes imposed on the sale that constitutes the 100738
bad debt. 100739

(D) In any reporting period in which the amount of bad 100740
debt other than the accounts or receivables bad debt exceeds the 100741
amount of taxable sales for the period, the vendor may file a 100742
refund claim for any tax collected on the bad debt in excess of 100743
the tax reported on the return. The refund claim shall be filed 100744
in the manner provided in section 5739.07 of the Revised Code, 100745
except that the claim may be filed within four years of the due 100746
date of the return on which the bad debt first could have been 100747
claimed. 100748

(E) When the filing responsibilities of a vendor have been 100749
assumed by a certified service provider, the certified service 100750
provider shall claim the bad debt allowance provided by this 100751
section on behalf of the vendor. The certified service provider 100752
shall credit or refund to the vendor the full amount of any bad 100753
debt allowance or refund. 100754

(F) (1) A vendor may deduct on a return accounts or 100755
receivables bad debt. 100756

A vendor taking a deduction under division (F) (1) of this 100757
section shall include all credit sale transactions outstanding 100758
in the account or receivable at the time the account or 100759
receivable is charged off as uncollectible on the books of a 100760
lender in calculating the deduction, regardless of the date on 100761
which the credit sale transaction occurs. 100762

(2) The deduction authorized under division (F) (1) of this 100763
section may be taken by the vendor only on the basis of accounts 100764

or receivables bad debt from purchases from the vendor whose name is carried, referred to, or branded on the private label credit account or from purchases from any of the vendor's affiliates or franchisees.

(3) A vendor taking a deduction under division (F) (1) of this section shall maintain books, records, or other documents verifying the accounts or receivables bad debt, which shall be open to inspection by the commissioner upon request.

(4) If the lender collects in whole or part any accounts or receivables bad debt on the basis of which the vendor took a deduction under division (F) of this section, the vendor shall include the amount collected in the vendor's first return filed after the collection and pay tax on the portion of that amount with respect to which the vendor took the deduction.

(5) If the total amount of accounts or receivables bad debt for a month exceeds a vendor's taxable sales for that month, the vendor may carry forward and deduct the excess on succeeding tax returns until the total amount of accounts or receivables bad debt has been deducted.

(6) Unless otherwise agreed to by the lender and vendor, the economic benefit of the deduction permitted under division (F) (1) of this section shall inure to the benefit of the party that suffered the economic burden of the accounts or receivables bad debt.

~~(G) The tax commissioner may adopt rules necessary to administer this section.~~

Sec. 5739.36. (A) For the purpose of tracking the growth and overall economic impact of the travel and tourism industry in this state, the tax commissioner shall prepare a report

summarizing the amount of tax revenue collected during each 100794
semiannual period ending on the last day of June or December, 100795
annually. The commissioner shall prepare the report by industry 100796
classification using business activity codes. The report shall 100797
include the combined total statewide collections from the taxes 100798
levied under sections 5739.02, 5739.021, 5739.023, 5739.026, 100799
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code as 100800
reported by taxpayers with respect to collections during the 100801
semiannual period. The report shall reflect all industries 100802
included in the industrial classification system used by the 100803
commissioner the activities of which relate in any way to travel 100804
and tourism, including, but not limited to, industries such as 100805
bars and restaurants; hotels, motels, and other lodging 100806
establishments; and other industries related to travel and 100807
tourism. The first report shall be for the semiannual period 100808
ending December 31, 2005. 100809

(B) The tax commissioner shall file a copy of the report 100810
required under this section with the governor, the president of 100811
the senate, the speaker of the house of representatives, and the 100812
legislative service commission. The reports shall be filed on or 100813
before the first day of May or November, annually, that 100814
immediately follows the semiannual period to which the report 100815
relates. A copy of the commissioner's most recent report shall 100816
be made available to the public through the department of 100817
taxation's official internet web site. 100818

~~(C) The commissioner shall adopt rules that are necessary~~ 100819
~~to administer this section.~~ 100820

Sec. 5741.06. The tax commissioner shall enforce and 100821
administer sections 5741.01 to 5741.22 of the Revised Code, 100822
which are hereby declared to be laws which he the commissioner 100823

is required to administer within the meaning of sections 5703.17 100824
to 5703.39 and 5703.45 of the Revised Code. The commissioner may 100825
~~adopt and promulgate such rules as he deems necessary to~~ 100826
~~administer sections 5741.01 to 5741.22 of the Revised Code, and~~ 100827
~~may~~ authorize a seller to prepay the tax levied by or pursuant 100828
to section 5741.02, 5741.021, 5741.022, or 5741.023 of the 100829
Revised Code upon storage, use, or consumption of things 100830
produced or distributed by such seller, and he the commissioner 100831
may waive the collection of the tax from the consumer; but no 100832
such authority shall be granted or exercised, except upon 100833
application to the commissioner and unless he the commissioner 100834
finds, that the conditions of the applicant's business are such 100835
as to render impracticable the collection of the tax by the 100836
seller in the manner otherwise provided by such sections; nor 100837
shall the authority so granted be exercised, nor the seller 100838
actually selling such products be exempted from sections 5741.01 100839
to 5741.22 of the Revised Code, by virtue of such an 100840
authorization, unless the person to whom such authority is 100841
granted prints plainly upon the product sold, or offered for 100842
sale, a statement to the effect that the tax has been paid in 100843
advance, or otherwise conveys said information to the consumer 100844
by written notice. The commissioner may require security to his 100845
the commissioner's satisfaction to be filed with him the 100846
commissioner, in such amount as he the commissioner determines 100847
to be sufficient to secure the prepayment under the provisions 100848
of this section of the taxes levied by or pursuant to section 100849
5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code in 100850
the manner desired. 100851

Sec. 5741.071. (A) A marketplace seller may request and 100852
shall obtain a waiver from the tax commissioner for a 100853
marketplace facilitator not to be treated as a seller pursuant 100854

to division (E) of section 5741.01 of the Revised Code with 100855
respect to a specific marketplace seller if the following 100856
conditions are met: 100857

(1) The marketplace seller certifies it has annual gross 100858
receipts within the United States, including the gross receipts 100859
of any affiliate, as defined in section 122.15 of the Revised 100860
Code, of at least one billion dollars; 100861

(2) The marketplace seller or its affiliate, as defined in 100862
section 122.15 of the Revised Code, is publicly traded on at 100863
least one major stock exchange; 100864

(3) The marketplace seller is current on all taxes, fees, 100865
and charges administered by the department of taxation that are 100866
not subject to a bona fide dispute; 100867

(4) The marketplace seller has not, within the past twelve 100868
months, requested that a waiver related to the marketplace 100869
facilitator at issue be canceled nor has the waiver been revoked 100870
by the commissioner; and 100871

(5) The marketplace seller has not violated division (B) 100872
of section 5739.30 of the Revised Code. 100873

(B) A marketplace seller shall request a waiver on the 100874
form prescribed by the commissioner. A request for a waiver 100875
shall contain a signed declaration from the marketplace 100876
facilitator acquiescing to the request for a waiver. A waiver 100877
request that is not ruled upon by the commissioner within thirty 100878
days of the date it was filed is deemed granted. A waiver that 100879
is granted by the commissioner or deemed to be granted is 100880
effective on and after the first day of the first month that 100881
begins at least thirty days after the commissioner grants the 100882
waiver or the waiver is deemed granted. The waiver is valid 100883

until the first day of the first month that begins at least 100884
sixty days after it is revoked by the commissioner or cancelled 100885
by the marketplace seller. 100886

(C) (1) If a waiver is granted by the commissioner, the 100887
commissioner shall notify the marketplace seller and the seller 100888
shall be considered the vendor pursuant to division (C) of 100889
section 5739.01 of the Revised Code or a seller pursuant to 100890
division (E) of section 5741.01 of the Revised Code, as 100891
applicable. 100892

(2) A marketplace seller is required to notify the 100893
marketplace facilitator of the status of the waiver of the 100894
marketplace seller. However, if a waiver is denied by the 100895
commissioner, a copy of the denial shall be provided to the 100896
marketplace facilitator. 100897

(3) A marketplace seller that has been issued a waiver 100898
under this section may cancel the waiver by sending notice to 100899
the commissioner and to the marketplace facilitator identified 100900
in the waiver application. The commissioner may revoke a waiver 100901
if the commissioner determines that any of the conditions 100902
described in divisions (A) (1) to (5) of this section are no 100903
longer met by the marketplace seller. The commissioner shall 100904
notify the marketplace seller and the marketplace facilitator 100905
upon revoking a waiver. 100906

(D) Notwithstanding section 5703.21 of the Revised Code, 100907
the commissioner may divulge information related to the status 100908
of the waiver sought by or granted to the marketplace seller for 100909
a particular marketplace facilitator to either the impacted 100910
marketplace seller or marketplace facilitator. 100911

~~(E) The commissioner may promulgate rules the commissioner 100912~~

~~deems necessary to administer this section.~~ 100913

Sec. 5741.072. (A) If all of the following conditions are 100914
met, a delivery network company that facilitates delivery 100915
network services may request a waiver from the requirement in 100916
division (E) of section 5741.01 of the Revised Code that a 100917
marketplace facilitator be treated as the seller of goods sold 100918
by marketplace sellers through the marketplace facilitator: 100919

(1) The delivery network company is current on all taxes, 100920
fees, and charges administered by the department of taxation 100921
that are not subject to a bona fide dispute. 100922

(2) The delivery network company has not, within the 100923
twelve months preceding the request for waiver, requested that a 100924
previously granted waiver be canceled or had a previously 100925
granted waiver revoked by the commissioner. 100926

(3) The delivery network company has not violated division 100927
(B) of section 5739.30 of the Revised Code. 100928

A waiver granted under this section does not affect the 100929
delivery network company's status as the seller of its delivery 100930
network services. 100931

(B) A delivery network company that requests a waiver 100932
pursuant to this section shall make the request to the tax 100933
commissioner on a form prescribed by the commissioner. A waiver 100934
that is not affirmatively granted or denied by the commissioner 100935
within thirty days of the date it was filed with the 100936
commissioner is automatically granted. A waiver that is granted 100937
by the commissioner or granted automatically is effective on and 100938
after the first day of the first month that begins at least 100939
thirty days after the commissioner grants the waiver or the 100940
waiver is automatically granted. The waiver is valid until the 100941

first day of the first month that begins at least sixty days 100942
after it is revoked by the commissioner or canceled by the 100943
delivery network company. 100944

(C) (1) When a waiver is granted pursuant to division (B) 100945
of this section, the commissioner shall notify the delivery 100946
network company, which shall then notify each local merchant 100947
operating on the delivery network company's physical or 100948
electronic marketplace that the local merchant shall be 100949
considered a vendor pursuant to division (C) of section 5739.01 100950
of the Revised Code or a seller pursuant to division (E) of 100951
section 5741.01 of the Revised Code, as applicable, with respect 100952
to the local products sold by the seller through the delivery 100953
network company's physical or electronic marketplace. 100954

(2) A delivery network company that has been granted a 100955
waiver under this section may cancel the waiver by sending 100956
notice to the commissioner. The commissioner may revoke a waiver 100957
if the commissioner determines that any of the conditions 100958
described in divisions (A) (1) to (3) of this section are no 100959
longer met by the delivery network company. The commissioner 100960
shall notify the delivery network company upon revoking a 100961
waiver. A delivery network for which a waiver has been canceled 100962
or revoked shall promptly notify each local merchant operating 100963
on the delivery network company's physical or electronic 100964
marketplace that its waiver has been canceled or revoked. 100965

(D) Notwithstanding section 5703.21 of the Revised Code, 100966
the commissioner may divulge information related to the status 100967
of a waiver granted to a delivery network company if requested 100968
by a local merchant operating on the delivery network company's 100969
physical or electronic marketplace. 100970

~~(E) The commissioner may adopt any rules necessary to~~ 100971

~~administer this section.~~ 100972

Sec. 5743.15. (A) Except as otherwise provided in this 100973
division, no person shall engage in this state in the wholesale 100974
or retail business of trafficking in cigarettes or in the 100975
business of a manufacturer or importer of cigarettes without 100976
having a license to conduct each such activity issued by a 100977
county auditor under division (B) of this section or the tax 100978
commissioner under divisions (C) and (F) of this section. On 100979
dissolution of a partnership by death, the surviving partner may 100980
operate under the license of the partnership until expiration of 100981
the license, and the heirs or legal representatives of deceased 100982
persons, and receivers and trustees in bankruptcy appointed by 100983
any competent authority, may operate under the license of the 100984
person succeeded in possession by such heir, representative, 100985
receiver, or trustee in bankruptcy if the partner or successor 100986
notifies the issuer of the license of the dissolution or 100987
succession within thirty days after the dissolution or 100988
succession. 100989

(B) (1) Each applicant for a license to engage in the 100990
retail business of trafficking in cigarettes under this section, 100991
annually, on or before the first day of June, shall make and 100992
deliver to the county auditor of the county in which the 100993
applicant desires to engage in the retail business of 100994
trafficking in cigarettes, upon a blank form furnished by such 100995
auditor for that purpose, a statement showing the name of the 100996
applicant, each physical place in the county where the 100997
applicant's business is conducted, the nature of the business, 100998
and any other information the tax commissioner requires in the 100999
form of statement prescribed by the commissioner. If the 101000
applicant is a firm, partnership, or association other than a 101001
corporation, the application shall state the name and address of 101002

each of its members. If the applicant is a corporation, the 101003
application shall state the name and address of each of its 101004
officers. At the time of making the application required by this 101005
section, every person desiring to engage in the retail business 101006
of trafficking in cigarettes shall pay an application fee in the 101007
sum of one hundred twenty-five dollars for each physical place 101008
where the person proposes to carry on such business. Each place 101009
of business shall be deemed such space, under lease or license 101010
to, or under the control of, or under the supervision of the 101011
applicant, as is contained in one or more contiguous, adjacent, 101012
or adjoining buildings constituting an industrial plant or a 101013
place of business operated by, or under the control of, one 101014
person, or under one roof and connected by doors, halls, 101015
stairways, or elevators, which space may contain any number of 101016
points at which cigarettes are offered for sale, provided that 101017
each additional point at which cigarettes are offered for sale 101018
shall be listed in the application. 101019

(2) Upon receipt of the application and exhibition of the 101020
county treasurer's receipt showing the payment of the 101021
application fee, the county auditor shall issue to the applicant 101022
a license for each place of business designated in the 101023
application, authorizing the applicant to engage in such 101024
business at such place for one year commencing on the first day 101025
of June. The form of the license shall be prescribed by the 101026
commissioner. A duplicate license may be obtained from the 101027
county auditor upon payment of a five-dollar fee if the original 101028
license is lost, destroyed, or defaced. When an application is 101029
filed after the first day of June, the application fee required 101030
to be paid shall be proportioned in amount to the remainder of 101031
the license year, except that it shall not be less than twenty- 101032
five dollars in any one year. 101033

(3) The holder of a retail dealer's cigarette license may 101034
transfer the license to a place of business within the same 101035
county other than that designated on the license on condition 101036
that the licensee's ownership interest and business structure 101037
remain unchanged, and that the licensee applies to the county 101038
auditor therefor, upon forms approved by the commissioner and 101039
the payment of a fee of five dollars into the county treasury. 101040

(C) (1) Each applicant for a license to engage in the 101041
wholesale business of trafficking in cigarettes under this 101042
section, annually, on or before the first day of June, shall 101043
make and deliver to the tax commissioner, upon a blank form 101044
furnished by the commissioner for that purpose, a statement 101045
showing the name of the applicant, physical street address where 101046
the applicant's business is conducted, the nature of the 101047
business, and any other information required by the 101048
commissioner. If the applicant is a firm, partnership, or 101049
association other than a corporation, the applicant shall state 101050
the name and address of each of its members. If the applicant is 101051
a corporation, the applicant shall state the name and address of 101052
each of its officers. At the time of making the application 101053
required by this section, every person desiring to engage in the 101054
wholesale business of trafficking in cigarettes shall pay an 101055
application fee of one thousand dollars for each physical place 101056
where the person proposes to carry on such business. Each place 101057
of business shall be deemed such space, under lease or license 101058
to, or under the control of, or under the supervision of the 101059
applicant, as is contained in one or more contiguous, adjacent, 101060
or adjoining buildings constituting an industrial plant or a 101061
place of business operated by, or under the control of, one 101062
person, or under one roof and connected by doors, halls, 101063
stairways, or elevators. A duplicate license may be obtained 101064

from the commissioner upon payment of a twenty-five-dollar fee 101065
if the original license is lost, destroyed, or defaced. 101066

(2) Upon receipt of the application and payment of any 101067
application fee required by this section, the commissioner shall 101068
verify that the applicant is not in violation of any provision 101069
of Chapter 1346. or Title LVII of the Revised Code. The 101070
commissioner shall also verify that the applicant has filed any 101071
returns, submitted any information, and paid any outstanding 101072
taxes, charges, or fees as required for any tax, charge, or fee 101073
administered by the commissioner, to the extent that the 101074
commissioner is aware of the returns, information, or payments 101075
at the time of the application. Upon approval, the commissioner 101076
shall issue to the applicant a license for each physical place 101077
of business designated in the application authorizing the 101078
applicant to engage in business at that location for one year 101079
commencing on the first day of June. For licenses issued after 101080
the first day of June, the application fee shall be reduced 101081
proportionately by the remainder of the twelve-month period for 101082
which the license is issued, except that the application fee 101083
required to be paid under this section shall be not less than 101084
two hundred dollars in any one year. 101085

(3) The holder of a wholesale dealer cigarette license may 101086
transfer the license to a place of business other than that 101087
designated on the license on condition that the licensee's 101088
ownership or business structure remains unchanged, and that the 101089
licensee applies to the commissioner for such a transfer upon a 101090
form promulgated by the commissioner and pays a fee of twenty- 101091
five dollars, which shall be deposited into the cigarette tax 101092
enforcement fund created in division (E) of this section. 101093

(D) (1) The wholesale cigarette license application fees 101094

collected under this section shall be paid into the cigarette tax enforcement fund. 101095
101096

(2) The retail cigarette license application fees collected under this section shall be distributed as follows: 101097
101098

(a) Thirty per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the places of business for which the tax revenue was received are located; 101099
101100
101101
101102

(b) Ten per cent shall be credited to the general fund of the county; 101103
101104

(c) Sixty per cent shall be paid into the cigarette tax enforcement fund. 101105
101106

(3) The remainder of the revenues and fines collected under this section and the penal laws relating to cigarettes shall be distributed as follows: 101107
101108
101109

(a) Three-fourths shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business, on account of which the revenues and fines were received, is located; 101110
101111
101112
101113

(b) One-fourth shall be credited to the general fund of the county. 101114
101115

(E) There is hereby created within the state treasury the cigarette tax enforcement fund for the purpose of providing funds to assist in paying the costs of enforcing sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code. 101116
101117
101118
101119

The portion of cigarette license application fees received by a county auditor during the annual application period that ends on the first day of June and that is required to be 101120
101121
101122

deposited in the cigarette tax enforcement fund shall be sent to 101123
the tax commissioner by the thirtieth day of June each year 101124
accompanied by the form prescribed by the tax commissioner. The 101125
portion of cigarette license application fees received by each 101126
county auditor after the first day of June and that is required 101127
to be deposited in the cigarette tax enforcement fund shall be 101128
sent to the commissioner by the last day of the month following 101129
the month in which such fees were collected. 101130

(F) (1) Every person who desires to engage in the business 101131
of a manufacturer or importer of cigarettes shall, annually, on 101132
or before the first day of June, make and deliver to the tax 101133
commissioner, upon a blank form furnished by the commissioner 101134
for that purpose, a statement showing the name of the applicant, 101135
the nature of the applicant's business, and any other 101136
information required by the commissioner. If the applicant is a 101137
firm, partnership, or association other than a corporation, the 101138
applicant shall state the name and address of each of its 101139
members. If the applicant is a corporation, the applicant shall 101140
state the name and address of each of its officers. 101141

(2) Upon receipt of the application required under this 101142
section, the commissioner shall verify that the applicant is not 101143
in violation of any provision of Chapter 1346. of the Revised 101144
Code. The commissioner shall also verify that the applicant has 101145
filed any returns, submitted any information, and paid any 101146
outstanding taxes, charges, or fees as required for any tax, 101147
charge, or fee administered by the commissioner, to the extent 101148
that the commissioner is aware of the returns, information, 101149
taxes, charges, or fees at the time of the application. Upon 101150
approval, the commissioner shall issue to the applicant a 101151
license authorizing the applicant to engage in the business of 101152
manufacturer or importer, whichever the case may be, for one 101153

year commencing on the first day of June. 101154

(3) The issuing of a license under division (F)(1) of this 101155
section to a manufacturer does not excuse a manufacturer from 101156
the certification process required under section 1346.05 of the 101157
Revised Code. A manufacturer who is issued a license under 101158
division (F)(1) of this section and who is not listed on the 101159
directory required under section 1346.05 of the Revised Code 101160
shall not be permitted to sell cigarettes in this state other 101161
than to a licensed cigarette wholesaler for sale outside this 101162
state. Such a manufacturer shall provide documentation to the 101163
commissioner evidencing that the cigarettes are legal for sale 101164
in another state. 101165

~~(G) The tax commissioner may adopt rules necessary to 101166
administer this section. 101167~~

Sec. 5743.51. (A) To provide revenue for the general 101168
revenue fund of the state, an excise tax on tobacco products and 101169
vapor products is hereby levied at one of the following rates: 101170

(1) For tobacco products other than little cigars or 101171
premium cigars, seventeen per cent of the wholesale price of the 101172
tobacco product received by a distributor or sold by a 101173
manufacturer to a retail dealer located in this state. 101174

(2) Thirty-seven per cent of the wholesale price of little 101175
cigars received by a distributor or sold by a manufacturer to a 101176
retail dealer located in this state. 101177

(3) For premium cigars received by a distributor or sold 101178
by a manufacturer to a retail dealer located in this state, the 101179
lesser of seventeen per cent of the wholesale price of such 101180
premium cigars or the maximum tax amount per each such premium 101181
cigar. 101182

(4) For vapor products, one cent multiplied by the vapor volume of vapor products the first time the products are received by a vapor distributor in this state.

Each distributor or vapor distributor who brings tobacco products or vapor products, or causes tobacco products or vapor products to be brought, into this state for distribution within this state, or any out-of-state distributor or vapor distributor who sells tobacco products or vapor products to wholesale or retail dealers located in this state for resale by those wholesale or retail dealers is liable for the tax imposed by this section. Only one sale of the same article shall be used in computing the amount of the tax due. If a vapor product is repackaged, reconstituted, diluted, or reprocessed, the subsequent sale of that vapor product shall be considered another sale of the same article for purposes of computing the amount of tax due.

(B) The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of the receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to section 5743.53 of the Revised Code. The balance of the taxes collected under this section shall be paid into the general revenue fund.

~~(C) The commissioner may adopt rules as are necessary to assist in the enforcement and administration of sections 5743.51 to 5743.66 of the Revised Code, including rules providing for the remission of penalties imposed.~~

(D) A manufacturer is not liable for payment of the tax imposed by this section for sales of tobacco products or vapor products to a retail dealer that has filed a signed statement

with the manufacturer in which the retail dealer agrees to pay 101213
and be liable for the tax, as long as the manufacturer has 101214
provided a copy of the statement to the tax commissioner. 101215

Sec. 5745.15. (A) Each taxpayer shall make its records, 101216
documents, returns, and reports open to inspection by the tax 101217
commissioner during normal business hours, and shall preserve 101218
those records, documents, returns, and reports for a period of 101219
three years after the date the return or report, or return or 101220
report to which such a record or document pertains, was required 101221
to be filed or actually was filed, whichever is later. The tax 101222
commissioner may consent in writing to the destruction of such 101223
records, documents, returns, or reports within that three-year 101224
period. 101225

(B) The tax commissioner shall administer and enforce this 101226
chapter. In addition to any other powers conferred by law on the 101227
tax commissioner, the tax commissioner may prescribe all forms 101228
required to be filed under those sections, ~~adopt rules that, in~~ 101229
~~the opinion of the tax commissioner, are necessary to carry out~~ 101230
~~those sections,~~ and appoint and employ such personnel as may be 101231
necessary to carry out the tax commissioner's duties under those 101232
sections. 101233

Sec. 5747.026. (A) For taxable years beginning on or after 101234
January 1, 2002, each member of the national guard and each 101235
member of a reserve component of the armed forces of the United 101236
States called to active duty pursuant to an executive order 101237
issued by the president of the United States or an act of the 101238
congress of the United States may apply to the tax commissioner 101239
for both an extension for filing of the return and an extension 101240
of time for payment of taxes required under this chapter and 101241
under Chapter 5748. of the Revised Code during the period of the 101242

member's duty service and for sixty days thereafter. The 101243
application shall be filed on or before the sixtieth day after 101244
the member's duty terminates. An applicant shall provide such 101245
evidence as the tax commissioner considers necessary to 101246
demonstrate eligibility for the extension. 101247

(B) (1) If the tax commissioner ascertains that an 101248
applicant is qualified for an extension under this section, the 101249
tax commissioner shall enter into a contract with the applicant 101250
for the payment of the tax in installments that begin on the 101251
sixty-first day after the applicant's active duty terminates. 101252
Except as provided in division (B) (3) of this section, the tax 101253
commissioner may prescribe such contract terms as the tax 101254
commissioner considers appropriate. If the amount owed is two 101255
thousand four hundred dollars or less, the contract shall be for 101256
not longer than twelve months. If the amount owed is more than 101257
two thousand four hundred dollars, the contract shall be for not 101258
longer than twenty-four months. 101259

(2) If the tax commissioner ascertains that an applicant 101260
is qualified for an extension under this section, the applicant 101261
shall neither be required to file any return, report, or other 101262
tax document nor be required to pay any tax otherwise due under 101263
this chapter and Chapter 5748. of the Revised Code before the 101264
sixty-first day after the applicant's active duty terminates. 101265

(3) Taxes paid pursuant to a contract entered into under 101266
division (B) (1) of this section are not delinquent. The tax 101267
commissioner shall not require any payments of penalties, 101268
interest penalties, or interest in connection with those taxes 101269
for the extension period. 101270

(C) (1) Nothing in this division denies to any person 101271
described in this division the application of divisions (A) and 101272

(B) of this section. 101273

(2) (a) A qualifying taxpayer who is eligible for an 101274
extension under the Internal Revenue Code shall receive both an 101275
extension of time in which to file any return, report, or other 101276
tax document described in this chapter and an extension of time 101277
in which to make any payment of taxes required under this 101278
chapter and Chapter 5748. of the Revised Code. The length of any 101279
extension granted under division (C) (2) (a) of this section shall 101280
be equal to the length of the corresponding extension that the 101281
taxpayer receives under the Internal Revenue Code. As used in 101282
this section, "qualifying taxpayer" means a member of the 101283
national guard, or a member of the reserve component of the 101284
armed forces of the United States, who is called to active duty 101285
pursuant to either an executive order issued by the president of 101286
the United States or an act of the congress of the United 101287
States. 101288

(b) Taxes whose payment is extended in accordance with 101289
division (C) (2) (a) of this section are not delinquent during the 101290
extension period. The tax commissioner shall not require any 101291
payment of penalties, interest penalties, or interest in 101292
connection with those taxes for the extension period. The tax 101293
commissioner shall not include any period of extension granted 101294
under division (C) (2) (a) of this section in calculating the 101295
penalty, interest penalty, or interest due on any unpaid tax. 101296

(D) For each taxable year to which division (A), (B), or 101297
(C) of this section applies to a taxpayer, the provisions of 101298
divisions (B) (2) and (3) or (C) of this section, as applicable, 101299
apply to the spouse of that taxpayer if the filing status of the 101300
spouse and the taxpayer is married filing jointly for that year. 101301

(E) The tax commissioner may adopt rules ~~necessary to~~ 101302

~~administer this section, including rules~~ establishing the 101303
following: 101304

(1) Forms and procedures by which applicants may apply for 101305
extensions; 101306

(2) Criteria for eligibility; 101307

(3) A schedule for repayment of deferred taxes. 101308

Sec. 5747.063. The requirements imposed under this section 101309
are in addition to the municipal income tax withholding 101310
requirements under section 718.031 of the Revised Code. As used 101311
in this section, "sports gaming proprietor" and "sports gaming 101312
facility" have the same meanings as in section 3775.01 of the 101313
Revised Code. 101314

(A) (1) Subject to division (F) of this section, if a 101315
person's winnings from casino gaming or from sports gaming are 101316
an amount for which reporting to the internal revenue service of 101317
the amount is required by section 6041 of the Internal Revenue 101318
Code, as amended, a casino operator or sports gaming proprietor 101319
shall deduct and withhold Ohio income tax from the person's 101320
winnings at a rate of three and one-eighth per cent for calendar 101321
year 2025, after ~~the effective date of this amendment~~September 101322
30, 2025, and two and three-quarters per cent for calendar year 101323
2026 and thereafter of the amount won. A person's amount of 101324
winnings from casino gaming shall be determined each time the 101325
person exchanges amounts won in tokens, chips, casino credit, or 101326
other prepaid representations of value for cash or a cash 101327
equivalent. The casino operator or sports gaming proprietor 101328
shall issue, to a person from whose winnings an amount has been 101329
deducted and withheld, a receipt for the amount deducted and 101330
withheld, and also shall obtain from the person additional 101331

information that will be necessary for the casino operator or 101332
sports gaming proprietor to prepare the returns required by this 101333
section. 101334

(2) If a person's winnings from casino gaming or sports 101335
gaming require reporting to the internal revenue service under 101336
division (A) (1) of this section, the casino operator or sports 101337
gaming proprietor also shall require the person to state in 101338
writing, under penalty of falsification, whether the person is 101339
in default under a support order. 101340

(B) Amounts deducted and withheld by a casino operator or 101341
sports gaming proprietor are held in trust for the benefit of 101342
the state. 101343

(1) On or before the tenth day of each month, the casino 101344
operator or sports gaming proprietor shall file a return 101345
electronically with the tax commissioner identifying the persons 101346
from whose winnings amounts were deducted and withheld, the 101347
amount of each such deduction and withholding during the 101348
preceding calendar month, the amount of the winnings from which 101349
each such amount was withheld, the type of casino gaming or 101350
sports gaming that resulted in such winnings, and any other 101351
information required by the tax commissioner. With the return, 101352
the casino operator or sports gaming proprietor shall remit 101353
electronically to the commissioner all the amounts deducted and 101354
withheld during the preceding month. 101355

(2) (a) A casino operator or sports gaming proprietor shall 101356
maintain a record of each written statement provided under 101357
division (A) (2) of this section in which a person admits to 101358
being in default under a support order. The casino operator or 101359
sports gaming proprietor shall make these records available to 101360
the director of job and family services upon request. 101361

(b) A casino operator or sports gaming proprietor shall 101362
maintain copies of receipts issued under division (A) (1) of this 101363
section and of written statements provided under division (A) (2) 101364
of this section and shall make these copies available to the tax 101365
commissioner upon request. 101366

(c) A casino operator or sports gaming proprietor shall 101367
maintain the information described in divisions (B) (2) (a) and 101368
(b) of this section in accordance with section 5747.17 of the 101369
Revised Code and any rules adopted pursuant thereto. 101370

(3) Annually, on or before the thirty-first day of 101371
January, a casino operator or sports gaming proprietor shall 101372
file an annual return electronically with the tax commissioner 101373
indicating the total amount deducted and withheld during the 101374
preceding calendar year. The casino operator or sports gaming 101375
proprietor shall remit electronically with the annual return any 101376
amount that was deducted and withheld and that was not 101377
previously remitted. If the identity of a person and the amount 101378
deducted and withheld with respect to that person were omitted 101379
on a monthly return, that information shall be indicated on the 101380
annual return. 101381

(4) (a) A casino operator or sports gaming proprietor who 101382
fails to file a return and remit the amounts deducted and 101383
withheld is personally liable for the amount deducted and 101384
withheld and not remitted. The commissioner may impose a penalty 101385
up to one thousand dollars if a return is filed late, if amounts 101386
deducted and withheld are remitted late, if a return is not 101387
filed, or if amounts deducted and withheld are not remitted. 101388
Interest accrues on past due amounts deducted and withheld at 101389
the rate prescribed in section 5703.47 of the Revised Code. The 101390
commissioner may collect past due amounts deducted and withheld 101391

and penalties and interest thereon by assessment under section 101392
5747.13 of the Revised Code as if they were income taxes 101393
collected by an employer. 101394

(b) If a casino operator or sports gaming proprietor sells 101395
the casino facility or sports gaming facility, or otherwise 101396
quits the casino or sports gaming business, the amounts deducted 101397
and withheld and any penalties and interest thereon are 101398
immediately due and payable. The successor shall withhold an 101399
amount of the purchase money that is sufficient to cover the 101400
amounts deducted and withheld and penalties and interest thereon 101401
until the predecessor casino operator or sports gaming 101402
proprietor produces either a receipt from the commissioner 101403
showing that the amounts deducted and withheld and penalties and 101404
interest thereon have been paid or a certificate from the 101405
commissioner indicating that no amounts deducted and withheld or 101406
penalties and interest thereon are due. If the successor fails 101407
to withhold purchase money, the successor is personally liable 101408
for payment of the amounts deducted and withheld and penalties 101409
and interest thereon, up to the amount of the purchase money. 101410

(C) Annually, on or before the thirty-first day of 101411
January, a casino operator or sports gaming proprietor shall 101412
issue an information return to each person with respect to whom 101413
an amount has been deducted and withheld during the preceding 101414
calendar year. The information return shall show the total 101415
amount deducted from the person's winnings by the casino 101416
operator or sports gaming proprietor during the preceding 101417
calendar year. 101418

(D) Amounts deducted and withheld shall be allowed as a 101419
credit against payment of the tax imposed by section 5747.02 of 101420
the Revised Code and shall be treated as taxes paid for purposes 101421

of section 5747.09 of the Revised Code. This division applies 101422
only to the person for whom the amount is deducted and withheld. 101423

(E) The failure of a casino operator or sports gaming 101424
proprietor to deduct and withhold the required amount from a 101425
person's winnings does not relieve the person from liability for 101426
the tax imposed by section 5747.02 of the Revised Code with 101427
respect to those winnings. And compliance with this section does 101428
not relieve a casino operator or sports gaming proprietor or a 101429
person who has winnings from casino gaming or sports gaming from 101430
compliance with relevant provisions of federal tax laws. 101431

(F) A sports gaming proprietor that offers lottery sports 101432
gaming through a terminal described in division (B) (3) of 101433
section 3770.24 of the Revised Code shall not withhold amounts 101434
under this section from winnings from wagers placed through that 101435
terminal. The state lottery commission shall withhold amounts 101436
from those winnings under section 5747.062 of the Revised Code. 101437

(G) The commissioner shall prescribe the form of the 101438
receipt and returns required by this section. The director of 101439
job and family services shall prescribe the form of the 101440
statement required by this section. 101441

~~(H) The commissioner may adopt rules that are necessary to 101442
administer this section. 101443~~

Sec. 5747.064. The requirements imposed under this section 101444
are in addition to the municipal income tax withholding 101445
requirements under section 718.031 of the Revised Code. 101446

(A) As used in this section, "video lottery sales agent" 101447
has the same meaning as in section 3770.10 of the Revised Code. 101448

(B) If a person's prize award from a video lottery 101449
terminal is an amount for which reporting to the internal 101450

revenue service of the amount is required by section 6041 of the 101451
Internal Revenue Code, as amended, the video lottery sales agent 101452
shall deduct and withhold Ohio income tax from the person's 101453
prize award at a rate of three and one-eighth per cent for 101454
calendar year 2025, after ~~the effective date of this~~ 101455
~~amendment~~ September 30, 2025, and two and three-quarters per cent 101456
for calendar year 2026 and thereafter of the amount won. The 101457
video lottery sales agent shall issue, to a person from whose 101458
prize award an amount has been deducted or withheld, a receipt 101459
for the amount deducted and withheld, and also shall obtain from 101460
the person additional information that will be necessary for the 101461
video lottery sales agent to prepare the returns required by 101462
this section. 101463

(C) Amounts deducted and withheld by a video lottery sales 101464
agent are held in trust for the benefit of the state. 101465

(1) On or before the tenth day of each month, the video 101466
lottery sales agent shall file a return electronically with the 101467
tax commissioner identifying the persons from whose prize awards 101468
amounts were deducted and withheld, the amount of each such 101469
deduction and withholding during the preceding month, the amount 101470
of the prize award from which each such amount was withheld, and 101471
any other information required by the commissioner. With the 101472
return, the video lottery sales agent shall remit electronically 101473
to the commissioner all the amounts deducted and withheld during 101474
the preceding month. 101475

(2) A video lottery sales agent shall maintain a record of 101476
all receipts issued under division (B) of this section and shall 101477
make those records available to the commissioner upon request. 101478
Such records shall be maintained in accordance with section 101479
5747.17 of the Revised Code and any rules adopted pursuant 101480

thereto. 101481

(3) Annually, on or before the thirty-first day of 101482
January, a video lottery sales agent shall file an annual return 101483
electronically with the tax commissioner indicating the total 101484
amount deducted and withheld during the preceding calendar year. 101485
The video lottery sales agent shall remit electronically with 101486
the annual return any amount that was deducted and withheld and 101487
that was not previously remitted. If the identity of a person 101488
and the amount deducted and withheld with respect to that person 101489
were omitted on a monthly return, that information shall be 101490
indicated on the annual return. 101491

(4) (a) A video lottery sales agent who fails to file a 101492
return and remit the amounts deducted and withheld is personally 101493
liable for the amount deducted and withheld and not remitted. 101494
The commissioner may impose a penalty of up to one thousand 101495
dollars if a return is filed late, if amounts deducted and 101496
withheld are remitted late, if a return is not filed, or if 101497
amounts deducted and withheld are not remitted. Interest accrues 101498
on past due amounts deducted and withheld at the rate prescribed 101499
in section 5703.47 of the Revised Code. The commissioner may 101500
collect past due amounts deducted and withheld and penalties and 101501
interest thereon by assessment under section 5747.13 of the 101502
Revised Code as if they were income taxes collected by an 101503
employer. 101504

(b) If a video lottery sales agent ceases to operate video 101505
lottery terminals, the amounts deducted and withheld and any 101506
penalties and interest thereon are immediately due and payable. 101507
A successor of the video lottery sales agent that purchases the 101508
video lottery terminals from the agent shall withhold an amount 101509
of the purchase money that is sufficient to cover the amounts 101510

deducted and withheld and penalties and interest thereon until 101511
the predecessor video lottery sales agent produces either a 101512
receipt from the tax commissioner showing that the amounts 101513
deducted and withheld and penalties and interest thereon have 101514
been paid or a certificate from the commissioner indicating that 101515
no amounts deducted and withheld or penalties and interest 101516
thereon are due. If the successor fails to withhold purchase 101517
money, the successor is personally liable for payment of the 101518
amounts deducted and withheld and penalties and interest 101519
thereon, up to the amount of the purchase money. 101520

(D) Annually, on or before the thirty-first day of 101521
January, a video lottery sales agent shall issue an information 101522
return to each person with respect to whom an amount has been 101523
deducted and withheld during the preceding calendar year. The 101524
information return shall show the total amount deducted from the 101525
person's prize award by the video lottery sales agent during the 101526
preceding year. 101527

(E) Amounts deducted and withheld shall be allowed as a 101528
credit against payment of the tax imposed by section 5747.02 of 101529
the Revised Code and shall be treated as taxes paid for purposes 101530
of section 5747.09 of the Revised Code. This division applies 101531
only to the person for whom the amount is deducted and withheld. 101532

(F) The failure of a video lottery sales agent to deduct 101533
and withhold the required amount from a person's prize award 101534
does not relieve the person from liability for the tax imposed 101535
by section 5747.02 of the Revised Code with respect to that 101536
income. Compliance with this section does not relieve a video 101537
lottery sales agent or a person who has a prize award from 101538
compliance with relevant provisions of federal tax laws. 101539

(G) The commissioner shall prescribe the form of the 101540

receipt and returns required by this section ~~and may promulgate~~ 101541
~~any rules necessary to administer the section.~~ 101542

Sec. 5747.065. (A) If a taxpayer has elected under section 101543
4141.321 of the Revised Code to have the director of job and 101544
family services deduct and withhold state income tax from the 101545
unemployment compensation benefits payable to the taxpayer, the 101546
director shall deduct and withhold such tax at the rate or rates 101547
that the director shall prescribe in consultation with the tax 101548
commissioner. 101549

(B) (1) On or before the tenth day of each month, the 101550
director of job and family services shall file a return 101551
electronically with the tax commissioner, in the form prescribed 101552
by the commissioner. With the return, the director shall remit 101553
electronically to the commissioner all the amounts deducted and 101554
withheld under this section during the preceding month. 101555

(2) On or before the thirty-first day of January of each 101556
year, beginning in 2026, the director shall electronically file 101557
an annual return with the commissioner, in the form prescribed 101558
by the commissioner, indicating the total amount deducted and 101559
withheld under this section during the preceding calendar year. 101560
At the time of filing that return, the director shall remit any 101561
amount deducted and withheld during the preceding calendar year 101562
that was not previously remitted. 101563

(3) Annually, on or before the thirty-first day of 101564
January, the director shall issue an information return to each 101565
taxpayer with respect to whom an amount has been deducted and 101566
withheld under this section during the preceding calendar year. 101567
The information return shall show the total amount deducted from 101568
the taxpayer's unemployment compensation benefits during the 101569
preceding calendar year and any other information the tax 101570

commissioner requires. If the director is required under the 101571
Internal Revenue Code to report federal income tax deducted and 101572
withheld from unemployment compensation benefits, then the 101573
director may report the information required under this section 101574
on that report, as authorized by the Internal Revenue Code. 101575

(4) Annually, on or before the thirty-first day of 101576
January, beginning in 2026, the director shall provide to the 101577
commissioner a copy of each information return issued under 101578
division (B) (3) of this section for the preceding calendar year. 101579
The commissioner may require that the copies be transmitted 101580
electronically. 101581

(C) Failure of the director to deduct and withhold the 101582
required amounts from unemployment compensation benefits or to 101583
remit amounts withheld as required by this section does not 101584
relieve a taxpayer from liability for the tax imposed by section 101585
5747.02 of the Revised Code. 101586

~~(D) The director of job and family services may adopt 101587
rules as necessary to administer this section. 101588~~

Sec. 5747.12. (A) If a person entitled to a refund under 101589
section 5747.11 or 5747.13 of the Revised Code is indebted for 101590
any of the following, the amount refundable may be applied in 101591
satisfaction of the debt: 101592

(1) To this state for any tax, workers' compensation 101593
premium due under section 4123.35 of the Revised Code, or 101594
unemployment compensation contribution due under section 4141.25 101595
of the Revised Code; 101596

(2) To the state or a political subdivision for a 101597
certified claim under section 131.02 or 131.021 of the Revised 101598
Code or a finding for recovery included in a certified report 101599

that has been filed with the attorney general pursuant to 101600
sections 117.28 and 117.30 of the Revised Code; 101601

(3) For a fee that is paid to the state or to the clerk of 101602
courts pursuant to section 4505.06 of the Revised Code; 101603

(4) For any charge, penalty, collection cost, or interest 101604
arising from a debt listed in divisions (A) (1) to (3) of this 101605
section. 101606

(B) If the amount refundable is less than the amount of 101607
the debt owed under division (A) of this section, it may be 101608
applied in partial satisfaction of the debt. If the amount 101609
refundable is greater than the amount of that debt, the amount 101610
remaining after satisfaction of the debt shall be refunded. If 101611
the person has more than one debt listed in division (A) of this 101612
section, any debt subject to section 5739.33 or division (G) of 101613
section 5747.07 of the Revised Code or arising under section 101614
5747.063 or 5747.064 of the Revised Code shall be satisfied 101615
first. 101616

(C) Except as provided in section 131.021 of the Revised 101617
Code, this section applies only to debts that have become final. 101618

(D) The tax commissioner may charge each respective agency 101619
of the state for the commissioner's cost in applying refunds to 101620
debts due to the state and may charge the attorney general for 101621
the commissioner's cost in applying refunds to certified claims. 101622

(E) The commissioner may ~~promulgate~~ adopt rules ~~to~~ 101623
~~implement this section. The rules may to address, among other~~ 101624
~~things,~~ situations such as those where persons may jointly be 101625
entitled to a refund but do not jointly owe a debt or certified 101626
claim. 101627

(F) The commissioner may, with the consent of the 101628

taxpayer, provide for the crediting, against tax imposed under 101629
this chapter or Chapter 5748. of the Revised Code and due for 101630
any taxable year, of the amount of any refund due the taxpayer 101631
under this chapter or Chapter 5748. of the Revised Code, as 101632
appropriate, for a preceding taxable year. 101633

Sec. 5747.121. (A) In accordance with sections 3123.821 to 101634
~~3123.823~~ 3123.822 of the Revised Code, the tax commissioner 101635
shall cooperate with the department of job and family services 101636
in establishing and then implementing procedures for the 101637
collection of overdue child support from refunds of paid state 101638
income taxes under this chapter that are payable to obligors. 101639
The tax commissioner shall deposit money collected from such 101640
refunds into the child support intercept fund. 101641

(B) At the request of the department of job and family 101642
services in connection with the collection of overdue child 101643
support from a refund of paid state income taxes pursuant to 101644
sections 3123.821 to ~~3123.823~~ 3123.822 of the Revised Code and 101645
division (A) of this section, the tax commissioner shall release 101646
to the department the home address and social security number of 101647
any obligor whose overdue child support may be collected from a 101648
refund of paid state income taxes pursuant to sections 3123.821 101649
to ~~3123.823~~ 3123.822 of the Revised Code and division (A) of 101650
this section. 101651

(C) In the case of persons filing a joint income tax 101652
return, the amount of the refund available for the collection of 101653
overdue child support shall be based on the proportion of the 101654
refund due to the obligor only. Any obligor's spouse who objects 101655
to the amount of the refund to be used for the collection of 101656
overdue child support may file a complaint with the tax 101657
commissioner within twenty-one days after receiving notice of 101658

the collection. The commissioner shall afford a complainant an opportunity to be heard. The burden of proving an error by the commissioner in determining the amount of a refund to be used for the collection of overdue child support shall be on the complainant.

(D) There is hereby created in the state treasury the child support intercept fund, which shall consist of moneys paid into it by the tax commissioner under division (A) of this section. Moneys in the fund shall be disbursed pursuant to vouchers approved by the director of job and family services for use by the division of child support to meet the requirements of section 666 of Title IV-D of the "Social Security Act," 98 Stat. 1306 (1975), 42 U.S.C. 666, as amended, and any rules promulgated under Title IV-D. Moneys appropriated from the fund are not intended to replace other moneys appropriated for this purpose.

(E) As used in this section, "obligor" has the same meaning as in section 3123.82 of the Revised Code.

Sec. 5747.123. (A) As used in this section:

(1) "Obligee" and "obligor" have the same meanings as in section 3119.01 of the Revised Code;

(2) "Overpaid child support" has the same meaning as in section 3123.82 of the Revised Code.

(B) In accordance with sections 3123.821 to ~~3123.823~~ 3123.822 of the Revised Code, the tax commissioner shall cooperate with the department of job and family services in establishing and implementing procedures for the collection of overpaid child support from refunds of paid state income taxes under this chapter that are payable to obligees. The tax

commissioner shall collect the refunds and send the amounts to 101688
the department of job and family services for distribution to 101689
obligors who made the overpayment. 101690

(C) In the case of persons filing a joint income tax 101691
return, the amount of the refund available for the collection of 101692
overpaid child support shall be based on the proportion of the 101693
refund due the obligee only. An obligee's spouse who objects to 101694
the amount of the refund to be used for the collection of 101695
overpaid child support may file a complaint with the tax 101696
commissioner within twenty-one days after receiving notice of 101697
the collection. The commissioner shall afford a complainant an 101698
opportunity to be heard. The burden of proving an error by the 101699
commissioner in determining the amount of the refund to be used 101700
for the collection of overpaid child support shall be on the 101701
complainant. 101702

Sec. 5747.18. The tax commissioner shall enforce and 101703
administer this chapter. In addition to any other powers 101704
conferred upon the commissioner by law, the commissioner may: 101705

(A) Prescribe all forms required to be filed pursuant to 101706
this chapter; 101707

~~(B) Adopt such rules as the commissioner finds necessary-~~ 101708
~~to carry out this chapter;~~ 101709

~~(C) Appoint and employ such personnel as are necessary to~~ 101710
~~carry out the duties imposed upon the commissioner by this~~ 101711
~~chapter.~~ 101712

Any information gained as the result of returns, 101713
investigations, hearings, or verifications required or 101714
authorized by this chapter is confidential, and no person shall 101715
disclose such information, except for official purposes, or as 101716

provided by section 3125.43, 4123.271, 4123.591, 4141.163, 101717
4141.28, 4507.023, 5101.182, or 5703.21 of the Revised Code, or 101718
in accordance with a proper judicial order. The tax commissioner 101719
may furnish the internal revenue service with copies of returns 101720
or reports filed and may furnish the officer of a municipal 101721
corporation charged with the duty of enforcing a tax subject to 101722
Chapter 718. of the Revised Code with the names, addresses, and 101723
identification numbers of taxpayers who may be subject to such 101724
tax. A municipal corporation shall use this information for tax 101725
collection purposes only. This section does not prohibit the 101726
publication of statistics in a form which does not disclose 101727
information with respect to individual taxpayers. 101728

Sec. 5747.38. (A) As used in this section and section 101729
5747.39 of the Revised Code and in other sections of Chapter 101730
5747. of the Revised Code in the context of the tax imposed 101731
under this section: 101732

(1) "Electing pass-through entity" means a qualifying 101733
pass-through entity that elects to be subject to the tax levied 101734
under this section for a taxable year pursuant to division (C) 101735
of this section. 101736

(2) "Owner" means a person that is a partner, member, 101737
shareholder, or investor in an electing pass-through entity for 101738
any portion of the taxable year. 101739

(3) "Income" means the sum of owners' distributive shares 101740
of the income, gain, expense, or loss of an electing pass- 101741
through entity for the taxable year, as reported for federal 101742
income tax purposes. 101743

(4) "Qualifying taxable income" means the sum of the 101744
following: 101745

(a) The portion of an electing pass-through entity's income that is business income, subject to the applicable adjustments in divisions (A) (2) to (7) of section 5733.40 of the Revised Code, multiplied by the fraction described in division (B) (1) of that section;

(b) The portion of the electing pass-through entity's income that is nonbusiness income allocated to this state under section 5747.20 of the Revised Code. (B) For the same purposes for which the tax is levied under section 5747.02 of the Revised Code, a tax is hereby levied on each electing pass-through entity on the entity's qualifying taxable income for the taxable year, at the following rates:

(1) For an electing pass-through entity's taxable year that begins in 2022, five per cent;

(2) For an electing pass-through entity's taxable year that begins in 2023 and in any year thereafter, the rate equal to the tax rate imposed on taxable business income under division (A) (4) (a) of section 5747.02 of the Revised Code applicable to that taxable year.

(C) A pass-through entity that is not a disregarded entity, as defined in section 5733.01 of the Revised Code, may elect to be subject to the tax levied under this section by filing with the tax commissioner a form prescribed by the commissioner making such election on or before the deadline to file the return under section 5747.42 of the Revised Code for the taxable year. Such election applies only to the taxable year for which the election is made and is, once made, irrevocable for that year.

(D) Except as otherwise provided in this division, the tax

levied under this section shall be calculated without regard to 101775
any deductions or credits otherwise permitted to be claimed by 101776
an owner of the electing pass-through entity in computing the 101777
owner's aggregate tax liability under section 5747.02 of the 101778
Revised Code. In calculating its tax due under this section, an 101779
electing pass-through entity may claim the refundable credits 101780
authorized under section 5747.059 or 5747.39 of the Revised Code 101781
or division (I) of section 5747.08 of the Revised Code if that 101782
credit is available to one or more of the entity's owners as if 101783
the entity were the owner or owners. 101784

(E) The tax levied under this section is intended to 101785
comply with the provisions of internal revenue service notice 101786
2020-75 in which such tax paid by an electing pass-through 101787
entity is deductible to the entity for federal income tax 101788
purposes. 101789

(F) The tax commissioner shall adopt rules ~~to administer~~ 101790
~~the tax levied under this section. Such rules shall include a~~ 101791
~~description of~~ describing how the adjustments to income under 101792
divisions (A) (36) and (S) (15) of section 5747.01 of the Revised 101793
Code and the credit under section 5747.39 of the Revised Code 101794
apply to direct or indirect owners of an electing pass-through 101795
entity based on various ownership structures. Any rule adopted 101796
under this section is not a regulatory restriction for the 101797
purpose of section 121.95 of the Revised Code. 101798

Sec. 5747.73. (A) As used in this section, "scholarship 101799
granting organization" means an entity that is certified as such 101800
by the attorney general under division (C) of this section. 101801

(B) There is hereby allowed a nonrefundable credit against 101802
a taxpayer's aggregate tax liability under section 5747.02 of 101803
the Revised Code for a taxpayer that donates cash to scholarship 101804

granting organizations during the taxable year or on or before 101805
the due date, unextended under division (G) of section 5747.08 101806
of the Revised Code, for filing the tax return for the taxable 101807
year as described in that division. A credit may not be claimed 101808
for two taxable years on the basis of the same contribution. The 101809
credit shall equal the amount of cash donations made by the 101810
taxpayer and, if filing a joint return, the taxpayer's spouse, 101811
except that the credit shall not exceed, for any taxable year, 101812
one thousand five hundred dollars for spouses filing a joint 101813
return or seven hundred fifty dollars for all other taxpayers. 101814
If a taxpayer files a joint return, the credit amount 101815
attributable to donations made by each spouse shall not exceed 101816
seven hundred fifty dollars. The credit shall be claimed in the 101817
order required under section 5747.98 of the Revised Code. 101818

If the taxpayer is a direct or indirect investor in a 101819
pass-through entity that donates cash to scholarship granting 101820
organizations during the taxable year, the taxpayer may claim 101821
its proportionate or distributive share of the credit allowed 101822
under this section, except that the share that may be claimed by 101823
all such investors may not exceed seven hundred fifty dollars 101824
for any taxable year. 101825

The credit authorized by this section is not allowed 101826
unless the taxpayer claiming the credit provides to the tax 101827
commissioner, in the form and manner required by the 101828
commissioner, a copy of a receipt or other document issued by 101829
the scholarship granting organization acknowledging the 101830
taxpayer's contribution to the organization and the amount of 101831
the contribution. The commissioner may require a taxpayer to 101832
furnish any other information necessary to support a claim for 101833
the credit. No credit shall be allowed unless a copy of such 101834
document or other required information is provided. 101835

(C) An entity may apply to the attorney general, on forms 101836
and in the manner prescribed by the attorney general, to be 101837
certified so that contributions to the entity qualify for the 101838
tax credit authorized under this section. The attorney general 101839
shall certify an entity as a scholarship granting organization 101840
if the entity submits information and documentation, to the 101841
attorney general's satisfaction, establishing that the entity 101842
satisfies the following: 101843

(1) It is a religious or nonreligious nonprofit 101844
organization exempt from federal taxation under section 501(a) 101845
of the Internal Revenue Code as an organization described in 101846
section 501(c) (3) of the Internal Revenue Code. 101847

(2) It primarily awards academic scholarships for primary 101848
and secondary school students. 101849

(3) It prioritizes awarding its scholarships to low-income 101850
primary and secondary school students. 101851

The attorney general shall notify the applicant of the 101852
attorney general's determination within thirty days after the 101853
attorney general receives the application. The attorney general 101854
shall maintain a list of all scholarship granting organizations. 101855
As soon as is practicable after compiling or updating this list, 101856
the attorney general shall furnish the list to the tax 101857
commissioner, who shall post the list or updated list to the 101858
department of taxation's web site. 101859

The attorney general shall adopt rules necessary to 101860
determine eligibility for ~~and administer~~ the credit authorized 101861
under this section. 101862

Sec. 5747.83. (A) Terms used in this section have the same 101863
meanings as in section 175.16 of the Revised Code. 101864

(B) There is hereby allowed a nonrefundable credit against 101865
a taxpayer's aggregate tax liability under section 5747.02 of 101866
the Revised Code for a taxpayer that is allocated a credit 101867
issued by the executive director of the Ohio housing finance 101868
agency under section 175.16 of the Revised Code. The credit 101869
equals the amount allocated to such taxpayer for the taxable 101870
year that begins in the calendar year for which the designated 101871
reporter files the form prescribed by division ~~(I)~~(H) of section 101872
175.16 of the Revised Code. 101873

The credit shall be claimed in the order required under 101874
section 5747.98 of the Revised Code. If the credit exceeds the 101875
taxpayer's aggregate tax due under section 5747.02 of the 101876
Revised Code for that taxable year after allowing for credits 101877
that precede the credit under this section in that order, such 101878
excess shall be allowed as a credit in each of the ensuing five 101879
taxable years, but the amount of any excess credit allowed in 101880
any such taxable year shall be deducted from the balance carried 101881
forward to the ensuing taxable year. 101882

No credit shall be claimed under this section to the 101883
extent the credit was claimed under section 5725.36, 5726.58, or 101884
5729.19 of the Revised Code. 101885

Sec. 5747.85. (A) As used in this section: 101886

(1) "Homeownership savings account" and "program period" 101887
have the same meanings as in section 135.70 of the Revised Code. 101888

(2) "Account owner" means "eligible participant" as 101889
defined by section 135.70 of the Revised Code. 101890

(3) "Contributor" means the account owner or a parent, 101891
spouse, sibling, stepparent, or grandparent of the account owner 101892
who deposits funds into the homeownership savings account. 101893

(4) "Lifetime contribution limit" means twenty-five thousand dollars of contributions per contributor per homeownership savings account. If an account owner opens one or more additional homeownership savings accounts, a contributor's lifetime contribution limit for the additional accounts shall be reduced by any contributions previously made by the contributor to an account owned by that account owner.

(5) "Eligible expenses" means unreimbursed expenses paid by the account owner for home purchase costs for the account owner's primary residence and account fees imposed on the account owner.

(6) "Primary residence" means a homestead located in this state that is or will be the account owner's principal place of residence at the time the eligible expenses are incurred and for which the account owner receives or will receive a reduction in real property taxes or manufactured home taxes under division (B) (2) of section 323.152 of the Revised Code.

(7) "Homestead" means a homestead, as defined in section 323.151 of the Revised Code, or a manufactured or mobile home that is owned and occupied as a home by an individual whose domicile is in this state and upon which the manufactured home tax is assessed pursuant to division (D) (2) of section 4503.06 of the Revised Code.

(8) "Home purchase costs" means "eligible home costs" as defined in section 135.70 of the Revised Code.

(9) "Employer contribution" means the amount an employer contributes to a homeownership savings account.

(B) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to a contributor

for amounts contributed to a homeownership savings account to 101923
the extent that the amounts contributed have not already been 101924
deducted in computing the contributor's federal or Ohio adjusted 101925
gross income for the taxable year. The deduction shall equal the 101926
amount of contributions made by the taxpayer and, if filing a 101927
joint return, the taxpayer's spouse, except that the deduction 101928
shall not exceed, for any taxable year, ten thousand dollars for 101929
spouses filing a joint return or five thousand dollars for all 101930
other taxpayers for each homeownership savings account to which 101931
contributions are made. If a taxpayer files a joint return, the 101932
deduction amount attributable to contributions made by each 101933
spouse shall not exceed five thousand dollars for each 101934
homeownership savings account to which contributions are made. A 101935
contributor is not entitled to a deduction under this section to 101936
the extent the deduction causes the contributor to exceed the 101937
lifetime contribution limit. No deduction is allowed under this 101938
section for the transfer of funds from one homeownership savings 101939
account to another homeownership savings account. 101940

(C) In computing Ohio adjusted gross income, a deduction 101941
from federal adjusted gross income is allowed to an account 101942
owner for the following items: 101943

(1) Interest earned on a homeownership savings account to 101944
the extent the interest has not been otherwise deducted or 101945
excluded in computing an account owner's federal or Ohio 101946
adjusted gross income. 101947

(2) Employer contributions made by an employer to an 101948
account owner's homeownership savings account to the extent the 101949
employer contributions have not been otherwise deducted or 101950
excluded in computing an account owner's federal or Ohio 101951
adjusted gross income. 101952

(D) The tax commissioner may request that a taxpayer claiming a deduction calculated under division (B) or (C) of this section furnish information necessary to support the claim for the deduction under this section, and no deduction shall be allowed unless the requested information is provided.

(E) No deduction is permitted under division (B) or (C) of this section for contributions made or interest earned after the conclusion of a homeownership savings account's program period.

~~(F) The commissioner may adopt rules necessary to administer this section.~~

Sec. 5749.14. The tax commissioner shall enforce and administer this chapter and applicable provisions of section 1509.50 of the Revised Code. In addition to any other powers conferred upon the commissioner by law, the commissioner may:

(A) Prescribe all forms required to be filed pursuant to this chapter;

~~(B) Promulgate such rules as the commissioner finds necessary to carry out this chapter and applicable provisions of section 1509.50 of the Revised Code;~~

~~(C) Appoint and employ such personnel as may be necessary to carry out the duties imposed upon the commissioner by this chapter.~~

Sec. 5751.013. (A) Except as provided in division (B) of this section:

(1) A person shall include as taxable gross receipts the value of property the person transfers into this state for the person's own use within one year after the person receives the property outside this state; and

(2) In the case of a consolidated elected taxpayer group 101981
or a combined taxpayer group, the taxpayer shall include as 101982
taxable gross receipts the value of property that any of the 101983
taxpayer's members transferred into this state for the use of 101984
any of the taxpayer's members within one year after the taxpayer 101985
receives the property outside this state. 101986

(B) Property brought into this state within one year after 101987
it is received outside this state by a person or group described 101988
in division (A) (1) or (2) of this section shall not be included 101989
as taxable gross receipts as required under those divisions if 101990
the tax commissioner ascertains that the property's receipt 101991
outside this state by the person or group followed by its 101992
transfer into this state within one year was not intended in 101993
whole or in part to avoid in whole or in part the tax imposed 101994
under this chapter. 101995

~~(C) The tax commissioner may adopt rules necessary to 101996
administer this section. 101997~~

Sec. 5751.07. (A) Any person required to file returns 101998
under this chapter shall remit each tax payment, and, if 101999
required by the tax commissioner, file the tax return or the 102000
annual report, electronically. The commissioner may require 102001
taxpayers to use the Ohio business gateway as defined in section 102002
718.01 of the Revised Code to file returns and remit the tax, or 102003
may provide another means for taxpayers to file and remit the 102004
tax electronically. 102005

(B) A person required by this section to remit taxes or 102006
file returns electronically may apply to the tax commissioner, 102007
on the form prescribed by the commissioner, to be excused from 102008
that requirement. The commissioner may excuse a person from the 102009
requirements of this division for good cause. 102010

(C) (1) If a person required to remit taxes or file a return electronically under this section fails to do so, the commissioner may impose a penalty not to exceed the following:

(a) For either of the first two tax periods the person so fails, the greater of twenty-five dollars or five per cent of the amount of the payment that was required to be remitted;

(b) For the third and any subsequent tax periods the person so fails, the greater of fifty dollars or ten per cent of the amount of the payment that was required to be remitted.

(2) The penalty imposed under division (C) (1) of this section is in addition to any other penalty imposed under this chapter and shall be considered as revenue arising from the tax imposed under this chapter. A penalty may be collected by assessment in the manner prescribed by section 5751.09 of the Revised Code. The tax commissioner may abate all or a portion of such a penalty.

~~(D) The tax commissioner may adopt rules necessary to administer this section.~~

Sec. 5753.09. The tax commissioner shall administer and enforce this chapter. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:

(A) Prescribe all forms that are required to be filed under this chapter;

~~(B) Adopt rules that are necessary and proper to carry out this chapter; and~~

~~(C) Appoint professional, technical, and clerical employees as are necessary to carry out the tax commissioner's duties under this chapter.~~

Sec. 5902.05. (A) There is hereby created in the state 102039
treasury the military injury relief fund, which shall consist of 102040
money contributed to it under sections 4503.535 and 5747.113 of 102041
the Revised Code and of contributions made directly to it. Any 102042
person or entity may contribute directly to the fund in addition 102043
to or independently of the income tax refund contribution system 102044
established in section 5747.113 of the Revised Code. 102045

(B) Upon application, the director of veterans services 102046
shall grant money in the fund to individuals injured while in 102047
active service as a member of the armed forces of the United 102048
States while serving after October 7, 2001, and to individuals 102049
diagnosed with post-traumatic stress disorder while serving, or 102050
after having served, after October 7, 2001. 102051

(C) An individual who receives a grant under this section 102052
is precluded from receiving additional grants under this section 102053
during the same state fiscal year but is not precluded from 102054
being considered for or receiving other assistance offered by 102055
the department of veterans services. 102056

(D) The director shall adopt rules under Chapter 119. of 102057
the Revised Code establishing: 102058

(1) Forms and procedures by which individuals may apply 102059
for a grant under this section; 102060

(2) Criteria for reviewing, evaluating, and approving or 102061
denying grant applications; 102062

(3) Criteria for determining the amount of grants awarded 102063
under this section; 102064

(4) Definitions and standards applicable to determining 102065
whether an individual meets the requirements established in 102066
division (B) of this section; 102067

(5) The process for appealing eligibility determinations,	102068
and	102069
(6) Any other rules necessary to administer the grant	102070
program established in this section.	102071
(E) An eligibility determination, a grant approval, or a	102072
grant denial made under this section may not be appealed under	102073
Chapter 119. or any other provision of the Revised Code.	102074
Sec. 5911.011. (A) As director of state armories, the	102075
adjutant general may acquire, design, construct, expand,	102076
rehabilitate, and convert grounds, armories, airfields, and	102077
other facilities for the purposes of developing, training, and	102078
operating units of the Ohio national guard and for the	102079
safekeeping of arms, clothing, equipment, and other state or	102080
federal military property issued to the Ohio national guard, or	102081
state property issued to the Ohio military reserve or the Ohio	102082
naval militia.	102083
(B) In acquiring grounds, armories, airfields, and other	102084
facilities for the purposes described in division (A) of this	102085
section, the adjutant general may lease property for any term up	102086
to ninety-nine years, subject to the availability of state funds	102087
or federal funds obtained under an agreement by which the United	102088
States contributes to the cost of leasing the grounds, armory,	102089
airfield, or other facility, or the adjutant general may build	102090
suitable buildings, airfields, and facilities for those	102091
purposes.	102092
(C) The adjutant general may provide for the leasing,	102093
management, care, and maintenance of those grounds, armories,	102094
airfields, and other facilities and may prescribe any rules for	102095
the management and guidance of the organizations and units	102096

~~occupying them that are necessary. When promulgating those~~ 102097
~~rules, the adjutant general need not comply with Chapter 111. or~~ 102098
~~119. of the Revised Code.~~ 102099

Sec. 5919.23. The commander in chief may, upon the 102100
declaration of war, or upon the breaking out of insurrection, or 102101
upon the imminence of either, increase the Ohio national guard 102102
and the Ohio military reserve by the creation of such additional 102103
units as ~~he deems~~ deemed necessary; and ~~he~~ the commander in chief 102104
may proceed ~~in such manner as rules prescribe~~ for the drafting 102105
into the organized militia of all such portions of the militia 102106
of the state as ~~he deems~~ deemed necessary in any such emergency. 102107

Sec. 5922.04. Sections ~~5922.02-5922.03~~ 5922.03 to 5922.08 of the 102108
Revised Code do not authorize the Ohio cyber reserve, or any 102109
part thereof, to be called or ordered into the military service 102110
of the United States. The reserve may become a civilian 102111
component of the Ohio national guard. 102112

Sec. 5922.05. No person shall be accepted into the Ohio 102113
cyber reserve who is not a United States national or a lawful 102114
permanent resident, or who has been expelled or dishonorably 102115
discharged from the armed forces as defined in section 5903.01 102116
of the Revised Code. Applicants shall be subject to an 102117
appropriate background check, in accordance with rules adopted 102118
by the governor and adjutant general in accordance with Chapter 102119
119. of the Revised Code, before admittance into the reserve. 102120

Notwithstanding any other provision of the Revised Code, 102121
no person shall be disqualified from acceptance into the Ohio 102122
cyber reserve on the basis that the person is an employee of the 102123
state or a political subdivision of the state, or an employee or 102124
proprietor of a private entity that conducts business with the 102125
state or a political subdivision of the state. 102126

Sec. 5922.07. The governor may accept the resignation of 102127
any Ohio cyber reserve member at any time. Reserve members serve 102128
at the pleasure of the governor and may be removed from the 102129
~~reserve in accordance with rules adopted under section 5922.02-~~ 102130
~~of the Revised Code.~~ 102131

The governor may require reimbursement for training, 102132
equipment, and uniforms if an Ohio cyber reserve member does not 102133
serve the full term of the member's membership agreement and the 102134
inability to serve out the term of the membership agreement was 102135
not due to disability or a similar disabling medical condition. 102136

Sec. 6109.04. (A) The director of environmental protection 102137
shall administer and enforce this chapter and rules adopted 102138
under it. 102139

(B) The director shall adopt, amend, and rescind such 102140
rules in accordance with Chapter 119. of the Revised Code as may 102141
be necessary or desirable to ~~do both of the following:~~ 102142

~~(1) Govern public water systems in order to protect the~~ 102143
~~public health;~~ 102144

~~(2) Govern public water systems to protect the public~~ 102145
~~welfare, including rules governing govern contaminants in water~~ 102146
that may adversely affect the suitability of the water for its 102147
intended uses ~~or that may otherwise adversely affect the public~~ 102148
~~health or welfare.~~ 102149

(C) The director may do any or all of the following: 102150

(1) Adopt, amend, and rescind such rules in accordance 102151
with Chapter 119. of the Revised Code as may be necessary or 102152
desirable to do any or ~~all~~ either of the following: 102153

(a) Govern the granting of variances and exemptions from 102154

rules adopted under this chapter, subject to requirements of the	102155
Safe Drinking Water Act;	102156
(b) Govern the certification of operators of public water	102157
systems, including establishment of qualifications according to	102158
a classification of public water systems and of provisions for	102159
examination, grounds for revocation, renewal of certification,	102160
and other provisions necessary or desirable for assurance of	102161
proper operation of water systems;	102162
(c) Carry out the powers and duties of the director under	102163
this chapter.	102164
(2) Provide a program for the general supervision of	102165
operation and maintenance of public water systems;	102166
(3) Maintain an inventory of public water systems;	102167
(4) Adopt and implement a program for conducting sanitary	102168
surveys of public water systems;	102169
(5) Establish and maintain a system of record keeping and	102170
reporting of activities of the environmental protection agency	102171
under this chapter;	102172
(6) Establish and maintain a program for the certification	102173
of laboratories conducting analyses of drinking water;	102174
(7) Issue, modify, and revoke orders as necessary to carry	102175
out the director's powers and duties under this chapter and	102176
primary enforcement responsibility for public water systems	102177
under the "Safe Drinking Water Act." Orders issued under this	102178
chapter are subject to Chapter 119. of the Revised Code.	102179
(D) Before adopting, amending, or rescinding a rule	102180
authorized by this chapter, the director shall do all of the	102181
following:	102182

(1) Mail notice to each statewide organization that the director determines represents persons who would be affected by the proposed rule, amendment, or rescission at least thirty-five days before any public hearing thereon;

(2) Mail a copy of each proposed rule, amendment, or rescission to any person who requests a copy, within five days after receipt of the request;

(3) Consult with appropriate state and local government agencies or their representatives, including statewide organizations of local government officials, industrial representatives, and other interested persons.

Although the director is expected to discharge these duties diligently, failure to mail any such notice or copy or to consult with any person does not invalidate any proceeding or action of the director.

(E) The director shall issue a certification as an operator of a public water system in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:

(1) The applicant holds a certification or license in another state.

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as an operator of a public water system in a state that does not issue that certification or license.

Sec. 6109.072. (A) No person shall install a public water system well without an approved well siting application issued by the director of environmental protection in accordance with

this chapter and any rules adopted under it. 102212

(B) In addition to meeting the siting requirements 102213
established under section 6109.04 of the Revised Code and the 102214
rules adopted under it, a person that submits a well siting 102215
application for a public water system well shall include all of 102216
the following in the application: 102217

(1) For a new public water system or an existing public 102218
water system that proposes an increase in the withdrawal of 102219
waters of the state, an evaluation of alternatives for the 102220
provision of drinking water, including the potential for tie-in 102221
to a regional water system; 102222

(2) For a new public water system or an existing public 102223
water system that proposes an increase in the withdrawal of 102224
waters of the state, asset management program information in 102225
accordance with section 6109.24 of the Revised Code and the 102226
rules adopted under it; 102227

(3) For an existing public water system, a description of 102228
the asset management program impacts of installing the well, 102229
including impacts to any existing asset management program and 102230
the potential for tie-in to a regional water system; 102231

(4) For a public water system well that has the capacity 102232
to withdraw waters of the state in an amount requiring 102233
registration pursuant to section 1521.16 of the Revised Code, a 102234
general plan, subject to approval of the director, that includes 102235
both of the following: 102236

(a) The information required to be submitted under section 102237
6109.07 of the Revised Code and the rules adopted under it; 102238

(b) Verification of registration pursuant to section 102239
1521.16 of the Revised Code. 102240

(5) For a public water system well that has new or increased capacities for withdrawal or consumptive use that require a permit issued under either section 1521.29 or 1522.12 of the Revised Code, a permit approved by the chief of the division of water resources in the department of natural resources pursuant to section 1521.29 or 1522.12 of the Revised Code. 102241
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(C) Divisions (B) (2) and (3) of this section do not apply to a transient noncommunity water system. 102248
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(D) If the director approves a well siting application for an applicant that meets the requirements of division (B) (5) of this section, the applicant then shall submit to the director a copy of any certification, continuing monitoring, or other data or reports required by the chief of the division of water resources pursuant to a permit issued under either section 1521.29 or 1522.12 of the Revised Code and any revised ground water model required by the chief. 102250
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(E) The director may require the well site applicant to include, in the application, additional information, including but not limited to hydrologic information, in a form prescribed by the director for any public water system that is not required to obtain a permit under either section 1521.23 or 1522.12 of the Revised Code. 102258
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~~(F) The director may adopt rules in accordance with Chapter 119. of the Revised Code as is necessary for the implementation of this section. 102264
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Sec. 6109.121. (A) The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following: 102267
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- (1) Require the owner or operator of a community or nontransient noncommunity water system to conduct sampling of the system for lead and copper; 102270
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- (2) Establish a schedule for lead and copper sampling applicable to the owner or operator of a community or nontransient noncommunity water system that, at a minimum, does both of the following: 102273
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- (a) Allows the director, in establishing the schedule, to consider the following factors when determining if a community or nontransient noncommunity water system must conduct sampling at least once annually: 102277
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- (i) The age of the water system; 102281
- (ii) Whether corrosion control requirements are met; 102282
- (iii) ~~Any other relevant risk factors, as determined by the director, including aging~~ Aging infrastructure likely to contain lead service lines. 102283
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- (b) Requires the owner or operator of a system where such risk factors are identified to conduct sampling at least once annually until the risk factors are mitigated in accordance with rules. 102286
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- (3) Require the owner or operator of a community or nontransient noncommunity water system to provide collected samples to a certified laboratory for analysis; 102290
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- (4) Authorize the director to require additional sampling for pH level and other water quality parameters to determine if corrosion control requirements are met; 102293
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- (5) Authorize the director to establish corrosion control requirements for community and nontransient noncommunity water 102296
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systems; 102298

(6) Require the owner or operator of a community or 102299
nontransient noncommunity water system to conduct a new or 102300
updated corrosion control treatment study and submit a new or 102301
updated corrosion control treatment plan not later than eighteen 102302
months after any of the following events: 102303

(a) The system changes or adds a source from which water 102304
is obtained. 102305

(b) The system makes a substantial change in water 102306
treatment. 102307

(c) The system operates outside of acceptable ranges for 102308
lead, copper, pH, or other corrosion indicators, as determined 102309
by the director. 102310

(d) Any other event determined by the director to have the 102311
potential to impact the water quality or corrosiveness of water 102312
in the system. 102313

(7) Authorize the director to waive the requirement to 102314
conduct a new or updated corrosion control study established in 102315
rules adopted under division (A) (6) of this section in 102316
appropriate circumstances; 102317

(8) When the owner or operator of a community or 102318
nontransient noncommunity water system is required to complete a 102319
corrosion control treatment study and submit a plan in 102320
accordance with rules adopted under division (A) (6) of this 102321
section, require the owner or operator to complete the study and 102322
submit the plan to the director for approval even if sampling 102323
results conducted subsequent to the initiation of the study and 102324
plan do not exceed the lead action level established in rules 102325
adopted under this chapter; 102326

- (9) When the owner or operator of a community or nontransient noncommunity water system is required to complete a corrosion control treatment study and submit a plan in accordance with rules adopted under division (A)(6) of this section, require the owner or operator to submit to the director an interim status report of actions taken to implement the corrosion control study six months and twelve months from the date of initiation of the corrosion control study requirement; 102327
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- (10) Establish a lead threshold for individual taps; 102335
- (11) Establish and revise content for public education materials; 102336
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- (12) Authorize the director to develop procedures and requirements to document that notices were provided by the owner or operator of a community or nontransient noncommunity water system as required under the rules adopted under division (A)(15) of this section; 102338
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- (13) Authorize the director to assess administrative penalties in accordance with section 6109.23 of the Revised Code for violations of the notice requirements established in rules adopted under divisions (A)(15)(b) and (c)(i) of this section; 102343
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- (14) Require a laboratory that receives a lead or copper tap water sample from a community or nontransient noncommunity water system to do both of the following: 102347
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- (a) Complete a lead or copper analysis of the sample, as applicable, not later than thirty business days after the receipt of the sample; 102350
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- (b) Not later than the end of the next business day following the day the analysis of the sample is completed, report the results of the analysis and all identifying 102353
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information about where the sample was collected to the 102356
community or nontransient noncommunity water system and the 102357
director. 102358

(15) Require the owner or operator of a community or 102359
nontransient noncommunity water system to do all of the 102360
following, as applicable, with regard to laboratory results 102361
received under rules adopted under division (A) (14) of this 102362
section: 102363

(a) If the laboratory results show that a sample from an 102364
individual tap is below the applicable lead threshold as 102365
established in rules adopted under this chapter, provide notice 102366
of the results of each individual tap sample to the owner and 102367
persons served at the residence or other structure where the tap 102368
was sampled within a time period specified in rules that is not 102369
more than thirty business days after the receipt of the 102370
laboratory results; 102371

(b) If the results show that a sample from an individual 102372
tap is above the applicable lead threshold as established under 102373
rules adopted under this chapter, provide notice of the results 102374
of each individual tap sample to the owner and persons served at 102375
the residence or other structure where the tap was sampled 102376
within a time period specified in rules that is not more than 102377
two business days after the receipt of the laboratory results, 102378
and do all of the following, as applicable: 102379

(i) For the owner or operator of a nontransient 102380
noncommunity water system, immediately remove from service all 102381
fixtures identified as contributing to elevated lead levels; 102382

(ii) For the owner or operator of a community water 102383
system, include in the system's annual consumer confidence 102384

report the lead or copper laboratory results, an explanation of 102385
the associated health risks, what actions consumers of the 102386
system can take to reduce health risks, and the actions the 102387
system is taking to reduce public exposure; 102388

(iii) Not later than two business days after the receipt 102389
of the laboratory results, provide information on the 102390
availability of health screening and blood lead level testing to 102391
the owner and persons served at the residence or other structure 102392
where the sample was collected and provide notice of the 102393
laboratory results to the applicable local board of health. 102394

(c) If the laboratory results show that the community or 102395
nontransient noncommunity water system exceeds the lead action 102396
level established in rules adopted under this chapter, do all of 102397
the following, as applicable: 102398

(i) Not later than two business days after the receipt of 102399
the laboratory results, provide notice to all of the system's 102400
water consumers that the system exceeds the lead action level. 102401
The owner or operator shall provide the notice in a form 102402
specified by the director. 102403

(ii) Not later than five business days after the receipt 102404
of the laboratory results by the owner or operator of a 102405
community water system, provide information on the availability 102406
of tap water testing for lead to all consumers served by the 102407
system who are known or likely to have lead service lines, lead 102408
pipes, or lead solder as identified in the map required to be 102409
completed by rules adopted under division (A)(18) of this 102410
section; 102411

(iii) Not later than thirty business days after the 102412
receipt of the laboratory results, make an analysis of 102413

laboratory results available to all consumers served by the 102414
system, comply with public education requirements established in 102415
rules adopted under this chapter that apply when a public water 102416
system exceeds the lead action level, and provide information to 102417
consumers served by the system about the availability of health 102418
screenings and blood lead level testing in the area served by 102419
the water system; 102420

(iv) Subject to rules adopted under division (A) (7) of 102421
this section, perform a corrosion control treatment study and 102422
submit a corrosion control treatment plan to the director not 102423
later than eighteen months after the date on which laboratory 102424
results were received by the owner or operator indicating that 102425
the system exceeded the lead action level. 102426

(16) Require that not later than five business days after 102427
the receipt of the laboratory results, the owner or operator 102428
shall certify to the director that the owner or operator has 102429
complied with the requirements of rules adopted under divisions 102430
(A) (15) (b), (A) (15) (c) (i), and (A) (15) (c) (ii) of this section, 102431
as applicable. 102432

(17) Require that if the owner or operator of a community 102433
or nontransient noncommunity water system fails to provide the 102434
notices required under rules adopted under division (A) (15) (b) 102435
or (c) (i) of this section, the director shall provide those 102436
notices beginning ten business days from the date that the 102437
director receives laboratory results under the rules adopted 102438
under division (A) (14) of this section. 102439

(18) Require the owner or operator of a community or 102440
nontransient noncommunity water system to submit a map to the 102441
director showing areas of the system that are known or are 102442
likely to contain lead service lines and identifying 102443

characteristics of buildings served by the system that may 102444
contain lead piping, solder, or fixtures. The rules shall, at a 102445
minimum, require the owner or operator to do all of the 102446
following: 102447

(a) Submit a copy of the applicable map to the department 102448
of health and the department of job and family services; 102449

(b) Submit a report to the director containing at least 102450
the applicable map and a list of sampling locations that are 102451
tier I sites used to collect samples as required by rules 102452
adopted under this chapter, including contact information for 102453
the owner and occupant of each sampling site; 102454

(c) Update and resubmit the information required by 102455
divisions (A) (18) (a) and (b) of this section according to a 102456
schedule determined by the director, but not less frequently 102457
than required under the Safe Drinking Water Act. 102458

(B) The director shall post information on the 102459
environmental protection agency's web site about sources of 102460
funding that are available to assist communities with lead 102461
service line identification and replacement and schools with 102462
fountain and water-service fixture replacement. 102463

(C) As required by the director, an owner or operator of a 102464
nontransient noncommunity water system that is a school or child 102465
care center shall collect additional tap water samples in 102466
buildings identified in the map required to be completed by 102467
rules adopted under division (A) (18) of this section. 102468

(D) As used in this section: 102469

(1) "Child care center" has the same meaning as in section 102470
5104.01 of the Revised Code. 102471

(2) "School" means a school operated by the board of education of a city, local, exempted village, or joint vocational school district, the governing board of an educational service center, the governing authority of a community school established under Chapter 3314. of the Revised Code, the governing body of a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, the board of trustees of a college-preparatory boarding school established under Chapter 3328. of the Revised Code, or the governing authority of a chartered or nonchartered nonpublic school.

(3) "Local board of health" means the applicable board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

Sec. 6111.035. (A) The director of environmental protection, consistent with the Federal Water Pollution Control Act and the regulations adopted thereunder, without application therefor, may issue, modify, revoke, or terminate a general permit under this chapter for both of the following:

(1) Discharge of stormwater; the discharge of liquids, sediments, solids, or water-borne mining related waste, such as, but not limited to, acids, metallic cations, or their salts, from coal mining and reclamation operations; or treatment works whose discharge would have de minimis impact on the waters of the state receiving the discharge;

(2) Installation or modification of disposal systems or any parts thereof, including disposal systems for stormwater or for coal mining and reclamation operations.

A general permit shall apply to a class or category of discharges or disposal systems or to persons conducting similar activities, within any area of the state, including the entire state.

A general permit shall not be issued unless the director determines that the discharges authorized by the permit will have only minimal cumulative adverse effects on the environment when the discharges are considered collectively and individually and if, in the opinion of the director, the discharges, installations, or modifications authorized by the permit are more appropriately authorized by a general permit than by an individual permit.

A general permit shall be issued subject to applicable mandatory provisions and may be issued subject to any applicable permissive provision of the Federal Water Pollution Control Act and the regulations adopted thereunder.

The director, at the director's discretion, may require any person authorized to discharge or to install or modify a disposal system under a general permit to apply for and obtain an individual permit for the discharge, installation, or modification. When a particular discharge, installation, or modification is subject to an individual permit, a general permit shall not apply to that discharge, installation, or modification until the individual permit is revoked, terminated, or modified to exclude the discharge, installation, or modification.

In the case of a general permit issued by the director under this section for coal mining and reclamation operations, a person seeking coverage under such a general permit shall submit a notice of intent to be covered by the general permit and to be

subject to the terms and conditions of the general permit. The 102531
notice of intent shall be submitted in accordance with the forms 102532
and deadlines specified for the applicable general permit for 102533
which coverage is sought. If the director has not granted or 102534
denied coverage under the general permit within forty-five days 102535
after receipt of the notice of intent, the person seeking 102536
coverage shall submit written notice to the director restating 102537
the person's request for coverage under the general permit. The 102538
director shall grant or deny coverage under the general permit 102539
not later than sixty days after receipt of the notice of intent. 102540
If, not later than fifteen days after receipt of the person's 102541
written notice restating the person's request for coverage, but 102542
not earlier than sixty days after receipt of the original notice 102543
of intent for coverage under the general permit, the director 102544
fails to act on the notice of intent, the discharge that is the 102545
subject of the notice of intent is deemed to be permitted and 102546
covered by the general permit related to coal mining and 102547
reclamation operations. Nothing in this section alters or limits 102548
the authority of the director to enforce the terms and 102549
conditions of the general permit or limits the director's 102550
authority to issue or deny other required permits. 102551

As used in this division, "coal mining and reclamation 102552
operations" has the same meaning as in section 1513.01 of the 102553
Revised Code. 102554

(B) Notwithstanding any requirement under Chapter 119. of 102555
the Revised Code concerning the manner in which notice of a 102556
permit action is provided, the director shall not be required to 102557
provide certified mail notice to persons subject to the 102558
issuance, modification, revocation, or termination of a general 102559
permit under division (A) of this section. 102560

Notwithstanding section 3745.07 of the Revised Code 102561
concerning the location of newspapers in which notices of permit 102562
actions are published, the director shall cause notice of the 102563
issuance, modification, revocation, or termination of a general 102564
permit to be published in the newspapers of general circulation 102565
determined by the director to provide reasonable notice to 102566
persons affected by the permit action in the geographic area 102567
covered by the general permit within the time periods prescribed 102568
by section 3745.07 of the Revised Code. Any notice under this 102569
section or section 3745.07 of the Revised Code concerning the 102570
issuance, modification, revocation, or termination of a general 102571
permit shall include a summary of the permit action and 102572
instructions on how to obtain a copy of the full text of the 102573
permit action. The director may take other appropriate measures, 102574
such as press releases and notice to trade journals, 102575
associations, and other persons known to the director to desire 102576
notification, in order to provide notice of the director's 102577
actions concerning the issuance, modification, revocation, or 102578
termination of a general permit; however, the failure to provide 102579
such notice shall not invalidate any general permit. 102580

(C) Notwithstanding any other provision of the Revised 102581
Code, a person subject to the proposed issuance, modification, 102582
revocation, or termination of a general permit under division 102583
(A) of this section may request an adjudication hearing pursuant 102584
to section 119.07 of the Revised Code concerning the proposed 102585
action within thirty days after publication of the notice of the 102586
proposed action in newspapers of general circulation pursuant to 102587
division (B) of this section. This division shall not be 102588
interpreted to affect the authority of the director to take 102589
actions on general permits in forms other than proposed general 102590
permits. 102591

~~(D) The director may exercise all incidental powers required to carry out this section, including, without limitation, the adoption, amendment, and rescission of rules to implement a general permit program for classes or categories of dischargers or disposal systems.~~

~~(E)~~ On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, this section does not apply to storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code, or to manure, as defined in that section.

~~(F)~~ (E) As used in this section, "Federal Water Pollution Control Act" means the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended by the "Clean Water Act of 1977," 91 Stat. 1566, 33 U.S.C.A. 1251, the "Act of October 21, 1980," 94 Stat. 2360, 33 U.S.C.A. 1254, the "Municipal Wastewater Treatment Construction Grant Amendments of 1981," 95 Stat. 1623, 33 U.S.C.A. 1281, and the "Water Quality Act of 1987," 101 Stat. 7, 33 U.S.C.A. 1251.

Sec. 6111.043. (A) As used in this section and sections 6111.044 to 6111.047 of the Revised Code, "area of review" means the area of review of an injection well as determined under regulations adopted under the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, or under rules adopted under this section.

(B) This section and sections 6111.044 to 6111.049 of the Revised Code establish a program for regulation of the injection of sewage, industrial waste, hazardous waste, and other wastes into wells in order to control pollution of the waters of the state, to prevent contamination of underground sources of

drinking water, and to satisfy all requirements of the "Safe 102622
Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), 102623
as amended, regarding injection wells as defined in regulations 102624
adopted under that act. This section and sections 6111.044 to 102625
6111.049 of the Revised Code do not apply to the drilling, 102626
conversion, and operation of wells that are subject to Chapter 102627
1509. of the Revised Code. 102628

The director of environmental protection, in consultation 102629
with the director of natural resources, shall adopt rules in 102630
accordance with Chapter 119. of the Revised Code governing the 102631
injection of sewage, industrial waste, hazardous waste, and 102632
other wastes into wells. The rules shall ~~include~~have provisions 102633
regarding all of the following: 102634

(1) Applications for and issuance and renewal of injection 102635
well drilling and injection well operating permits. The term of 102636
an injection well operating permit shall be five years, except 102637
that in the case of the injection well drilling permit or 102638
renewal of an injection well operating permit, as appropriate, 102639
that is first issued on or after the effective date of this 102640
amendment for a class I injection well that is in operation on 102641
that date, the term of the permit shall be not less than four 102642
nor more than six years as determined by the director. 102643

(2) ~~Terms and conditions of such permits;~~ 102644

~~(3)~~ Entry to conduct inspections to ascertain compliance 102645
with this section, sections 6111.044, 6111.045, and 6111.047 of 102646
the Revised Code, and rules adopted and orders and terms and 102647
conditions of permits issued thereunder; 102648

~~(4)~~(3) Contingencies involving the mechanical integrity of 102649
class I injection wells, including requirements for the 102650

automatic shutdown of an injection well if pressures or the 102651
temperature or specific gravity of the sewage, industrial waste, 102652
hazardous waste, or other wastes differs from prescribed 102653
allowances; 102654

~~(5)~~(4) A requirement that a seismic reflection data survey 102655
be conducted at each injection site where a class I injection 102656
well is located or proposed to be located in order to determine 102657
the presence or absence of such geologic faults or fractures as 102658
may be identified by seismic reflection survey data within or 102659
near the area around the well where formation pressures may be 102660
increased due to the operation of the well. If, prior to the 102661
effective date of division ~~(B) (5)~~(B) (4) of this section, a 102662
seismic reflection data survey was conducted at an injection 102663
site in accordance with a work plan approved by the director or 102664
a seismic reflection data survey was conducted at an injection 102665
site and the results were approved in writing by the director, 102666
the rules adopted under that division shall not require that a 102667
new survey be conducted. If there is a change in the area of 102668
review of an injection well that is located at an injection site 102669
for which a seismic reflection data survey has been conducted, 102670
or if a new injection well is proposed to be located at such an 102671
injection site, the rules shall require that the owner or 102672
operator of the injection site reevaluate the data obtained from 102673
the survey. The rules shall require that if, after a 102674
reevaluation of the existing survey data, the director 102675
determines that the existing data are inadequate to determine 102676
the presence or absence of geologic faults or fractures within 102677
the altered area of review or to determine the presence or 102678
absence of geologic faults or fractures within the area of 102679
pressure buildup of the new well, the director may require the 102680
owner or operator to submit such additional seismic reflection 102681

data as the director considers necessary or appropriate. All 102682
seismic reflection data surveys shall be conducted in accordance 102683
with the standards established in rules adopted by the director. 102684

~~(6)~~(5) A requirement that when the director has reason to 102685
believe that the operation of a class I injection well may cause 102686
seismic disturbances, a passive seismicity monitoring program be 102687
maintained at or near the injection site. The rules adopted 102688
under division ~~(B)~~(6)(B)(5) of this section may require that a 102689
microseismicity monitoring program be maintained at an injection 102690
site when determined to be necessary or appropriate by the 102691
director. All seismicity monitoring programs shall be conducted 102692
in accordance with standards established in rules adopted by the 102693
director. 102694

~~(7)~~(6) Definitions of the various classes of injection 102695
wells; 102696

~~(8)~~(7) A determination of the areas of review of injection 102697
wells; 102698

~~(9) Other provisions in furtherance of the goals of this~~ 102699
~~section and the "Safe Drinking Water Act," 88 Stat. 1661 (1974),~~ 102700
~~42 U.S.C.A. 300(f), as amended. The rules adopted under this~~ 102701
section shall be consistent with that act and the regulations 102702
adopted under it, except that the director may adopt rules under 102703
this section that are more stringent than that act and the 102704
regulations adopted under it when ~~he~~the director determines 102705
that they are inadequate to protect human health or the 102706
environment. 102707

(C) Unless otherwise authorized by rule of the director, 102708
no person shall drill a new well or convert an existing well for 102709
the purpose of injecting sewage, industrial waste, hazardous 102710

waste, or other wastes, without having obtained an injection well drilling permit issued by the director of environmental protection. The original permit or a true copy thereof shall be displayed in a conspicuous and easily accessible place at the well site. An application for an injection well drilling permit shall be filed with the director upon such form as the director prescribes and shall contain ~~such information as the director requires by rule, including~~ all of the following information:

(1) The name and address of the owner and, if a corporation, the name and address of the statutory agent;

(2) In the case of an applicant for a permit to drill a class I injection well who, at the time of submitting the application, does not hold an injection well operating permit or renewal of such a permit issued under section 6111.044 of the Revised Code, a statement of all relevant expertise of the owner or, if the well is to be operated by a person other than the owner, of the operator, in the operation of class I injection wells and a listing of all class I injection wells that the owner or operator has operated and is operating; the date that each such well was first placed in service or, if the well was first placed in service before the applicant acquired the well, the date that the applicant acquired the well; and the date of issuance, identification number, and expiration date of the permits issued for each such well by the United States or the state in which the injection well is located and, for each such permit, the name and address of the federal or state agency that issued the permit;

(3) The signature of the owner or ~~his~~ the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of ~~his~~ the

appointment as such agent. 102741

(4) The proposed well location identified by latitude and 102742
longitude, and the location of the tract on which the well is to 102743
be drilled identified by latitudes and longitudes, section or 102744
lot number, city, village, or township, as applicable, and 102745
county; 102746

(5) Designation of the well by name and number; 102747

(6) The name of the geological formation and the 102748
approximate depth interval to be tested or used and the proposed 102749
total depth of the well; 102750

(7) The type of drilling, completion, and injection 102751
equipment proposed to be used; 102752

(8) The plan for disposal of water and other waste 102753
substances resulting from or obtained or produced in connection 102754
with the drilling, conversion, or testing of the well; 102755

(9) The chemical composition and physical properties of 102756
the substance proposed to be injected. 102757

(D) Based upon conditions observed by the director or 102758
~~his~~ the director's authorized representative during drilling or 102759
completion of a class I injection well, the director may request 102760
the holder of an injection well drilling permit issued under 102761
section 6111.044 of the Revised Code to submit to the director 102762
such information and test results in addition to those submitted 102763
with the application as the director considers necessary to more 102764
adequately define hydrogeologic conditions at the site of the 102765
well and to protect the lowermost underground source of drinking 102766
water near the injection well. The director shall include in 102767
each injection well drilling permit issued under section 102768
6111.044 of the Revised Code the condition that, upon receiving 102769

such a request from the director, the permit holder promptly 102770
submit the additional information or test results to the 102771
director. 102772

(E) Unless otherwise authorized by rule of the director, 102773
no person shall use a well for the injection of sewage, 102774
industrial waste, hazardous waste, or other wastes without first 102775
obtaining an injection well operating permit issued by the 102776
director. An application for an injection well operating permit 102777
or a renewal of such a permit shall be filed on such form as the 102778
director prescribes and shall contain the information prescribed 102779
in the applicable provisions of divisions (C) (1) to (9) of this 102780
section. In addition, an application for an injection well 102781
operating permit or renewal of such a permit for a class I 102782
injection well shall contain ~~such information as the director~~ 102783
~~requires by rule, including~~ all of the following: 102784

(1) The results of such seismic reflection data surveys, 102785
seismic monitoring, and geophysical testing surveys in and 102786
surrounding the injection area as are required pursuant to rules 102787
adopted under divisions ~~(B) (5)~~ (B) (4) and ~~(6) (5)~~ of this section; 102788

(2) A plan for ensuring the annual review and testing of 102789
the integrity of the well casing and associated well features 102790
and, if the application is for a renewal, the results of all 102791
such testing since the issuance of the current permit or renewal 102792
permit. If this information has been submitted to the director 102793
previously as required by rule or applicable technical guidance, 102794
it may be included in the application by reference. 102795

(3) A plan for monitoring the lowermost underground source 102796
of drinking water near the injection well. When determined to be 102797
necessary by the director, the application also shall include a 102798
plan for monitoring conditions of other formations within the 102799

area of review of the well, including formation pressures, 102800
formation transmissivity, or the vertical or horizontal 102801
migration of the injected fluids. If the application is for the 102802
renewal of an injection well operating permit, it shall be 102803
accompanied by all of the results from the monitoring of the 102804
lowermost underground source of drinking water near the well, 102805
and from other formation monitoring activities, conducted during 102806
the term of the current permit or renewal that had not been 102807
submitted to the director previously in accordance with rules 102808
adopted under this section, the terms and conditions of the 102809
current permit or renewal, or applicable technical guidance. 102810

(4) A plan for conducting a seismicity monitoring program 102811
at the injection site when such a monitoring program is required 102812
pursuant to rules adopted under division ~~(B) (6)~~ (B) (5) of this 102813
section; 102814

(5) The results of downhole monitoring; geophysical logs; 102815
core samples, to the extent that they are available; results of 102816
laboratory tests of core samples, to the extent that they are 102817
available; results of laboratory tests of formation fluids from 102818
the injection zone; and such other data or samples as the 102819
director may require to be submitted. If any such information, 102820
test results, or samples have been submitted to the director 102821
previously upon the request of the director or as required by 102822
rule, the terms and conditions of the injection well drilling 102823
permit or injection well operating permit or renewal of that 102824
operating permit for the well, or applicable technical guidance, 102825
the information, test results, or results of the analysis or 102826
evaluation of the samples may be included in the application by 102827
reference. 102828

(6) A determination accompanied by supporting 102829

documentation describing all areas around the well where 102830
formation pressures are predicted by the applicant to be 102831
increased due to the operation of the well and an evaluation of 102832
whether any resulting potential exists for contamination of any 102833
underground source of drinking water or migration of substances 102834
injected into the well outside of the anticipated injection 102835
zone. The determination shall be made through the use of an 102836
hydraulic model acceptable to the director. 102837

(7) An evaluation of all artificial penetrations through 102838
the base of any underground source of drinking water within the 102839
area of review of the well and a determination of whether the 102840
wells are completed or plugged in accordance with the applicable 102841
rules adopted under this section or section 1509.15 of the 102842
Revised Code. 102843

~~(8) Such additional information as the director determines 102844
to be necessary to carry out his responsibilities under this 102845
section and section 6111.044 of the Revised Code. 102846~~

(F) Unless otherwise authorized by rule of the director, 102847
each application for an injection well drilling or operating 102848
permit or renewal of an injection well operating permit shall be 102849
accompanied by a map, on a scale not smaller than four hundred 102850
feet to the inch, prepared by an Ohio registered surveyor, 102851
showing the location of the well and containing such other data 102852
as may be prescribed by the director. If the well is or is to be 102853
located within the excavations and workings of an active mine, 102854
the map also shall include the location of the mine, the name of 102855
the mine, and the name of the person operating the mine. If the 102856
well is or is to be located within the excavations of an 102857
abandoned mine, the map also shall include the location of the 102858
mine and, to the extent that the information is available, the 102859

name of the mine and approximate dates when mining activities 102860
occurred at the mine. 102861

(G) Each application for an injection well drilling 102862
permit, an injection well operating permit, a renewal of an 102863
injection well operating permit, or a modification of an 102864
injection well drilling or operating permit or renewal permit 102865
shall be accompanied by a nonrefundable fee prescribed by the 102866
director by rule as necessary to defray the cost of processing 102867
the application. 102868

Sec. 6111.047. (A) For the purpose of defraying the costs 102869
to the environmental protection agency of implementing, 102870
administering, and enforcing sections 6111.043 to 6111.047 of 102871
the Revised Code pertaining to class I injection wells, a fee of 102872
one dollar per ton is hereby levied on the injection of 102873
industrial waste or other wastes into a class I injection well. 102874
The fee levied by this division does not apply to the injection 102875
into such a well of any hazardous waste identified or listed in 102876
rules adopted under section 3734.12 of the Revised Code. The 102877
maximum annual fee for wastes injected at a class I injection 102878
facility shall be twenty-five thousand dollars regardless of the 102879
number of wells being used at the facility. 102880

The owner or operator of the class I injection facility, 102881
as a trustee for the state, shall collect the fee levied under 102882
this division and forward it to the director of environmental 102883
protection in accordance with the rules adopted under division 102884
(C) of this section. The owner or operator shall remit the fee 102885
collected under this division to the director upon the 102886
anniversary of the date of issuance of ~~his~~the owner's or 102887
operator's injection well operating permit or renewal of such a 102888
permit, as appropriate. If the class I injection facility 102889

consists of more than one injection well, the owner or operator 102890
shall remit the fee to the director on the anniversary of the 102891
date of issuance of the injection well operating permit or 102892
renewal of such a permit for which the anniversary of the date 102893
of issuance next succeeds the first day of January. If payment 102894
is late, the owner or operator shall pay to the director a 102895
penalty of ten per cent of the amount of the fee for each month 102896
that it is late. 102897

(B) The director shall credit the moneys received under 102898
division (A) of this section to the underground injection 102899
control fund created in section 6111.046 of the Revised Code. 102900

(C) The director, by rules adopted in accordance with 102901
Chapter 119. of the Revised Code, shall prescribe any dates not 102902
specified in this section and procedures for collecting and 102903
forwarding the fee levied by this section. ~~The rules may~~ 102904
~~prescribe other requirements for implementing and administering~~ 102905
~~this section.~~ 102906

(D) No person shall fail to comply with this section or a 102907
rule adopted under it. 102908

Sec. 6111.049. Section 6111.047 and rules adopted under 102909
division ~~(B) (5)~~ (B) (4) of section 6111.043 of the Revised Code do 102910
not apply to any nonhazardous class I injection well that 102911
disposes of naturally occurring formation fluids extracted 102912
during salt mining processes into an injection zone consisting 102913
of the Oriskany sandstone at depths of not more than one 102914
thousand five hundred feet. 102915

Sec. 6111.32. (A) In order to ensure the regular and 102916
orderly maintenance of federal navigation channels and ports in 102917
this state, the director of environmental protection shall 102918

endeavor to work with the United States army corps of engineers 102919
on a dredging plan that focuses on long-term planning for the 102920
disposition of dredged material consistent with the requirements 102921
established in this section. 102922

(B) On and after July 1, 2020, no person shall deposit 102923
dredged material in the portion of Lake Erie that is within the 102924
jurisdictional boundaries of this state or in the direct 102925
tributaries of Lake Erie within this state that resulted from 102926
harbor or navigation maintenance activities unless the director 102927
has determined that the dredged material is suitable for one of 102928
the locations, purposes, or activities specified in division (C) 102929
of this section and has issued a section 401 water quality 102930
certification authorizing the deposit. 102931

(C) The director may authorize the deposit of dredged 102932
material in the portion of Lake Erie that is within the 102933
jurisdictional boundaries of this state or in the direct 102934
tributaries of Lake Erie within this state that resulted from 102935
harbor or navigation maintenance activities for any of the 102936
following: 102937

(1) Confined disposal facilities; 102938

(2) Beneficial use projects; 102939

(3) Beach nourishment projects if at least eighty per cent 102940
of the dredged material is sand; 102941

(4) Placement in the littoral drift if at least sixty per 102942
cent of the dredged material is sand; 102943

(5) Habitat restoration projects; 102944

(6) Projects involving amounts of dredged material that do 102945
not exceed ten thousand cubic yards, including material 102946

associated with dewatering operations related to dredging 102947
operations. 102948

(D) In order to coordinate the activities and 102949
responsibilities established under this chapter and Chapter 102950
1506. of the Revised Code, the director shall consult with the 102951
director of natural resources when approving the location in 102952
which dredged material is proposed to be deposited in the 102953
portion of Lake Erie that is within the jurisdictional 102954
boundaries of this state or in the direct tributaries of Lake 102955
Erie within this state. 102956

(E) The director of environmental protection, in 102957
consultation with the director of natural resources, may 102958
determine that financial, environmental, regulatory, or other 102959
factors exist that result in the inability to comply with this 102960
section. After making that determination, the director of 102961
environmental protection, through the issuance of a section 401 102962
water quality certification, may allow for open lake placement 102963
of dredged material from the Maumee river, Maumee bay federal 102964
navigation channel, and Toledo harbor. 102965

~~(F) The director may adopt rules in accordance with 102966
Chapter 119. of the Revised Code that are necessary for the 102967
implementation of this section. 102968~~

Sec. 6111.451. Not later than one hundred eighty days 102969
after ~~the effective date of this section~~ March 29, 2007, the 102970
director of environmental protection shall adopt rules in 102971
accordance with Chapter 119. of the Revised Code specifying 102972
construction activities that do not, by themselves, constitute 102973
installing works for the treatment or disposal of sewage or 102974
other waste for which approval of plans is required under 102975
section 6111.44 or 6111.45 of the Revised Code. The activities 102976

shall include the grading and clearing of land, on-site storage 102977
of portable parts and equipment, and the construction of 102978
foundations or buildings that are not directly related to the 102979
installation of treatment or disposal works. The rules also 102980
shall allow specified initial activities that are part of the 102981
installation of treatment or disposal works, such as the 102982
installation of electrical and other utilities for the works, 102983
prior to the approval of the plans for the works, provided that 102984
the owner or operator of the works has submitted the complete 102985
plans for the works to the director and has notified the 102986
director that this activity will be undertaken prior to the 102987
approval of the plans. Any activity that is undertaken under the 102988
rules adopted under this section shall be at the risk of the 102989
owner or operator. The rules adopted under this section, to the 102990
extent possible, shall be consistent with rules adopted under 102991
division ~~(F) (5)~~ (E) (5) of section 3704.03 of the Revised Code. 102992

Sec. 6115.51. The treasurer of a sanitary district shall, 102993
at the time of taking office, execute and deliver to the 102994
president of the board of directors of the sanitary district, a 102995
bond with good and sufficient sureties, to be approved by the 102996
board, conditioned that the treasurer shall account for and pay 102997
over as required by law, and as ordered by the board, all money 102998
received by ~~him~~ the treasurer on the sale of any of such bonds or 102999
from any other source, and that ~~he~~ the treasurer will only sell 103000
and deliver such bonds to the purchasers thereof under and 103001
according to the terms prescribed in this section and section 103002
6115.50 of the Revised Code. The treasurer of the district shall 103003
promptly report all sales of bonds to the board, and the board 103004
shall issue warrants at the proper time for the payment of the 103005
principal, including mandatory sinking fund payments, and 103006
premium, if any, and the interest payments coming due on all 103007

bonds sold, and the treasurer shall place sufficient funds at 103008
the place of payment to pay the bonds. In case proper warrants 103009
are not issued by the board as provided in this section, the 103010
treasurer of the district shall ~~of his own accord~~ place funds at 103011
the place of payment. 103012

The successor in office of any treasurer of a sanitary 103013
district is not entitled to the bonds or the proceeds thereof 103014
until ~~he~~ the successor has complied with this section. If it is 103015
deemed more expedient by the board, as to moneys derived from 103016
the sale of bonds issued or from any other source, the board may 103017
by resolution select some suitable bank or banks or other 103018
depository, which depository shall be a qualified trustee as 103019
provided in section 135.18 of the Revised Code to hold and 103020
disburse such moneys on the orders of the board as the work 103021
progresses, until such fund is exhausted or transferred to the 103022
treasurer of the district by order of the board. The funds 103023
derived from the sale of any of such bonds shall be used only 103024
for paying the cost of the works and improvements and such 103025
costs, expenses, fees, and salaries, including financing costs, 103026
as are authorized by law. 103027

The district may secure the payment of loans authorized by 103028
this chapter in the same manner as it may secure the payment of 103029
bonds, ~~and the board may make any necessary rules to provide for~~ 103030
~~such payment~~. A party who has not sought a remedy against any 103031
proceeding under this chapter, until after bonds have been sold 103032
or the work constructed, cannot for any cause have an injunction 103033
against the collection of taxes or assessments for the payment 103034
of such bonds. 103035

Such bonds are negotiable instruments under Chapter 1303. 103036
of the Revised Code, and when executed under such sections, and 103037

when sold in the manner prescribed in this section and section 103038
6115.50 of the Revised Code and the consideration therefor is 103039
received by the district, shall not be invalidated for any 103040
irregularity or defect in the proceedings for the issue and sale 103041
thereof, and are incontestable in the hands of bona fide 103042
purchasers or holders thereof for value. No proceedings in 103043
respect to the issuance of any such bonds shall be necessary 103044
except such as are required by this chapter. 103045

Moneys in the funds of the district, in excess of current 103046
needs, may be invested in investments authorized under Chapter 103047
135. of the Revised Code for the investment of interim moneys, 103048
except as otherwise provided in any resolution authorizing the 103049
issuance of its revenue bonds, in any trust agreement securing 103050
its revenue bonds, or in any other resolution authorizing the 103051
investment of its funds. Income from all such investments of 103052
moneys in any fund shall be credited to such funds as the board 103053
determines, subject to any such resolution or trust agreement, 103054
and such investments may be sold at such times as the treasurer 103055
determines. 103056

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5747.18, 5747.38, 5747.73, 5747.83, 5747.85, 5749.14, 5751.013, 103255
5751.07, 5753.09, 5902.05, 5911.011, 5919.23, 5922.04, 5922.05, 103256
5922.07, 6109.04, 6109.072, 6109.121, 6111.035, 6111.043, 103257
6111.047, 6111.049, 6111.32, 6111.451, and 6115.51 of the 103258
Revised Code are hereby repealed. 103259

Section 3. That sections 109.366, 121.50, 125.90, 135.48, 103260
145.80, 173.434, 173.49, 191.40, 905.05, 905.61, 915.22, 925.06, 103261
943.15, 1112.28, 1315.14, 1322.02, 1322.55, 1322.57, 1349.33, 103262
1349.36, 1506.021, 1531.09, 1531.10, 1546.15, 1716.13, 1751.48, 103263
1753.43, 3111.35, 3111.67, 3119.51, 3121.8911, 3123.121, 103264
3123.823, 3307.80, 3309.80, 3328.50, 3333.137, 3333.374, 103265
3333.87, 3701.9314, 3702.79, 3702.86, 3702.961, 3702.981, 103266
3704.141, 3706.29, 3715.69, 3715.82, 3715.91, 3721.11, 3721.67, 103267
3727.15, 3727.40, 3727.79, 3734.47, 3749.02, 3753.02, 3901.044, 103268
3901.077, 3901.3813, 3901.833, 3903.93, 3905.0611, 3905.79, 103269
3905.95, 3938.09, 3960.12, 3961.09, 3963.08, 3964.21, 3965.10, 103270
3970.08, 4506.22, 4729.26, 4730.07, 4734.10, 4744.28, 4751.04, 103271
4760.19, 4762.19, 5101.222, 5119.397, 5120.657, 5124.03, 103272
5160.02, 5162.02, 5165.02, 5165.61, 5167.02, 5168.86, 5180.536, 103273
5502.25, 5703.16, 5709.24, 5709.912, 5920.02, 5921.10, and 103274
5922.02 of the Revised Code are hereby repealed. 103275

Section 4. That the version of section 3313.902 of the 103276
Revised Code that is scheduled to take effect July 1, 2026, be 103277
amended to read as follows: 103278

Sec. 3313.902. (A) As used in this section: 103279

(1) "Competency-based educational program" means any 103280
system of academic instruction, assessment, grading, and 103281
reporting in which individuals receive credit based on 103282
demonstrations and assessments of their learning rather than the 103283
amount of time they spend studying a subject. A competency-based 103284
educational program shall encourage accelerated learning among 103285
individuals who master academic materials quickly while 103286
providing additional instructional support time for individuals 103287
who need it. 103288

(2) "Eligible individual" means an individual who 103289

satisfies all of the following criteria: 103290

(a) The individual is at least eighteen years of age. 103291

(b) The individual is officially withdrawn from school. 103292

(c) The individual has not been awarded a high school 103293
diploma or a certificate of high school equivalence as defined 103294
in section 4109.06 of the Revised Code. 103295

(3) "Eligible provider" means a city, local, or exempted 103296
village school district that operates a dropout prevention and 103297
recovery program, the buckeye united school district operated by 103298
the department of youth services, the Ohio central school system 103299
established under section 5145.06 of the Revised Code, or a 103300
joint vocational school district that operates an adult 103301
education program. 103302

(4) "Ohio technical center" has the same meaning as in 103303
section 3333.94 of the Revised Code. 103304

(B) An eligible provider may establish a competency-based 103305
educational program that complies with standards adopted by the 103306
department of education and workforce and may enroll eligible 103307
individuals in the program for up to three consecutive school 103308
years for the purpose of earning a high school diploma. The 103309
provider shall establish a career plan for each individual 103310
enrolled in the program that specifies the individual's career 103311
goals and describes how the individual will demonstrate 103312
competency or earn course credits under division (C) of this 103313
section to earn a diploma and attain the individual's career 103314
goals. 103315

(C) Notwithstanding sections 3313.61, 3313.611, 3313.613, 103316
3313.614, 3313.618, and 3313.619 of the Revised Code, the 103317
department shall award a high school diploma to an individual 103318

enrolled in a program under division (B) of this section who 103319
meets either of the following conditions: 103320

(1) The individual demonstrates competency by completing 103321
at least three of the following activities, at least one of 103322
which shall be the activity described in division (C) (1) (a) or 103323
(b) of this section: 103324

(a) Attaining a competency score as determined under 103325
division (B) (10) of section 3301.0712 of the Revised Code on 103326
each of the Algebra I and English language arts II end-of-course 103327
examinations prescribed under division (B) (2) of that section; 103328

(b) Attaining a workforce readiness score, as determined 103329
by the department, on the nationally recognized job skills 103330
assessment selected by the department under division (F) of 103331
section 3301.0712 of the Revised Code; 103332

(c) Obtaining an industry-recognized credential, or group 103333
of credentials, in a single career field that meet the criteria 103334
established under section 3313.6113 of the Revised Code to 103335
qualify for a high school diploma or earning an industry- 103336
recognized credential that is aligned to a technical education 103337
program provided by an Ohio technical center; 103338

(d) Earning a cumulative score of proficient or higher on 103339
three or more state technical assessments aligned with section 103340
3313.903 of the Revised Code in a single career pathway; 103341

(e) Doing either of the following: 103342

(i) Completing a pre-apprenticeship program aligned with 103343
options established under section 3313.904 of the Revised Code 103344
in the individual's chosen career field and providing evidence 103345
of acceptance into a registered apprenticeship program in that 103346
career field; 103347

(ii) Completing an apprenticeship registered with the apprenticeship council established under section 4139.02 of the Revised Code in the individual's chosen career field.	103348 103349 103350
(f) Completing two hundred fifty hours of a work-based learning experience with evidence of positive evaluations;	103351 103352
(g) Obtaining an OhioMeansJobs-readiness seal under section 3313.6112 of the Revised Code.	103353 103354
(2) The individual demonstrates competency by completing at least two of the activities described in divisions (C) (1) (a) to (g) of this section and earns course credits distributed as follows:	103355 103356 103357 103358
(a) English language arts, four credits;	103359
(b) Mathematics, four credits. One credit may be a career-based mathematics course aligned to the individual's career plan developed under division (B) of this section.	103360 103361 103362
(c) Science, three credits;	103363
(d) Social studies, three credits;	103364
(e) Financial literacy, one-half credit. The one-half credit of financial literacy may be applied toward the number of mathematics or social studies credits required under division (C) (2) of this section.	103365 103366 103367 103368
(D) An eligible provider shall report each individual enrolled in a program under division (B) of this section to the department. The department annually shall certify the enrollment and attendance of each individual reported under this division and shall pay the provider up to \$7,500 for each such individual per school year, as determined by the department based on the extent of the individual's successful completion of the diploma	103369 103370 103371 103372 103373 103374 103375

requirements prescribed in division (C) of this section. 103376

(E) Notwithstanding anything in this section to the 103377
contrary, an eligible provider may request that the department 103378
allow an eligible individual to enroll in a program under 103379
division (B) of this section for more than three consecutive 103380
school years due to a hardship experienced by the individual 103381
that necessitates additional time to meet the diploma 103382
requirements prescribed in division (C) of this section. 103383

(F) An eligible individual shall not be assigned to 103384
classes or settings with individuals who are younger than 103385
eighteen years of age. 103386

(G) Each eligible provider shall contact each individual 103387
to whom a diploma is awarded under this section to collect data 103388
on the individual's career and educational outcomes at six 103389
months, twelve months, and eighteen months after the awarding of 103390
the diploma. At each time of contact, the provider shall request 103391
information regarding whether the individual is gainfully 103392
employed, participating in an apprenticeship, enrolled in 103393
postsecondary education, or serving in the military. The 103394
provider shall report the data collected to the department in 103395
the manner determined by the department. 103396

(H) The department ~~shall~~may adopt rules ~~as necessary to~~ 103397
~~administer this section. The rules may include~~ establish all of 103398
the following: 103399

(1) Standards for competency-based educational programs; 103400

(2) Standards for applying an individual's work or life 103401
experiences toward the requirements of division (C) of this 103402
section; 103403

(3) Requirements for determining the amount paid to 103404

providers under division (D) of this section; 103405

(4) Guidelines for approving or denying a hardship request 103406
made under division (E) of this section. 103407

Section 5. That existing section 3313.902 of the Revised 103408
Code that is scheduled to take effect July 1, 2026, is hereby 103409
repealed. 103410

Section 6. Sections 4 and 5 of this act take effect July 103411
1, 2026. 103412

Section 7. The General Assembly, applying the principle 103413
stated in division (B) of section 1.52 of the Revised Code that 103414
amendments are to be harmonized if reasonably capable of 103415
simultaneous operation, finds that the following sections, 103416
presented in this act as composites of the sections as amended 103417
by the acts indicated, are the resulting versions of the 103418
sections in effect prior to the effective date of the sections 103419
as presented in this act: 103420

Section 105.41 of the Revised Code as amended by H.B. 66 103421
of the 133rd General Assembly and H.B. 110 of the 134th General 103422
Assembly. 103423

Section 340.03 of the Revised Code as amended by both H.B. 103424
96 and S.B.138 of the 136th General Assembly. 103425

Section 340.08 of the Revised Code as amended by both H.B. 103426
96 and S.B. 138 of the 136th General Assembly. 103427

Section 921.26 of the Revised Code as amended by both H.B. 103428
507 and S.B. 131 of the 134th General Assembly. 103429

Section 924.52 of the Revised Code as amended by both H.B. 103430
153 and H.B. 229 of the 129th General Assembly. 103431

Section 939.02 of the Revised Code as amended by both H.B. 7 and H.B. 166 of the 133rd General Assembly.	103432 103433
Section 940.02 of the Revised Code as amended by both H.B. 166 and H.B. 340 of the 133rd General Assembly.	103434 103435
Section 1181.21 of the Revised Code as amended by both H.B. 49 and H.B. 199 of the 132nd General Assembly.	103436 103437
Section 1321.37 of the Revised Code as amended by both H.B. 33 of the 135th General Assembly and S.B. 131 of the 134th General Assembly.	103438 103439 103440
Section 1533.11 of the Revised Code as amended by both H.B. 64 and H.B. 96 of the 136th General Assembly.	103441 103442
Section 1533.111 of the Revised Code as amended by both H.B. 64 and H.B. 96 of the 136th General Assembly.	103443 103444
Section 1533.32 of the Revised Code as amended by both H.B. 64 and H.B. 96 of the 136th General Assembly.	103445 103446
Section 1533.321 of the Revised Code as amended by both H.B. 64 of the 136th General Assembly and H.B. 110 of the 134th General Assembly.	103447 103448 103449
Section 3734.41 of the Revised Code as amended by both S.B. 294 and S.B. 302 of the 129th General Assembly.	103450 103451
Section 3745.57 of the Revised Code as amended by both H.B. 96 and S.B. 147 of the 136th General Assembly.	103452 103453
Section 3772.03 of the Revised Code as amended by H.B. 29 of the 134th General Assembly and both H.B. 49 and H.B. 132 of the 132nd General Assembly.	103454 103455 103456
Section 4301.102 of the Revised Code as amended by both S.B. 162 and S.B. 188 of the 121st General Assembly.	103457 103458

Section 4729.16 of the Revised Code as amended by both H.B. 558 and S.B. 288 of the 134th General Assembly.	103459 103460
Section 4731.19 of the Revised Code as amended by both H.B. 509 and S.B. 131 of the 134th General Assembly.	103461 103462
Section 4751.32 of the Revised Code as amended by both H.B. 509 and S.B. 131 of the 134th General Assembly.	103463 103464
Section 4763.03 of the Revised Code as amended by both H.B. 199 and H.B. 213 of the 132nd General Assembly.	103465 103466
Section 5104.019 of the Revised Code as amended by H.B. 33 of the 135th General Assembly and H.B. 281 of the 134th General Assembly.	103467 103468 103469
Section 5119.22 of the Revised Code as amended by both H.B. 96 and S.B. 138 of the 136th General Assembly.	103470 103471
Section 5119.221 of the Revised Code as amended by both H.B. 96 and S.B. 138 of the 136th General Assembly.	103472 103473
Section 5119.25 of the Revised Code as amended by both H.B. 96 and S.B. 138 of the 136th General Assembly.	103474 103475
Section 5123.43 of the Revised Code as amended by both H.B. 158 and H.B. 483 of the 131st General Assembly.	103476 103477
Section 5126.25 of the Revised Code as amended by both H.B. 509 and S.B. 131 of the 134th General Assembly.	103478 103479
Section 5505.17 of the Revised Code as amended by both H.B. 49 and H.B. 362 of the 132nd General Assembly.	103480 103481